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A Law Corporation

LAND USE COMMISSION  
STATE OF HAWAII

2014 JAN 13 A 7:33

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Attorney for Kiahuna Mauka Partners, LLC

BEFORE THE LAND USE COMMISSION

STATE OF HAWAII

In the Matter of the Petition	)	DOCKET NO. A76-418
	)	
of	)	KIAHUNA MAUKA PARTNERS,
	)	LLC'S MOTION TO DELETE
MOANA CORPORATION	)	CONDITIONS NOS. 5, AND
	)	7 THROUGH 12 OF DECISION AND
To Amend the Agricultural Land Use	)	ORDER; MEMORANDUM IN
District Boundary into the Urban Land Use	)	SUPPORT OF MOTION; LIST
District for Approximately 457.54 Acres of	)	OF EXHIBITS; CERTIFICATE
Land Situated at Poipu, Island of Kauai,	)	OF SERVICE
State of Hawaii, TMK: 2-8-14: 05, 07, 08,	)	
POR. 19, 20, 21, 26-36; 2-8-15: 77; 2-8-29:	)	
1-94.	)	
_____	)	

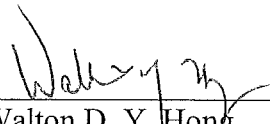
KIAHUNA MAUKA PARTNERS, LLC'S MOTION TO DELETE  
CONDITIONS NOS. 5, AND 7 THROUGH 22 OF DECISION AND ORDER

Comes now KIAHUNA MAUKA PARTNERS, LLC, herein called "KMP", by and through its undersigned attorney, and pursuant to Sections 151-15-70 and 15-15-94 of the Land Use Commission Rules, hereby moves to delete Conditions Nos. 5, and 7 through 22 of the Decision and Order, as previously amended, as they apply to the KMP lands, on the basis that, in the interest of administrative efficiency, the said conditions have been fully or

substantially met, are no longer applicable, or can and will be enforced by the County of Kauai, and are thus no longer required to be enforced by the Land Use Commission.

This motion is based on the Memorandum In Support Of Motion, as well as the files and records of the above-referenced docket.

Dated: Lihue, Hawaii, this 7<sup>th</sup> day of January, 2014.

  
\_\_\_\_\_  
Walton D. Y. Hong  
Attorney for Kiahuna Mauka  
Partners, LLC

BEFORE THE LAND USE COMMISSION

STATE OF HAWAII

In the Matter of the Petition	)	DOCKET NO. A76-418
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of	)	MEMORANDUM IN SUPPORT
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MOANA CORPORATION	)	
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To Amend the Agricultural Land Use	)	
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State of Hawaii, TMK: 2-8-14: 05, 07, 08,	)	
POR. 19, 20, 21, 26-36; 2-8-15: 77; 2-8-29:	)	
1-94.	)	
_____	)	

MEMORANDUM IN SUPPORT OF MOTION

Kiahuna Mauka Partners, LLC, herein called "KMP", respectfully submits this Memorandum in support of its request to delete the remaining Condition No. 5 and Conditions Nos. 7 through 22 of the Decision and Order herein, as the same applies to the lands under the current or former ownership and control of members of KMP.

The Decision and Order, dated July 7, 1977, herein the "Original Order", contained nine conditions. By the Commission's Order Granting First Hawaiian Bank, Trustee of the Eric A. Knudsen Trust's Amendment to Motion to Modify Condition Imposed by the Land Use Commission, issued on August 5, 1997, herein the "1997 Order", the nine conditions in the Original Order were amended to 22 conditions of approval.

Of these 22 conditions, Condition Nos. 1, 2, 3, 4 and 6 were satisfied, as confirmed by (a) the Commission's Order Granting in Part Movant Knudsen's Motion to Confirm Satisfaction of and To Partially Delete or Modify Conditions Imposed by the Land Use

Commission dated October 16, 1995, and (b) the Commission's Order Granting in Part Movant Sports Shinko's Motion to Confirm Satisfaction of and To Partially Delete or Modify Conditions Imposed by the Land Use Commission dated October 16, 1995. Condition No. 9 was amended by Order Granting Kiahuna Mauka Partners, LLC's Motion to Amend or Modify Condition No. 9 of Decision and Order, As Amended in August 5, 1997; and Eric A. Knudsen Trust's Motion to Modify Condition No. 9a of Decision and Order, dated March 18, 2004.

KMP respectfully seeks the deletion of remaining Conditions 5, and 7 through 22 on the bases that in the interest of administrative efficiency, the said conditions have been met substantially or in full, are no longer applicable, or can be enforced by the County of Kauai, and are thus no longer required to be enforced by the Land Use Commission.

More specifically, KMP addresses those conditions sought to be deleted as follows:

Condition No. 5:

Condition No. 5 reads as follows:

5. *That the Petitioner make the recreational and other amenities of the development such as the golf course, clubhouse, swimming facilities, tennis courts, and theater and cultural center available for public use at reasonable usage fees.*

KMP has no, and never possessed any, ownership or control over public access or the fees being charged for use of the facilities which are the subject of the condition, as the same are owned and/or operated by third parties independent of KMP. Further, the properties owned and developed by KMP and its members do not include any of these facilities, and the

non-deletion of the condition imposes an unnecessary encumbrance on the properties of the respective KMP members, which condition KMP has no mechanism to enforce.

It should also be noted that although the stated facilities are privately owned, they have a long history over the past several decades of and are currently made available to the general public at reasonable usage fees. Moreover, this condition also exists as a condition in County of Kauai Ordinance PM-31-79, which includes the subject facilities, and can be monitored and enforced by the County of Kauai as to the respective property owners without the continued oversight by the Land Use Commission.

Condition No. 7:

Condition No. 7 reads as follows:

*7. That Petitioner commission and complete a comprehensive archaeological and biological study with actual inventories of archaeological sites and flora and fauna on the subject property, and that the Petitioner preserves any archaeological sites which archaeologist conducting such archaeological study believes to be significant and worthy of preservation and protect and preserve the present habitats of any blind, eyeless, big-eyed hunting spiders and blind terrestrial sandhoppers which the biologist conducting the biological study believes to be worthy of preservation. The Petitioner may commission such archaeological and biological study to any archaeologist and biologist or firm connected therewith who is qualified to conduct such a study to satisfy the foregoing condition. The Petitioner may apply to the County of Kauai for rezoning of the subject property before the completion of the archaeological and biological study; provided that no actual work on any portion of the subject property begins until the archaeological and biological study for that portion to be worked on has been completed. Actual work on any portion of the subject property may be commenced by Petitioner upon certification by the archaeologist and biologist that the area for which work is to commenced does not contain any archaeological sites deemed significant and worthy of preservation, nor contains any habitats of any blind, eyeless, big-eyed hunting spiders and blind terrestrial sandhoppers deemed worthy of preservation.*

As noted in the 2011 Annual Status Report of Kiahuna Mauka Partners, LLC On Conditions To Decision and Order of Land Use Commission, filed on September 15, 2011, a comprehensive Archaeological and Biological Survey of the Proposed Kiahuna Golf Village Area, dated September 1978, was prepared for the petitioner Moana Corporation by Archaeological Research Center of Hawaii, Inc., to meet this condition.

Additionally, an Inventory Survey Report, Data Recovery Report and Preservation Plans for identified Preserves were submitted and approved by the State Historic Preservation Division of the Department of Land and Natural Resources (herein "SHPD").

This resulted in four archaeological preserves, totaling approximately 11 acres, and their metes and bounds descriptions were established pursuant to agreement from SHPD and the Kauai Historic Preservation Review Commission. See Exhibit "1", attached hereto and made a part hereof.

Preservation Plans were prepared for these four Preserves, and those plans have been approved by SHPD, and implemented by KMP, as well, fully completing the archaeological requirements for the KMP project. An easement granting public access, as required by SHPD, has been recorded, and public access to Preserve 1 is presently available and used by the public, in compliance with the approved Preservation Plan for that Preserve.

A flora survey and a fauna survey, covering all KMP project sites, were completed and submitted to the County of Kauai on or about March 29, 2004. As no endangered or threatened species were found, no further work is required in this area. With respect to the habitats of any blind, eyeless, big-eyed hunting spiders and blind terrestrial sandhoppers, and despite finding none of these spiders and sandhoppers within the KMP petition area in at least

the past fourteen years, the U.S. Fish and Wildlife Service has established areas identified as critical habitats to support these species should they reappear. A Critical Habitat Plan was approved by KMP; See Exhibit "2", attached hereto.

Based on the foregoing, this condition is has been fulfilled.

Condition No. 8:

Condition No. 8 reads as follows:

8. *That to whatever extent possible within the confines of union requirements and applicable legal prohibitions against discrimination in employment, the Petitioner hire Kauai contractors so long as they are reasonably competitive with other contractors, and employ residents of Kauai in the temporary construction and permanent hotel related jobs. The Commission understands that the Petitioner may have to employ non-Kauai residents for particular skilled jobs when no Kauai resident possess such skills. However, the Petitioner shall cooperate with, and utilize, whatever government training programs may be available so that Kauai residents can be trained to fill such jobs. For the purposes of this condition, the Commission relieves the Petitioner of this requirement if he is subjected to anti-competitive restraints on trade or other monopolistic practices.*

This condition was similarly imposed by the County and is contained within its Ordinance No. PM-31-79. In complying with this condition, KMP has used the following Kauai businesses, or firms using Kauai personnel in the past: Cultural Surveys Hawaii, Goodfellow Brothers, Law Office of Walton D. Y. Hong, Law Offices of Belles, Graham, Proudfoot, Wilson and Chun, Greg Kamm Planning & Management, Camp Consulting, LLC, Irrigation Technology Corporation, Unlimited Construction Services, Inc., Kauai Nursery and Landscaping, Inc., No Ka Oi Plants, David Rita Equipment Rental, Scientific Consulting Services, Inc., Coral Sea Construction, LLC, Management Services Kauai (Moana Palama),

Ka'iwa Construction. DeLaCruz Landscaping & Irrigation, LLC, Oberg & Free, CPAs, and Horticultural Consultants, Inc.

Where non-Kauai contractors were used, these contractors employed Kauai-based sub-contractors where available, supplemented by Hawaii based sub-contractors, as much as possible.

It is reasonable and logical that this condition be monitored and enforced by the County of Kauai without the continued oversight by the Land Use Commission. KMP and its members have adhered to and will continue to respect and follow the condition, failing which the County of Kauai has the ability to impose sanctions for failing to meet the condition.

Condition No. 9

Condition No. 9, as modified and applicable to the KMP lands reads as follows:

*9. As of the effective date of this amendment, Petitioner has completed 90 single-family residential homesites, 48 multi-family residential units, an appropriate portion of the convenience commercial complex and the recreational and other amenities planned for the development, as well as all off-site and on-site improvements and landscaping servicing the same as provided by the original Condition No. 9.*

*9b. Sports Shinko or any subsequent owner of the properties (the "Sports Shinko Property") identified by TMK Nos. (4) 2-8-14: 8, 28, 32, 33 34, and 35 and (4) 2-8-15:77, as shown on the map attached hereto as Exhibit "A" and made a part hereof, and consisting of approximately 179 acres, will substantially commence the development and construction "on or before" or "not later than" August 5, 2009, of not less than three hundred (300) single-family residential homesites and/or multi-family residential units on the currently undeveloped portions of the Sports Shinko Property as evidenced by the issuance by the County of Kauai of a final subdivision approval (in the case of single-family homesites) or the initial building permit for such construction (in the case of multi-family residential units), and in accordance with the terms and conditions of the Agreement Regarding Conditions of Approval dated December 24, 2003 by and among Kiahuna Mauka Partners, LLC, Stacey T. J. Wong, as and in the capacity of the*



*Successor Trustee of the Eric A. Knudsen Trust, and County of Kauai. Sports Shinko or subsequent owners of the Sports Shinko Property shall report annually on the progress of its development and compliance with these conditions as they relate to the Sports Shinko Property. The annual report of Sports Shinko to the Commission on the progress of its development and compliance with conditions will cover the undeveloped portions of the Sports Shinko Property only.*

As represented in the Amended 2009 Annual Status Report of Kiahuna Mauka Partners, LLC, On Conditions To Decision and Order of Land Use Commission, dated August 12, 2009, the 2010 Annual Status Report of Kiahuna Mauka Partners, LLC, On Conditions to Decision and Order of Land Use Commission, and in the 2011 Annual Status Report of Kiahuna Mauka Partners, LLC, On Conditions To Decision and Order of Land Use Commission, dated August 4, 2010, this condition has been fulfilled.

More specifically, the KMP properties consist of five developments, summarized as follows:

**Project 1** is a 106-lot single family lot subdivision, known as Poipu Beach Estates. It obtained Final Subdivision approval from the County Planning Commission. The subdivision has been completed, and the final subdivision map registered with the Office of the Assistant Registrar of the Land Court of the State of Hawaii.

**Project 2** is the 164-unit Royal Palms at Poipu condominium project. The project has received its land use permits from the County of Kauai, and has completed the common sewer line for KMP and other users of the Wastewater Treatment Plant.

**Project 3** is the 191-unit Pili Mai condominium project, which received its land use and grading permits for the project, as well as building permits for some of the 191 units. The

project is under construction, with utility construction completed and building permits for 128 units having been issued by the County of Kauai.

**Project 4** is the Kiahuna Poipu Golf Resort, and consists of 280 multi-family and 2 single family units. The main roadway and utilities through the project have been completed.

**Project 5** is the 70-lot single family lot subdivision known as Wainani. The project received Final Subdivision approval from the County of Kauai, and construction of the roadway and underground utilities up to and within the subdivision have been completed. A number of building permits have been issued by the County, with homes being built by the developer and private lot owners.

Attached hereto as Exhibit "3", is a copy of the Affidavit of Greg Kamm, dated August 12, 2009, which was attached to the Amended 2009 Annual Status Report of Kiahuna Mauka Partners, LLC, On Conditions to Decision and Order of Land Use Commission, filed with the Land Use Commission on August 17, 2009, and its attached Exhibits "A" through "P", evidencing the subdivision approvals for single family residential lots or the issuance of building permits for multi-family units within the project areas, in excess of the required 300 units.

Based on the foregoing, this condition has been fulfilled.

Condition No. 10:

Condition No. 10 reads as follows:

*10. If and when required by the County of Kauai, the preparation and submission to the appropriate agencies of the County of Kauai of an updated water master plan covering the then remaining undeveloped portions of the Sports Shinko Property may be imposed by the County of Kauai as a precondition to approval by the County of Kauai of any new or change in County zoning*

*for the remaining undeveloped portions of the Sports Shinko Property or prior to approval of any County subdivision or building permit for any future development on the remaining undeveloped portions of the Sports Shinko Property, if rezoning is not required.*

As noted in the 2007 Annual Status Report of Kiahuna Mauka Partners, LLC, filed on August 13, 2007, this condition has been fully satisfied. The Water Master Plan, as originally submitted and subsequently revised to address matters raised by the Department of Water, has been approved by the Department of Water. An appropriate cost-sharing agreement with the County Department of Water for the new Well F in Poipu was entered and satisfied. Construction of the required approximately 9,700 linear feet of pipeline extension, as well as the 500,000 gallon Omao water storage tank, have been completed and dedicated to the County Department of Water, satisfying all source, storage and transmission requirements. Exhibit "4" is a copy of the Conveyance of Water Facility, recorded in the Bureau of Conveyances as Document No. 2006-237525, by KMP. As the anticipated water master plan and the water improvements contained therein have been completed, constructed and conveyed to the County, this condition has been satisfied. There is no reason for the continuation of this condition as an encumbrance on KMP's properties.

Condition No. 11.

Condition No. 11 reads as follows:

*11. If and when required by the County of Kauai, the preparation and submission to the appropriate agencies of the County of Kauai of an updated master drainage plan covering the then remaining undeveloped portions of the Sports Shinko Property may be imposed by the County of Kauai as a precondition to approval by the County of Kauai of any new or change in County zoning for the remaining undeveloped portions of the Sports Shinko Property or prior to approval of any County subdivision or building permit for any future*

*development on the remaining undeveloped portions of the Sports Shinko Property, if rezoning is not required.*

In response to the request in the summer of 2006 by the County of Kauai for a master drainage plan, each of the internal KMP projects has provided individual drainage studies addressing the effects thereof on other potentially affected properties in compliance with applicable drainage standards. The drainage studies for all Projects 1, 2, 3, 4 and 5 have been completed, and the five projects have received their land use approvals from the County of Kauai.

Further, Esaki Surveying and Mapping submitted the Master Drainage Study to the Engineering Division of the Department of Public Works of the County of Kauai. Final subdivision and land use approvals have been issued by the County based on the Master Drainage Plan as submitted.

This condition can still remain enforceable at the discretion of the County of Kauai as to the remaining lands to be developed, and there is little reason to continue the imposition of the condition by the Land Use Commission. Further, drainage is most effectively regulated at the County level, as it has an engineering division within its Department of Public Works which is best suited for enforcing compliance with the federal flood insurance program and other drainage concerns.

Condition No. 12.

Condition No. 12 reads as follows:

*12. If and when required by the County of Kauai, the preparation and submission to the appropriate agencies of the County of Kauai of an updated traffic impact analysis and report covering the remaining undeveloped portions of the Sports Shinko Property may be imposed by the County of Kauai as a*

*precondition to approval by the County of Kauai of any new or change in County zoning for the remaining undeveloped portions of the Sports Shinko Property or prior to approval of any County subdivision or building permit for any future development on the remaining undeveloped portions of the Sports Shinko Property, if rezoning is not required. A copy of any such updated traffic impact analysis and report shall be submitted to the State Department of Transportation for comment prior to approval by the County of Kauai, and following approval by the County of Kauai, a copy of the approved traffic, impact analysis and report shall be filed with the State Department of Transportation.*

As noted in earlier Annual Status Reports, a comprehensive Traffic Impact Assessment Report was prepared by Austin, Tsutsumi and Associates, and was submitted on March 4, 2004 to the County of Kauai and on July 28, 2004 to the State Department of Transportation for their information and review.

KMP's predecessor in interest, Sports Shinko, had previously contributed towards acquiring the land necessary for the construction of the Easterly Bypass Road.

In addition, KMP participated and shared in the costs of the Koloa Poipu Area Circulation Plan conducted by Charlier & Associates, Inc., in cooperation with the Koloa Community Association, the collective development community in Koloa and Poipu, and the County of Kauai. The Koloa Poipu Area Circulation Plan was completed in early 2007 by Charlier & Associates, Inc., and was submitted to and accepted by the County.

Based on the foregoing, this condition has been fully satisfied.

Condition No. 13.

Condition No. 13 reads as follows:

*13. Wastewater treatment for the future development upon the currently undeveloped portions of the Sports Shinko Property will be handled and processed by one or more of the following: (a) the expansion of the existing Kiahuna Wastewater Treatment Plant, (b) the development and construction upon the Sports Shinko Property of private sewage treatment facilities, or (c) a satisfactory agreement to connect into the*

*private sewage treatment facility to be developed and constructed by Alexander & Baldwin upon adjoining property. Sports Shinko and any subsequent owner of the Sports Shinko Property will not look to the County of Kauai for the provision of wastewater treatment facilities.*

This condition has been fulfilled through the expansion of the existing Kiahuna Wastewater Treatment Plant, now owned and operated by HOH Utilities, LLC. KMP has completed its funding of \$2,563,000 for the upgrades and expansion for the plant according to the terms of its agreement with HOH Utilities, LLC, a PUC-regulated service provider. The upgrades and expansion of the plant have been completed and the plant is available to accommodate full buildout of the KMP projects, pursuant to a binding Will-Serve Letter. See letter of HOH Utilities, LLC, attached hereto as Exhibit "5".

As such, this condition has been fulfilled and may be deleted.

Condition No. 14.

Condition No. 14 reads as follows:

*14. All of the internal roadways within the future developments on the remaining undeveloped portions of the Sports Shinko Property will be private and therefore private, not County of Kauai, trash collection will be used for any future development on the currently undeveloped portions of the Sports Shinko Property.*

KMP members have already constructed all of the proposed private internal roadways to provide access to and within their respective projects, which roads will remain private in accordance with this condition. It is not necessary for the Land Use Commission to continue to monitor this condition as any acceptance of roadways as public roads will require approval by the County.

Condition No. 15.

Condition No. 15 reads as follows:

*15. Effective soil erosion and dust control measures will be implemented during future construction upon any currently undeveloped portions of the Sports Shinko Property to the satisfaction of the County of Kauai and the Department of Health, State of Hawaii.*

KMP members have been in full compliance, and will continue to comply, with this condition utilizing best management practices. As a matter of law, the County and the State Department of Health have powers to enforce erosion and dust control measures if acceptable standards are violated; such requirements are conditions of permit approvals for each KMP project. It is therefore not necessary for this condition to continue as imposed by the Land Use Commission.

Condition No. 16.

Condition No. 16 reads as follows:

*16. Sports Shinko or any subsequent owner of the Sports Shinko Property, shall fund and construct adequate civil defense measures as determined by the County of Kauai and the State Civil Defense Agency as part of the future development upon the currently undeveloped portions of the Sports Shinko Property.*

This condition has been met in full. As previously noted in the 2008 Annual Status Report, KMP has installed a civil defense siren, which was accepted by the State Department of Defense by letter of November 16, 2007, and which is currently in use by the State Civil Defense Agency. This met the State Department Civil Defense's requirement. There is no need for the continued imposition of this condition.

Condition No. 17.

Condition No. 17 reads as follows:

*17. Sports Shinko or any subsequent owner of the Sports Shinko Property, shall notify all prospective buyers of the Sports Shinko Property of the potential odor, noise and dust pollution which may result from surrounding agricultural district lands and that the Hawaii-Right-to-Farm Act, Chapter 165, Hawaii Revised Statutes, limited the circumstances under which pre-existing farm activities may be deemed a nuisance.*

All conveyances and transfers of the KMP properties have included the required disclosures of potential nuisances from surrounding agricultural lands, and will thus be noted on subsequent conveyance documents. All future transfers will include a similar disclosure if the same is not already noted as shown by title searches attendant to the future sale of units or lots. Further, it would not be in the best interest of any of the developers of the KMP properties to leave out any such disclosure as a proactive defense against future claims of non-disclosure. As such, the condition is no longer needed.

Condition No. 18.

Condition No. 18 reads as follows:

*18. Absent approvals from the appropriate federal, State and County agencies, Sports Shinko or any subsequent owner of the Sports Shinko Property shall not channelize Waikomo Stream for flood control purposes. A reasonable buffer zone from the edge of Waikomo Stream shall also be provided as to any development fronting on Waikomo Stream as may be required by the County of Kauai. Within the approved stream buffer zone landscaping shall be permitted. A copy of the proposed stream buffer area along Waikomo Stream shall be submitted to the Department of Land & Natural Resources of the State of Hawaii, and the United States Fish & Wildlife Service for comment prior to approval by the County of Kauai.*

KMP will not channelize Waikomo Stream, and has designated a buffer zone along the stream and submitted the same to the Department of Land and Natural Resources and the United States Fish and Wildlife Service for approval by letter of July 14, 2004. The United



States Fish and Wildlife Service approved of the designated buffer zone on July 26, 2004. However, having failed to receive any response from the Department of Land and Natural Resources up to this date, KMP continued to proceed on the basis that DLNR has no objections or concerns.

In subsequent meetings with the County Planning Director, the buffer was expanded and a Declaration of Restrictive Covenant Re: Waikomo Stream Buffer, dated March 28, 2008, was recorded in the Bureau of Conveyances of the State of Hawaii as Document No. 2008-053102, and in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No. 3730986.

Further, the County approved KMP Project 1 (Kiahuna Makai Partners' subdivision, S-2004-16), which included the Stream Buffer Zone shown on the final subdivision map, including an expanded stream buffer zone extending an additional 20 feet from the Waikomo Stream floodway from the buffer that was approved by the United States Fish and Wildlife Service.

As such, this condition has been satisfied and is no longer necessary.

Condition No. 19

Condition No. 19 reads as follows:

*19. The Commission may fully or partially release the conditions provided herein as to all or any portion of the Sports Shinko Property upon timely motion and upon provision of adequate assurance of satisfaction of these conditions by Petitioners.*

This motion seeks to release the remaining conditions as to the Sports Shinko Property for the reasons stated herein. If this petition is approved, it effectively implements this condition.

Condition No. 20

Condition No. 20 reads as follows:

*20. The noncompliance with or nonperformance of any remaining conditions of the Decision and Order by Sports Shinko with respect to the Sports Shinko Property will not constitute nonperformance of or noncompliance with the remaining conditions of the Decision and Order as it may concern or relate to the Knudsen Property (TMK No. (4) 2-8-14:19(por.)).*

Upon the granting of the instant motion, this condition will no longer remain necessary as KMP will be deemed to have complied with and performed all of the conditions of the Decision and Order as it pertains to the Sports Shinko Property under its control.

Condition No. 21.

Condition No. 21 reads as follows:

*21. The obligations and liability of First Hawaiian Bank, as Trustee of the Eric A. Knudsen Trust under the Decision and Order are not personally binding upon nor shall resort be had to the private property of First Hawaiian Bank, or any other trustee of the Eric A. Knudsen Trust, but only the trust estate shall be bound.*

As Condition No. 21 relates only to the Knudsen Trust properties, it does not apply to the KMP properties and can be deleted as to the KMP properties.

Condition No. 22.

Condition No. 22 reads as follows:

22. *A copy of this amendment and modification to the Decision and Order shall be recorded against the subject properties with the Bureau of Conveyances of the State of Hawaii in accordance with Section 15-15-92 of the Hawaii Administrative Rules.*

As noted in the 2007 Annual Status Report of Kiahuna Mauka Partners, LLC, and subsequent annual status reports, Sports Shinko complied with Condition No. 22 as applicable to the Sports Shinko Property by the filing of that certain Certificate and Amendment and Modification of Conditions dated November 17, 1997, in the Bureau of Conveyances of the State of Hawaii as Document No. 97-164842, with a copy thereof previously delivered to the Commission. A copy of the Order Granting Kiahuna Mauka Partners, LLC's Motion To Amend Or Modify Condition No. 9 Of Decision And Order, As Amended In August 5, 1997, dated March 18, 2004, has been recorded in the Bureau of Conveyances on August 25, 2005, as Document No. 2005-168955.

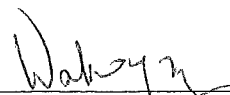
As such, this condition has been satisfied and can be removed.

Summary and Conclusion.

Based on the foregoing, there is sufficient reason to release the foregoing conditions as to the KMP properties as having been satisfied or no longer applicable.

Accordingly, Kiahuna Mauka Partners, LLC, respectfully request that its Motion to Delete Conditions be granted.

Dated: Lihue, Hawaii, this 7<sup>th</sup> day of January, 2014.

  
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Walton D. Y. Hong  
Attorney for Kiahuna Mauka Partners,  
LLC

LIST OF EXHIBITS

<u>Exhibit</u>	<u>Description</u>
"1"	Letter dated July 25, 2003, from State Historic Preservation Division of Dept. of Land and Natural Resources, accepting Archaeological Preserves 1, 3, 4 and 5, with metes and bounds descriptions of each preserve. (Preserve No. 2 was already accepted as part of the Kiahuna subdivision.)
"2"	Critical Habitat Plan
"3"	Affidavit of Greg Kamm, with attached Exhibits "A" through "P", evidencing the subdivision approvals for single family residential lots or the issuance of building permits for multi-family units, exceeding the required 300 units.
"4"	Copy of the Conveyance of Water Facility, recorded in the Bureau of Conveyances as Document No. 2006-237525.
"5"	Will-Serve letter from HOH Utilities for acceptance and treatment of sewage and waste water from KMP projects.

EXHIBIT "1"

Letter dated July 25, 2003, from State Historic Preservation  
Division of Dept. of Land and Natural Resources,  
accepting Archaeological Preserves 1, 3, 4 and 5.

Jul-28-2003 08:46am

From-STATE Historic Preservation

808 692 8020

T-689 P.002/002 F-787

LINDA LINGLE  
GOVERNOR OF HAWAII



**STATE OF HAWAII**  
**DEPARTMENT OF LAND AND NATURAL RESOURCES**

HISTORIC PRESERVATION DIVISION  
KAKUHIHEWA BUILDING, ROOM 555  
601 KAMOKILA BOULEVARD  
KAPOLEI, HAWAII 96707

PETER T. YOUNG  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

DAN DAVIDSON  
DEPUTY DIRECTOR - LAND

ERNEST Y.W. LAU  
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCE  
COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING

FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

July 25, 2003

Dr. Hal Hammatt  
Cultural Surveys Hawaii  
733 N. Kalaheo Avenue  
Kailua, Hawaii 96734

LOG NO: 2003.1293  
DOC NO: 0307NM15

Dear Dr. Hammatt:

SUBJECT: Chapter 6E-42 Historic Preservation Concerns – Kiahuna Mauka  
Archaeological Preserves  
Kiahuna, Koloa, Kauai  
TMK: 2-8-14: 5, 7, 8, 28, 32, 33, 34, 35 and 2-8-15: 77

We have received the metes and bounds for four [1, 3, 4, 5] of the five preserves of the former Moana Corp development plan. The preserves were initially determined by your firm, as the archaeological consultant, and then checked by our staff archaeologist. Preserve Area 2, which is already established, is located within the existing developed Kiahuna subdivision; Preserve 2 is maintained through a curation agreement with the Kiahuna Homeowners Association, and is not part of this project

We believe that these preserve maps are acceptable and the resulting preserves will provide appropriate protection for the significant historic sites within them. We can now recommend that the preserve maps be transmitted to the County Planning Department and the Kauai Historic Preservation Review Commission for their review.

If you have any questions, please call Nancy McMahon 742-7033.

Aloha,

*P. Holly McElDowney*

P. HOLLY MCELLOWNEY, Acting Administrator  
State Historic Preservation Division

NM:jk

- c. Barbara Pendragon, Planning Department
- Greg Kamm, Greg Kamm Planning and Management (FAX: 808-742-1751)
- Chair, Kaua'i Historic Preservation Review Commission

**EXHIBIT** "1"

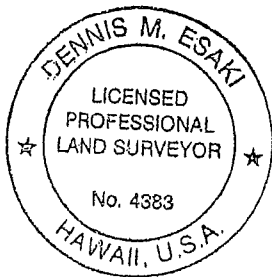
ARCHAEOLOGICAL SITE 1 PRESERVE  
LAND SITUATED AT KOLOA, KAUAI, HAWAII

Being a Portion of Lots 5 and 6  
Kiahuna Golf Course and Village  
Land Court Application 956(Am.)

Beginning at a point on the north side of this parcel of land, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PAA" being 805.20 feet South and 5,690.83 feet West, thence running by azimuths measured clockwise from true south:

- |              |        |   |
|--------------|--------|---|
| 1. 266° 08'  | 81.00  | feet along the remainder of Lot 6;        |
| 2. 307° 38'  | 110.40 | feet along the remainder of Lots 6 and 5; |
| 3. 331° 51'  | 108.10 | feet along the remainder of Lot 5;        |
| 4. 12° 41'   | 49.80  | feet along the remainder of Lot 5;        |
| 5. 48° 56'   | 106.30 | feet along the remainder of Lot 5;        |
| 6. 38° 02'   | 198.10 | feet along the remainder of Lot 5;        |
| 7. 70° 06'   | 35.00  | feet along the remainder of Lot 5;        |
| 8. 76° 14'   | 52.40  | feet along the remainder of Lot 5;        |
| 9. 171° 28'  | 33.90  | feet along the remainder of Lot 5;        |
| 10. 111° 42' | 68.80  | feet along the remainder of Lot 5;        |
| 11. 122° 20' | 63.40  | feet along the remainder of Lots 5 and 6; |
| 12. 118° 58' | 68.30  | feet along the remainder of Lot 6;        |
| 13. 111° 58' | 20.90  | feet along the remainder of Lot 6;        |
| 14. 170° 24' | 66.00  | feet along the remainder of Lot 6;        |
| 15. 175° 06' | 60.50  | feet along the remainder of Lot 6;        |
| 16. 185° 07' | 49.47  | feet along the remainder of Lot 6;        |
| 17. 196° 22' | 57.12  | feet along the remainder of Lot 6;        |

18. 267° 08'	145.30	feet along the remainder of Lot 6;
19. 227° 21'	94.11	feet along the remainder of Lot 6;
20. 250° 11'	64.51	feet along the remainder of Lot 6 to the point of beginning and containing an area of 3.537 acres.



Lihue, Hawaii  
July 2003

DESCRIPTION PREPARED BY:  
ESAKI SURVEYING & MAPPING, INC.

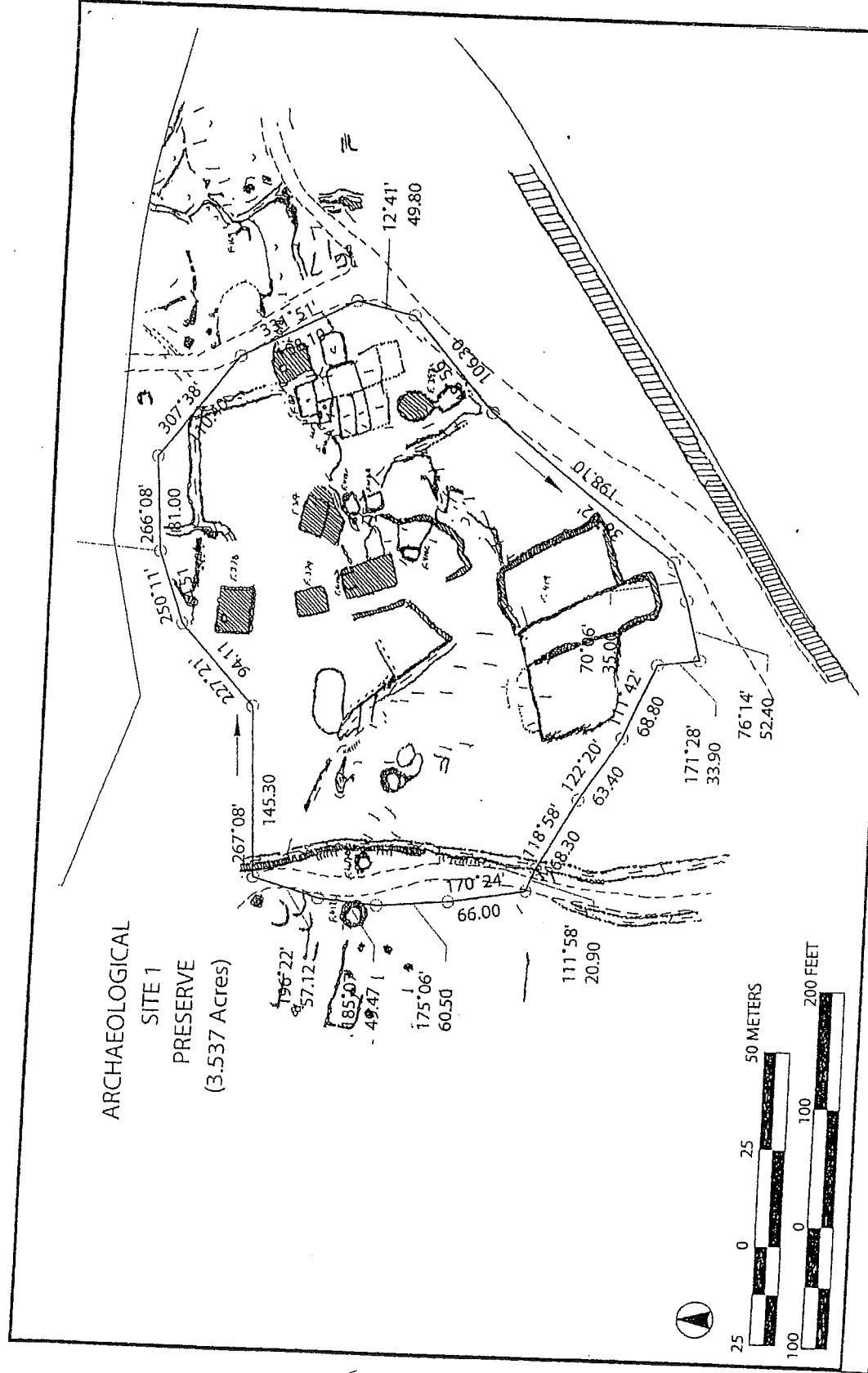
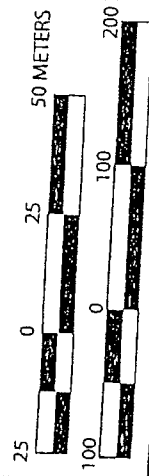
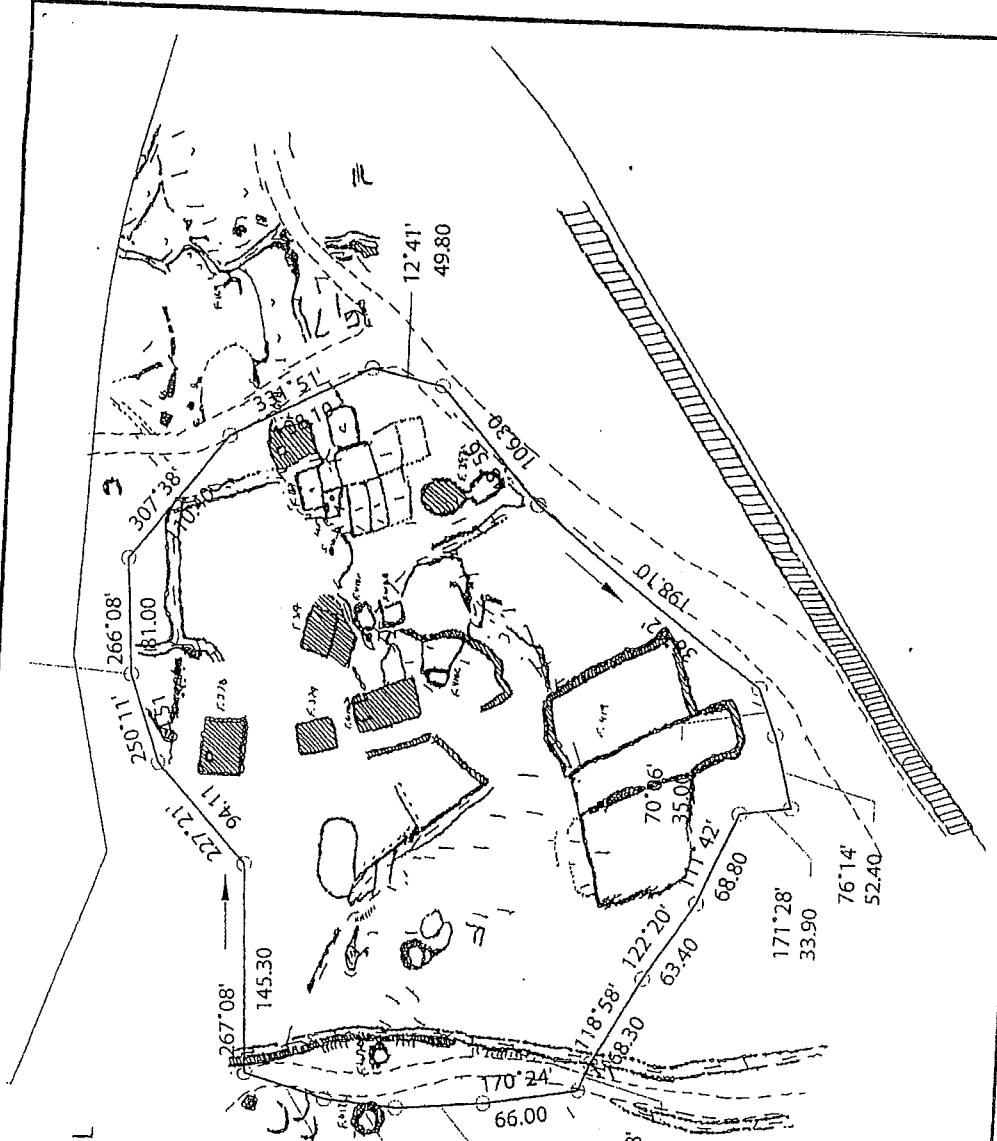
A handwritten signature in black ink, appearing to read "Dennis M. Esaki".

---

Dennis M. Esaki  
Licensed Professional Land Surveyor  
Certificate Number 4383



ARCHAEOLOGICAL  
 SITE 1  
 PRESERVE  
 (3.537 Acres)



ARCHAEOLOGICAL SITE 3 PRESERVE  
LAND SITUATED AT KOLOA, KAUAI, HAWAII

Being a Portion of Lot 6  
Kiahuna Golf Course and Village  
Land Court Application 956(Am.)

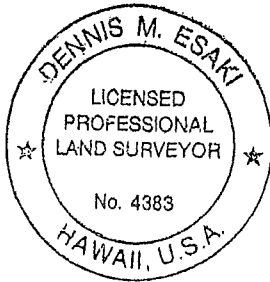
Beginning at the northeast corner of this parcel of land, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PAA" being 681.07 feet South and 7,106.82 feet West, thence running by azimuths measured clockwise from true south:

1.	30° 45'	237.90	feet along the remainder of Lot 6;
2.	297° 48'	60.40	feet along the remainder of Lot 6;
3.	356° 37'	43.50	feet along the remainder of Lot 6;
4.	103° 30'	249.20	feet along the remainder of Lot 6;
5.	167° 29'	40.50	feet along the remainder of Lot 6;
6.	178° 53'	101.40	feet along the remainder of Lot 6;
7.	200° 36'	45.10	feet along the remainder of Lot 6;
8.	202° 36'	28.00	feet along the remainder of Lot 6;
9.	207° 23'	28.90	feet along the remainder of Lot 6;
10.	193° 03'	12.40	feet along the remainder of Lot 6;
11.	281° 37'	103.10	feet along the remainder of Lot 6;
12.	276° 06'	75.34	feet along the remainder of Lot 6;

13. 270° 03'

100.09

feet along the remainder of Lot 6 to the point of beginning and containing an area of 1.449 acres.



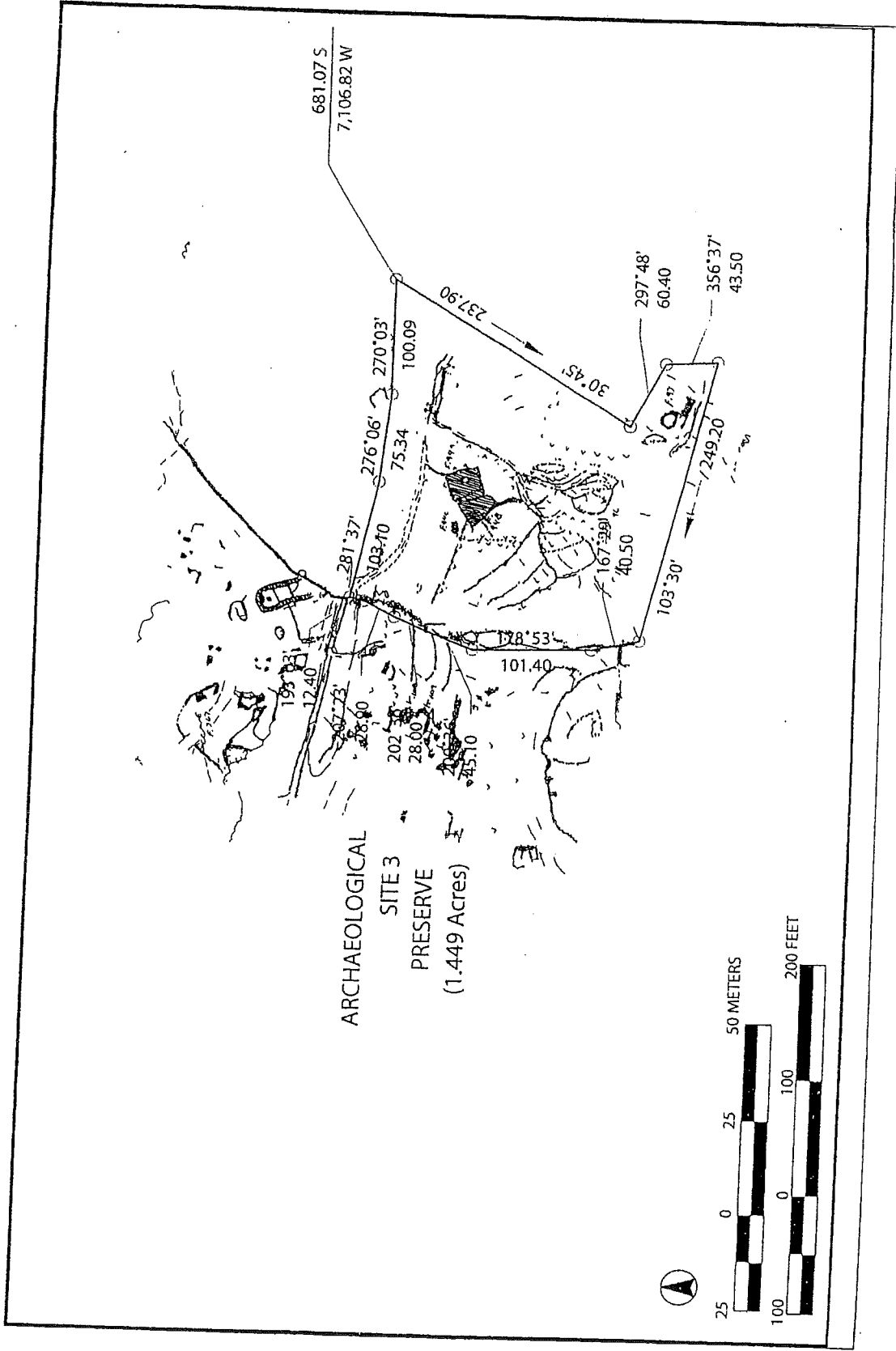
Lihue, Hawaii  
July 2003

DESCRIPTION PREPARED BY:  
ESAKI SURVEYING & MAPPING, INC.

A handwritten signature in black ink, appearing to read "Dennis M. Esaki".

---

Dennis M. Esaki  
Licensed Professional Land Surveyor  
Certificate Number 4383



ARCHAEOLOGICAL SITE 4 PRESERVE  
LAND SITUATED AT KOLOA, KAUAI, HAWAII

Being a Portion of Lot 6  
Kiahuna Golf Course and Village  
Land Court Application 956(Am.)

Beginning at the northeast corner of this parcel of land, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PAA" being 780.55 feet South and 6,796.14 feet West, thence running by azimuths measured clockwise from true south:

- |                  |        |   |
|------------------|--------|---|
| 1. 279° 13'      | 226.50 | feet along the remainder of Lot 6;  |
| 2. 320° 42'      | 136.75 | feet along the remainder of Lot 6;  |
| 3. 32° 46'       | 269.17 | feet along Lot 8;   |
| 4. 319° 17'      | 196.27 | feet along Lot 8;   |
| 5. 56° 28'       | 49.29  | feet along the remainder of Lot 6;  |
| 6. 45° 48'       | 100.60 | feet along the remainder of Lot 6;  |
| 7. 65° 30'       | 211.10 | feet along the remainder of Lot 6;  |
| 8. 97° 39'       | 84.31  | feet along the remainder of Lot 6;  |
| 9. 156° 43'      | 73.45  | feet along the remainder of Lot 6;  |
|                  |        | thence along the remainder of Lot 6 on a curve to the right with a radius of 272.00 feet, the chord azimuth and distance being: |
| 10. 168° 11' 28" | 108.22 | feet;   |
| 11. 195° 15'     | 254.82 | feet along the remainder of Lot 6;  |

12 196° 30'

283.30

feet along the remainder of Lot 6 to the point of beginning and containing an area of 4.860 acres.

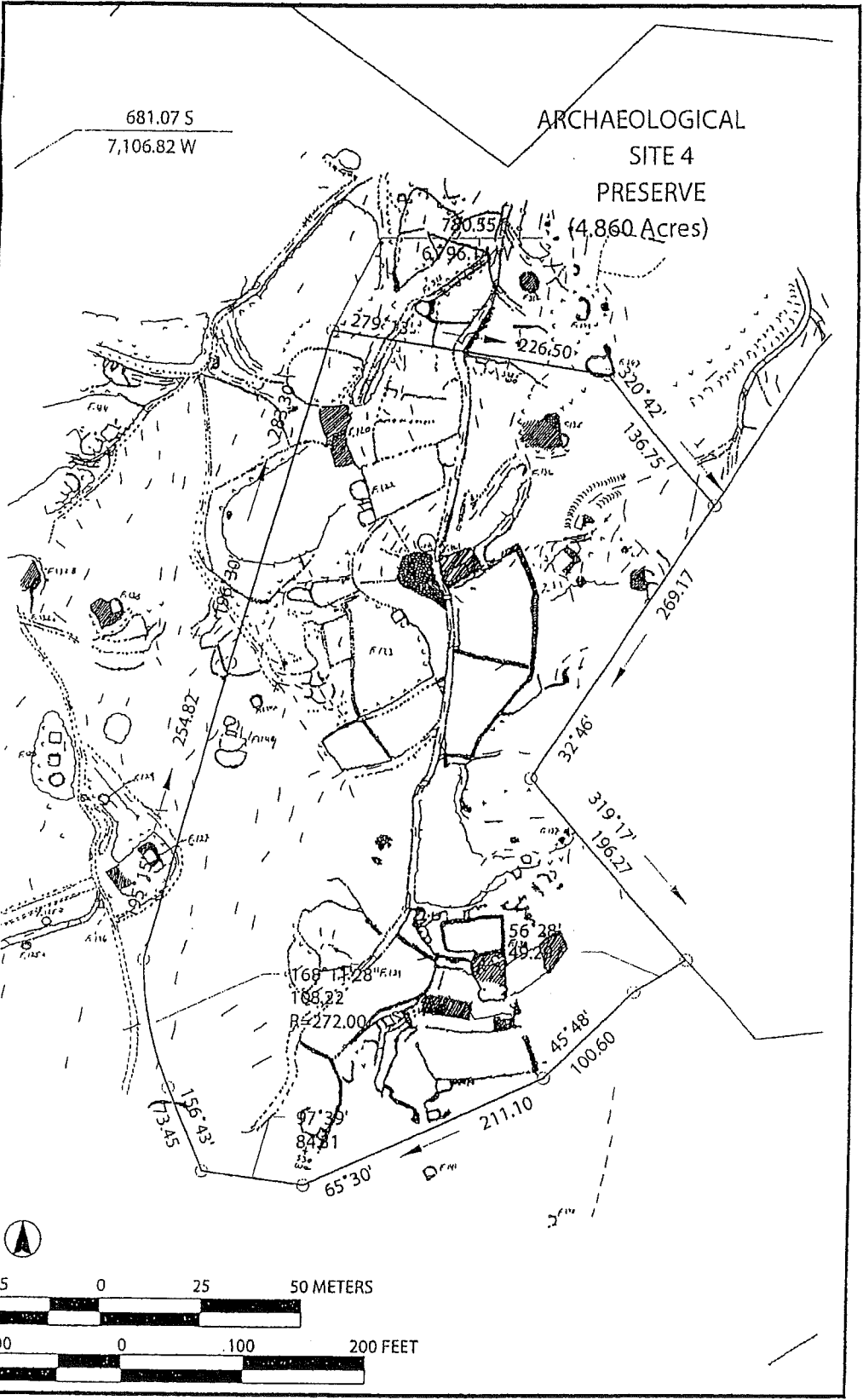


Lihue, Hawaii  
July 2003

DESCRIPTION PREPARED BY:  
ESAKI SURVEYING & MAPPING, INC.

A handwritten signature in black ink, appearing to read "Dennis M. Esaki", written over a horizontal line.

Dennis M. Esaki  
Licensed Professional Land Surveyor  
Certificate Number 4383



ARCHAEOLOGICAL SITE 5 PRESERVE

LAND SITUATED AT KOLOA, KAUAI, HAWAII

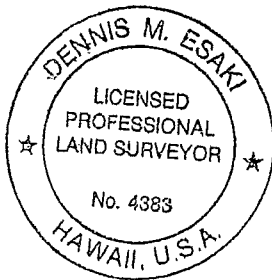
Being a Portion of Lot 7  
Kiahuna Golf Course and Village  
Land Court Application 956(Am.)

Beginning at the north corner of this parcel of land, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PAA" being 987.80 feet North and 7,669.12 feet West, thence running by azimuths measured clockwise from true south:

1.	306° 28'	75.81	feet along Lot 9;
2.	342° 12'	141.33	feet along Lot 9;
3.	65° 42'	88.40	feet along the remainder of Lot 7;
4.	75° 46'	79.70	feet along the remainder of Lot 7;
5.	357° 57'	20.60	feet along the remainder of Lot 7;
6.	7° 33'	70.55	feet along the remainder of Lot 7;
			thence along the remainder of Lot 7 on a curve to the left with a radius of 40.00 feet, the chord azimuth and distance being:
7.	85° 35' 12"	36.52	feet along the remainder of Lot 7;
8.	171° 21'	15.46	feet along the remainder of Lot 7;
9.	161° 50'	22.00	feet along the remainder of Lot 7;
10.	206° 40'	63.20	feet along the remainder of Lot 7;
11.	79° 40'	70.00	feet along the remainder of Lot 7;
12.	136° 05'	22.80	feet along the remainder of Lot 7;
13.	164° 32'	59.20	feet along the remainder of Lot 7;
14.	186° 38'	39.80	feet along the remainder of Lot 7;
15.	177° 45'	15.82	feet along the remainder of Lot 7;



16. 164° 14'	21.34	feet along the remainder of Lot 7;
17. 208° 20'	87.52	feet along the remainder of Lot 7;
18. 320° 11'	19.22	feet along Lot 9;
19. 253° 47'	133.16	feet along Lot 9 to the point of beginning and containing an area of 1.269 acres.



Lihue, Hawaii  
July 2003

DESCRIPTION PREPARED BY:  
ESAKI SURVEYING & MAPPING, INC.

A handwritten signature in black ink, appearing to read "Dennis M. Esaki", written over a horizontal line.

Dennis M. Esaki  
Licensed Professional Land Surveyor  
Certificate Number 4383



EXHIBIT "2"

Critical Habitat Plan

Kiahuna Mauka Partners, LLC  
P.O. Box 905  
Koloa, Hawaii 96756

To: Lorena Wada  
Gina Shultz

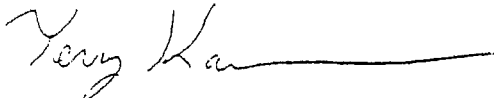
Re: Critical Habitat Plan for the Kiahuna Makai Cave

Dear Gina and Lorena,

Thank you for your letter of November 5, 2003. I have adjusted item #5 of our Critical Habitat plan to accommodate your recommendations.

Enclosed please find a copy of the revised plan.

Aloha and mahalo for your help in this process,



Terry Kamen  
Operations Manager for Kiahuna Mauka Partners, LLC

cc Keith Nitta  
Barbara Pendragon  
County of Kauai

EXHIBIT "2"

# Critical Habitat Plan For Kiahuna Makai Cave

Kiahuna Mauka Partners, LLC will follow the guidelines that the Fish and Wildlife Service has suggested for area that are designated Critical Habitat by the Fish and Wildlife Service as per their November 5, 2003 letter:

1. The Kiahuna Makai Cave will not be collapsed
2. Plantings of Milo and other suggested plantings will be planted on top of the cave.
3. The Cave location will not be published on Public Maps
4. A disclosure about Critical Habitat and the Blind Cave Spider and Amphipods will be given to any successor owners.
5. A 50 foot no build zone will be established above the Kiahuna Makai Cave areas to make sure no structures are built on top of the cave. Areas in the Critical Habitat designated lands with exposed rock or places where the soil layer is less than a foot deep will not be graded, paved or filled or underlying caves collapsed.
6. The Cactus and Haole Koa now occupying the lands surrounding and above the cave will be removed by hydroaxe/slash busters.

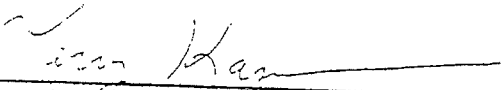
  
\_\_\_\_\_  
Terry Karmén  
Operations Manager for Kiahuna Mauka Partners, LLC

EXHIBIT "3"

Affidavit of Greg Kamm, with attached Exhibits "A" through "P", evidencing approvals for single family residential lots or issuance of building permits exceeding the required 300 units.

BEFORE THE LAND USE COMMISSION

STATE OF HAWAII

In the Matter of the Petition )  
 )  
 of ) DOCKET NO. A76-418  
 ) AFFIDAVIT OF  
 MOANA CORPORATION ) GREG KAMM  
 )  
 To Amend the Agricultural Land Use )  
 District Boundary into the Urban Land Use )  
 District for Approximately 457.54 Acres of )  
 Land Situated at Poipu, Island of Kauai, )  
 State of Hawaii, TMK: 2-8-14: 05, 07, 08, )  
 POR. 19, 20, 21, 26-36; 2-8-15: 77; 2-8-29: )  
 1-94. )  
 \_\_\_\_\_ )

AFFIDAVIT OF OF GREG KAMM

STATE OF HAWAII )  
 ) ss:  
 COUNTY OF KAUAI )

GREG KAMM, being first duly sworn on oath, depose and say:

1. That I am the principal of Greg Kamm Planning & Management, providing consultant planning and management services to various development projects;
2. That I was retained by Kiahuna Mauka Partners, LLC, to assist it and its members in the overseeing and administering of project-wide issues before governmental agencies;
3. That I am authorized to speak on behalf of Kiahuna Mauka Partners, LLC, herein called "KMP";
4. That I have been working with and am familiar with the various KMP projects;

EXHIBIT "3"

5. That the following Exhibits "A" through "O" evidence the single family residential lots which have been granted final subdivision approval by the County of Kauai or the issuance of building permits for multi-family units within the project areas:

		<u>No. Units</u>
Exhibit "A"	- Final subdivision approval letter, dated November 15, 2006, for 106-lot subdivision for Poipu Beach Estates	106
Exhibit "B"	- Final subdivision map for Poipu Beach Estates	
Exhibit "C"	- Final subdivision approval letter, dated October 25, 2006, for 70-lot subdivision for Wainani	70
Exhibit "D"	- Final subdivision map for Wainani subdivision	
Exhibit "E"	- Final subdivision approval letter, dated April 15, 2009, for 2-lot subdivision by Kiahuna Fund, LLC	2
Exhibit "E"	- Final subdivision map for Kiahuna Fund, LLC subdivision	
Exhibit "F"	- Building Permit No. 06-00000558, for Building 1, Pili Mai condominium project	13
Exhibit "G"	- Building Permit No. 06-00000559, for Building 2, Pili Mai condominium project	13
Exhibit "H"	- Building Permit No. 06-00000565, for Building 8, Pili Mai condominium project	11
Exhibit "I"	- Building Permit No. 06-00000566, for Building 9, Pili Mai condominium project	13
Exhibit "J"	- Building Permit No. 06-00000567, for Building 10, Pili Mai condominium project	13
Exhibit "K"	- Building Permit No. 06-00000568, for Building 11, Pili Mai condominium project	13
Exhibit "L"	- Building Permit No. 06-00000569, for Building 12, Pili Mai condominium project	13




Exhibit "M"	-	Building Permit No. 06-00000570, for Building 13, Pili Mai condominium project	13
Exhibit "N"	-	Building Permit No. 06-00000571, for Building 14, Pili Mai condominium project	13
Exhibit "O"	-	Building Permit No. 06-00000572, for Building 15, Pili Mai condominium project	<u>13</u>
TOTAL UNITS			306

6. That I certify that Exhibits "A" through "O" attached hereto, are true and correct copies of the original documents;

7. That I further certify that, although the building permits for the Pili Mai condominium project (Exhibits "F" through "O") do not indicate the number of units in each building, that the number of units stated above are true and correct; and

8. That attached hereto as Exhibit "P" is a copy of the building plan, showing the various buildings and units in each of the 15 building in the Pili Mai condominium project in support of the foregoing;

Further, Affiant says not.

  
 \_\_\_\_\_  
 GREG KAMM

I hereby certify that the foregoing was  
subscribed and sworn to before me  
this 12<sup>th</sup> day of August, 2009, that  
the same is an Affidavit of Greg Kamm,  
and consists of 4 pages without exhibits.

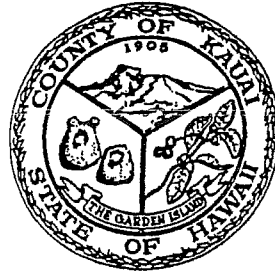
*Charlotte K. Fudge*

Name: Charlotte K. Fudge  
Commission No. 87-360  
Notary Public, State of Hawaii

My Commission expires: 7-9-2011



**BRYAN J. BAPTISTE**  
MAYOR



**IAN K. COSTA**  
DIRECTOR OF PLANNING

**GARY K. HEU**  
ADMINISTRATIVE ASSISTANT

**MYLES S. HIRONAKA**  
DEPUTY DIRECTOR OF PLANNING

**COUNTY OF KAUA'I**  
PLANNING DEPARTMENT  
4444 RICE STREET  
KAPULE BUILDING, SUITE A473  
LIHU'E, KAUA'I, HAWAII 96766-1326

November 15, 2006

TELEPHONE: (808) 241-6677 FAX: (808) 241-6699


RECEIVED  
11/20/06  
ESAKI SURVEYING & MAPPING, INC.

Dennis M. Esaki  
Esaki Surveying & Mapping, Inc.  
1610 Haleukana Street  
Lihue, Hawaii 96766

Subject: Consolidation of Lot 11, As Shown on Map 5 of Land Court Consolidation 164 and Portion of Lot 6A into Lots 1 to 110, inclusive, and Designation of Easements A-1 to A-3, AU-1 to AU-6, C-1, D-1 to D-4, DB-1, DB-2, E-1 to E-14, L-1, L-2, S-1 to S-5, T-1, and W-1 and Cancellation of Easements 10 and 11, at Koloa, Kaua'i, Hawai'i. (S-2004-16, Kiahuna Makai, LLC)

Subject subdivision was granted **FINAL APPROVAL** by the Planning Commission at their meeting held on November 14, 2006.

Be advised that the final subdivision map or a metes and bounds description of the subdivision must be recorded prior to or at the time of conveyance of interest in any lot or parcel. If no such recordation is made, all approvals shall become null and void.

  
IAN K. COSTA  
Director of Planning

xc: Public Works Dept.  
Water Dept.  
State Health Dept.  
Real Property Div. - Assessment

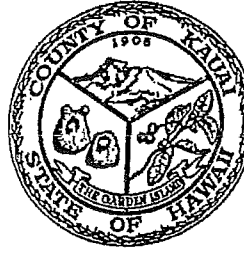
**EXHIBIT "A"**



**EXHIBIT "B"**

Sheet 1 of 1

BRYAN J. BAPTISTE  
MAYOR



IAN K. COSTA  
DIRECTOR OF PLANNING

GARY K. HEU  
ADMINISTRATIVE ASSISTANT

MYLES S. HIRONAKA  
DEPUTY DIRECTOR OF PLANNING

COUNTY OF KAUA'I  
PLANNING DEPARTMENT  
4444 RICE STREET  
KAPULE BUILDING, SUITE A473  
LIHU'E, KAUA'I, HAWAII 96766-1326

TELEPHONE: (808) 241-6677 FAX: (808) 241-6699

October 25, 2006

RECEIVED  
11/1/06  
ESAKI SURVEYING & MAPPING, INC.

Wayne T. Wada  
Esaki Surveying & Mapping, Inc.  
1610 Haleukana Street  
Lihue, Hawaii 96766

Subject: Consolidation of Lot 3, Land Court Consolidation 164 and Lot X (Portion of Exclusion 15), and Subdivision into Lots 1 to 74, inclusive, and Designation of Easements A-1, A-2, AU-1, AU-2, AU-3, AU-4, E-1, E-2, E-3, E-4, E-5, E-6, E-7, D-1, D-2, D-3, D-4, D-5, D-6, and S-1, Being a Portion of Lot B at Koloa, Kaua'i, Hawai'i. (S-2004-48, Wind Ridge Island Properties, LLC/Kiahuna Kanahiku, LLC)

Subject subdivision was granted **FINAL APPROVAL** by the Planning Commission at their meeting held on October 24, 2006.

Be advised that the final subdivision map or a metes and bounds description of the subdivision must be recorded prior to or at the time of conveyance of interest in any lot or parcel. If no such recordation is made, all approvals shall become null and void.

IAN K. COSTA  
Director of Planning

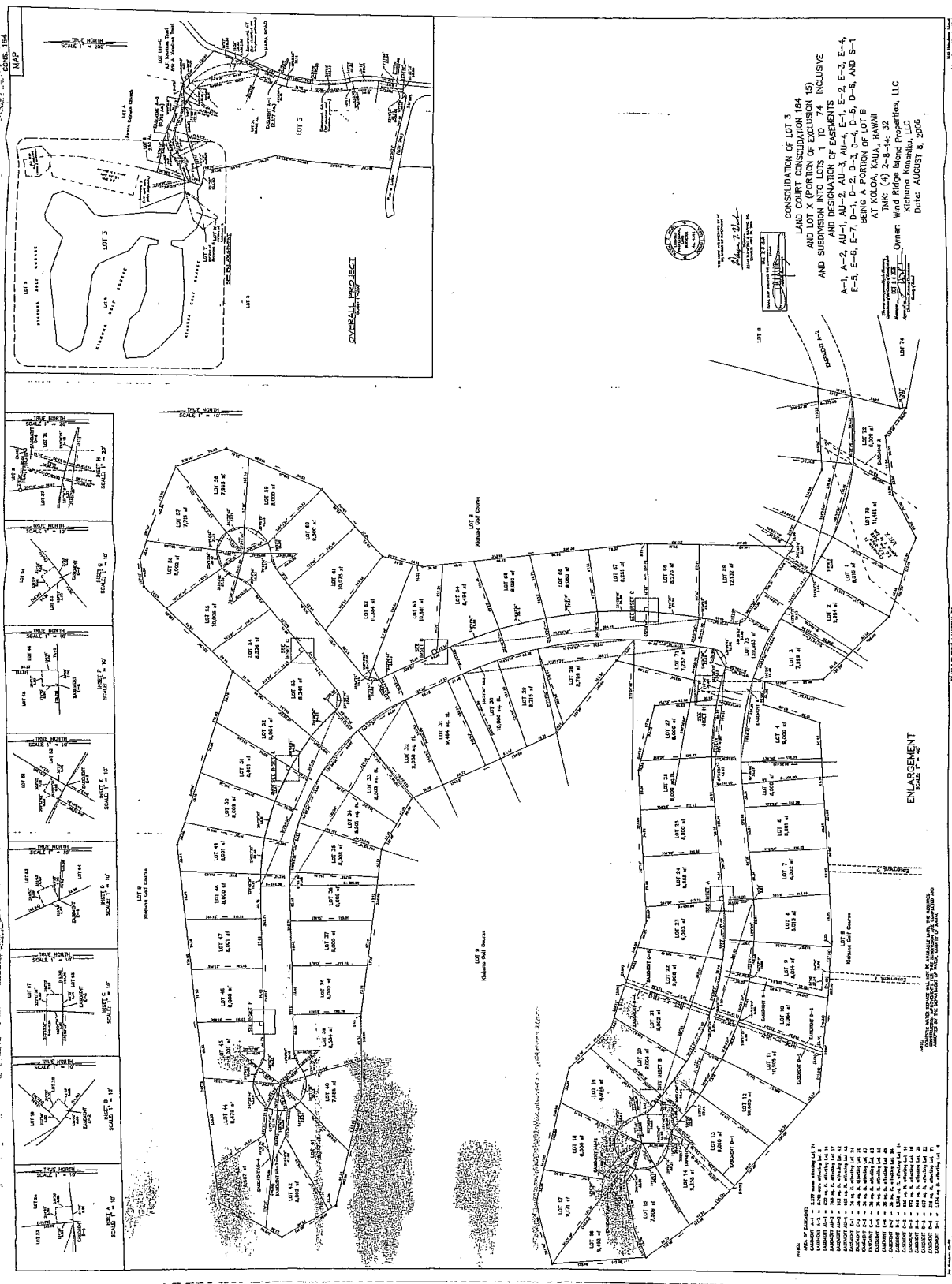
xc: Public Works Dept.  
Water Dept.  
State Health Dept.  
Real Property Div. - Assessment

AN EQUAL OPPORTUNITY EMPLOYER

EXHIBIT "C"

Division Approval Letter, NWR-4 and NWR-3

EXHIBIT "D"



BERNARD P. CARVALHO, JR.  
MAYOR



IAN K. COSTA  
DIRECTOR OF PLANNING

GARY K. HEU  
ADMINISTRATIVE ASSISTANT

IMAIKALANI P. AIU  
DEPUTY DIRECTOR OF PLANNING

COUNTY OF KAUA'I  
PLANNING DEPARTMENT  
4444 RICE STREET  
KAPULE BUILDING, SUITE A473  
LIHU'E, KAUA'I, HAWAII 96766-1326

TEL (808) 241-6677 FAX (808) 241-6699

April 15, 2009

RECEIVED  
4/21/09  
ESAKI SURVEYING & MAPPING, INC.

Dennis M. Esaki  
ESAKI SURVEYING & MAPPING, INC.  
1610 Haleukana Street  
Lihu'e, Hawaii'i 96766

Subject: Subdivision of Lot 12, As Shown on Map 5, Land Court Consolidation 164, and Designation of Easement A-1, into Lots 12-A and 12-B, at Kōloa, Kaua'i, Hawaii'i. (S-2007-39, Kiahuna Fund, LLC.)

Subject subdivision was granted **FINAL APPROVAL** by the Planning Commission at their meeting held on April 14, 2009.

Be advised that the final subdivision map or a metes and bounds description of the subdivision must be recorded prior to or at the time of conveyance of interest in any lot or parcel. If no such recordation is made, all approval shall become null and avoid.

IAN K. COSTA  
Director of Planning

xc: Public Works Dept.  
Water Dept.  
State Health Dept.  
Real Property Div. – Assessment

AN EQUAL OPPORTUNITY EMPLOYER

S2007-39kiabundfund-Final Approval\_let.DEsaki

EXHIBIT "E"



**COUNTY OF KAUA'I**  
**BUILDING DIVISION**  
 4444 RICE STREET  
 MO'IKEHA BLDG, SUITE 175  
 LIHU'E, KAUA'I, HAWAII 96766  
 PHONE: (808)241-4854

**BUILDING / PLUMBING**  
**ELECTRICAL / SIGN**  
**PERMIT**

**Permit Type: BUILDING**

Permit/Application No: 06-00000558  
 Permit Type: BUILDING  
 Valuation: \$4,745,000.00  
 Permit Fee: 20184.00

Date Issued: 7/31/09  
 Prepared By: LESCALONA  
 Total Fees Paid: 20184.00  
 Plan Review Fee: .00

Property Address: 2611 KIAHUNA PLTN DR  
 Owner Name: KIAHUNA FAIRWAYS INC  
 Tenant Name: PILIMAI

Tax Map Key: 2-8-014-033-  
 Contractor: UNDERWOOD, LEONARD S  
 Sub Contr:

**Structure Information**

Construction Type V-1  
 NUMBER OF STORIES: 3  
 Description of Work: 3 STORY APT/PILIMAI/TYPE 100/BLDG 1  
 Misc Information:  
 NEW THREE STORY APT BLDG - 26,285

Occupancy Type RI  
 TOTAL FLOOR AREA: 26285



**INSPECTION TYPE**

- 1-BUILDING FOUNDATION
- 2-BUILDING SLAB/FLOOR
- 3-BUILDING LOAD/UPLIFT/TIES
- 4- FLOOD ELEVATION CERTIFIED
- 5- FORM 1 RECEIVED
- 6-BUILDING FRAMING
- 7-BUILDING LATH/GYPSUM
- 8-BUILDING FINAL

APPROVED

DISAPPROVED

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

Permission is hereby given to do work according to conditions hereon and according to approved plans and specifications. This permit becomes null and void if work or construction authorized is not commenced within 180 days, or if construction or work suspended or abandoned for a period of 180 days at any time after work is commenced. Separate permits must be obtained for building, sign, electrical, plumbing and gas.





**COUNTY OF KAUAI**  
**BUILDING DIVISION**  
 4444 RICE STREET  
 MO'IKEHA BLDG, SUITE 175  
 LIHU'E, KAUAI, HAWAII 96766  
 PHONE: (808)241-4854

**BUILDING / PLUMBING**  
**ELECTRICAL / SIGN**  
**PERMIT**

**Permit Type: BUILDING**

Permit/Application No: 06-00000559  
 Permit Type: BUILDING  
 Valuation: \$4,745,000.00  
 Permit Fee: 20184.00

Date Issued: 7/31/09  
 Prepared By: LESCALONA  
 Total Fees Paid: 20184.00  
 Plan Review Fee: .00

Property Address: 2611 KIAHUNA PLTN DR  
 Owner Name: KIAHUNA FAIRWAYS INC  
 Tenant Name: PILIMAI

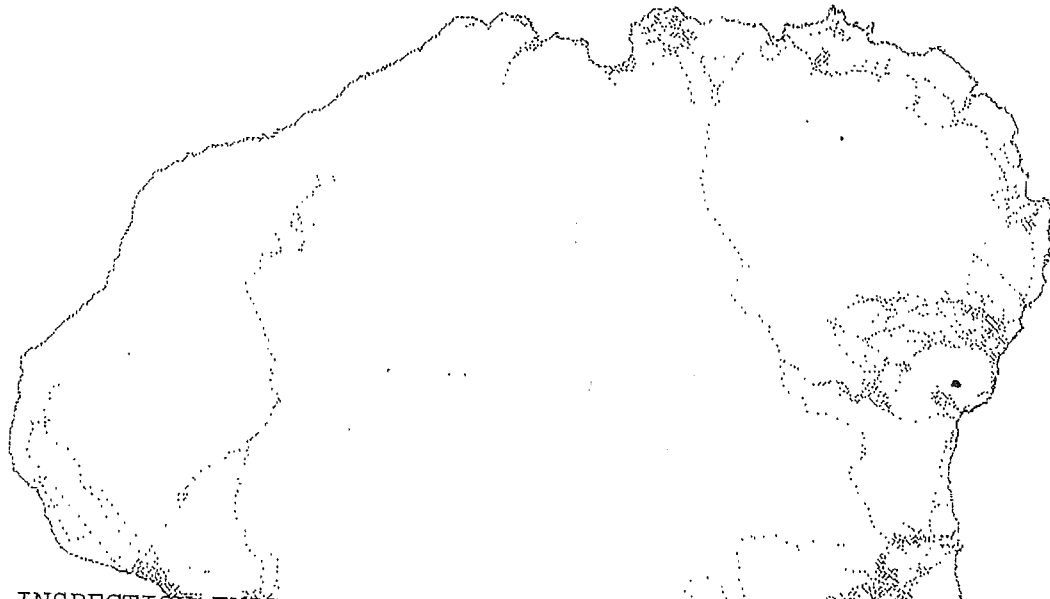
Tax Map Key: 2-8-014-033-  
 Contractor: UNDERWOOD, LEONARD S  
 Sub Contr:

**Structure Information**

Construction Type V-1  
 NUMBER OF STORIES: 3  
 Description of Work: 3 STORY APT/PILIMAI/TYPE 100/BLDG 2  
 Misc Information:

Occupancy Type R1  
 TOTAL FLOOR AREA: 26285

NEW THREE STORY APT BLDG - 26,285



- INSPECTION TYPE**
- 1-BUILDING FOUNDATION
  - 2-BUILDING SLAB/FLOOR
  - 3-BUILDING LOAD/UPLIFT/TIES
  - 4- FLOOD ELEVATION CERTIFIED
  - 5- FORM 1 RECEIVED
  - 6-BUILDING FRAMING
  - 7-BUILDING LATH/GYPSUM
  - 8-BUILDING FINAL

**APPROVED**      **DISAPPROVED**

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

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**EXHIBIT "G"**



**COUNTY OF KAUA'I**  
**BUILDING DIVISION**  
 4444 RICE STREET  
 MO'IKEHA BLDG, SUITE 175  
 LIHU'E, KAUA'I, HAWAII 96766  
 PHONE: (808)241-4854

**BUILDING / PLUMBING**  
**ELECTRICAL / SIGN**  
**PERMIT**

**Permit Type: BUILDING**

Permit/Application No: 06-00000565  
 Permit Type: BUILDING  
 Valuation: \$3,929,000.00  
 Permit Fee: 16920.00

Date Issued: 7/31/09  
 Prepared By: LESCALONA  
 Total Fees Paid: 16920.00  
 Plan Review Fee: .00

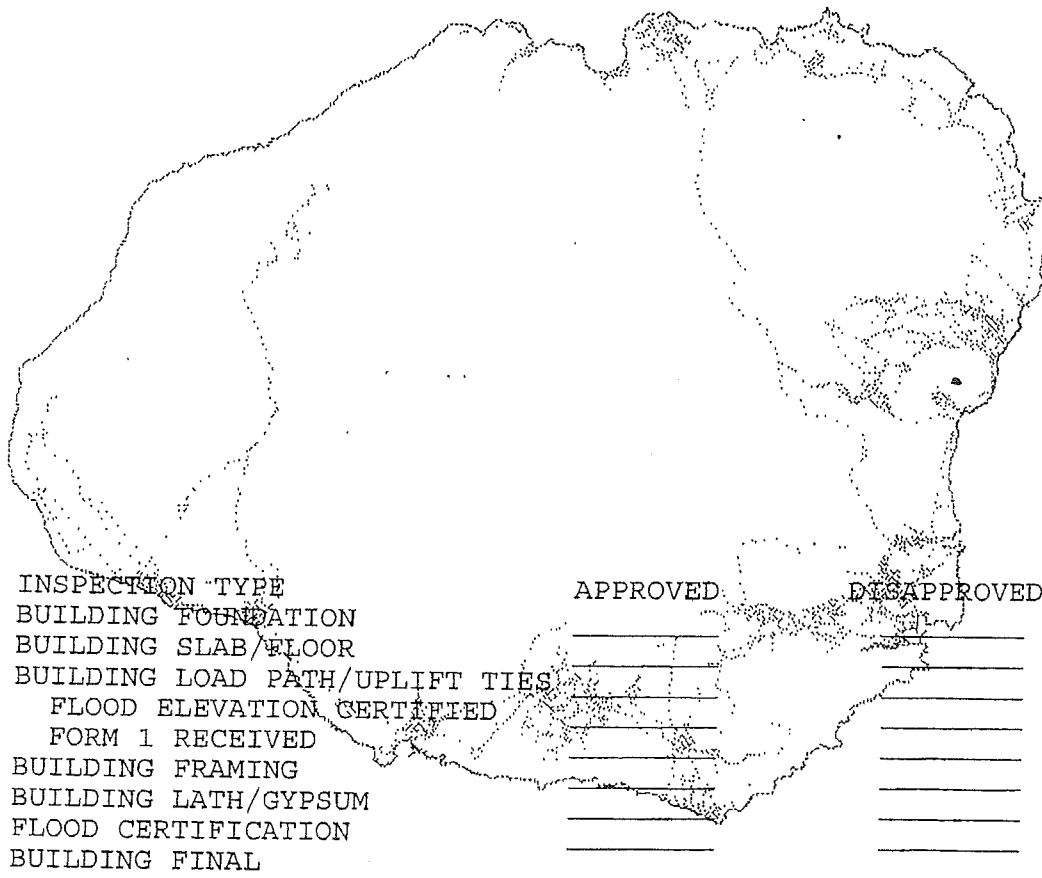
Property Address: 2611 KIAHUNA PLTN DR  
 Owner Name: KIAHUNA FAIRWAYS INC  
 Tenant Name: PILIMAI

Tax Map Key: 2-8-014-033-  
 Contractor: UNDERWOOD, LEONARD S  
 Sub Contr:

**Structure Information**

Construction Type V-1  
 NUMBER OF STORIES: 3  
 Description of Work: 3 STORY APT/PILIMAI/TYPE 200/BLDG 8  
 Misc Information:  
 NEW THREE STORY APT BLDG - 21,867

Occupancy Type R1  
 TOTAL FLOOR AREA: 21867



INSPECTION TYPE	APPROVED	DISAPPROVED
BUILDING FOUNDATION	_____	_____
BUILDING SLAB/FLOOR	_____	_____
BUILDING LOAD PATH/UPLIFT TIES	_____	_____
FLOOD ELEVATION CERTIFIED	_____	_____
FORM 1 RECEIVED	_____	_____
BUILDING FRAMING	_____	_____
BUILDING LATH/GYPSUM	_____	_____
FLOOD CERTIFICATION	_____	_____
BUILDING FINAL	_____	_____

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COUNTY OF KAUAI  
 BUILDING DIVISION  
 4444 RICE STREET  
 MO'IKEHA BLDG, SUITE 175  
 LIHU'E, KAUAI, HAWAII 96766  
 PHONE: (808)241-6655

BUILDING / PLUMBING  
 ELECTRICAL / SIGN  
**PERMIT**

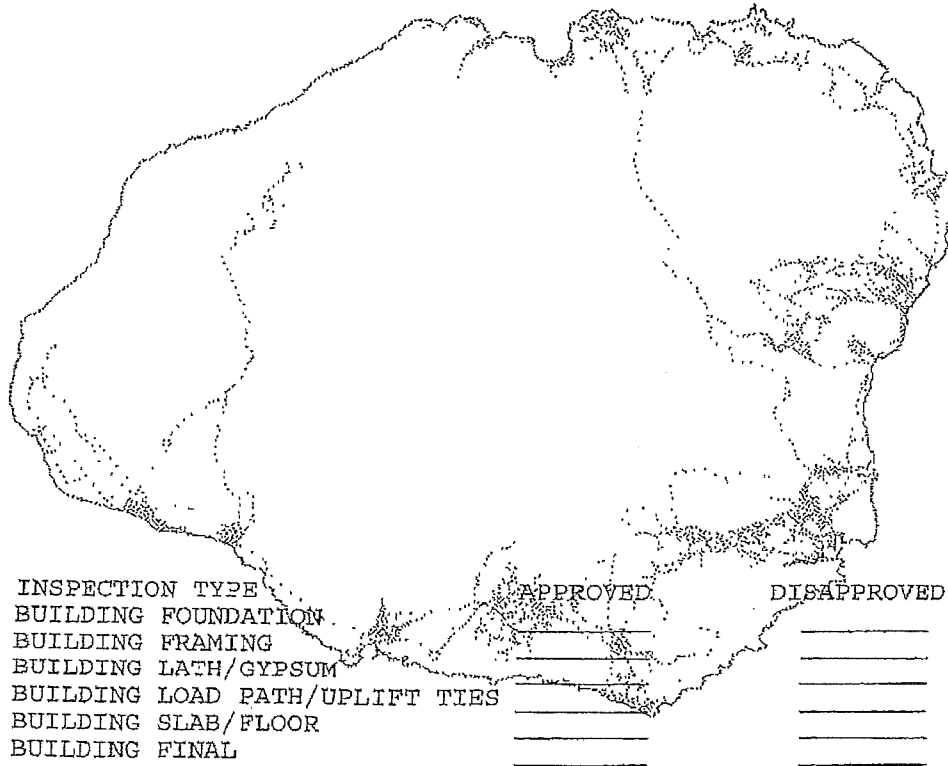
Permit Type: BUILDING

Permit/Application No: 06-00000566 Date Issued: 5/12/08  
 Permit Type: BUILDING Prepared By: SYAGIHARA  
 Valuation: \$4,745,000.00 Total Fees Paid: 20184.00  
 Permit Fee: 20184.00 Plan Review Fee: .00

Property Address: 2611 KIAHUNA PLTN DR Tax Map Key: 2-8-014-033-  
 Owner Name: KIAHUNA FAIRWAYS INC Contractor: BROOKFIELD HOMES.  
 Tenant Name: PILIMAI Sub Contr:

Structure Information

Construction Type V-1 Occupancy Type R1  
 NUMBER OF STORIES: 3 TOTAL FLOOR AREA: 26285  
 Description of Work: 3 STORY APT/PILIMAI/TYPE 100/BLDG 9  
 Misc Information:  
 NEW THREE STORY APT BLDG - 26,285



INSPECTION TYPE	APPROVED	DISAPPROVED
BUILDING FOUNDATION	_____	_____
BUILDING FRAMING	_____	_____
BUILDING LATH/GYPSUM	_____	_____
BUILDING LOAD PATH/UPLIFT TIES	_____	_____
BUILDING SLAB/FLOOR	_____	_____
BUILDING FINAL	_____	_____

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[www.kauai.gov/buildingpermits](http://www.kauai.gov/buildingpermits)

JOB SITE COPY

EXHIBIT "I"



**COUNTY OF KAUA'I**  
**BUILDING DIVISION**  
 4444 RICE STREET  
 MO'IKEHA BLDG, SUITE 175  
 LIHU'E, KAUA'I, HAWAII 96766  
 PHONE: (808)241-6655

**BUILDING / PLUMBING**  
**ELECTRICAL / SIGN**  
**PERMIT**

Permit Type: **BUILDING**

Permit/Application No: 06-00000567	Date Issued: 1/09/08
Permit Type: BUILDING	Prepared By: SYAGIHARA
Valuation: \$4,745,000.00	Total Fees Paid: 12312.00
Permit Fee: 10706.00	Plan Review Fee: 1606.00

Property Address: 2611 KIAHUNA PLTN DR	Tax Map Key: 2-8-014-033-
Owner Name: KIAHUNA FAIRWAYS INC	Contractor: BROOKFIELD HOMES
Tenant Name: PILIMAI	Sub Contr:

----- Structure Information -----

Construction Type V-1	Occupancy Type R1
NUMBER OF STORIES: 3	TOTAL FLOOR AREA: 26285
Description of Work: 3 STORY APT/PILIMAI/TYPE 100/BLDG 10	
Misc Information: NEW THREE STORY APT BLDG - 26,285	

INSPECTION TYPE	APPROVED	DISAPPROVED
1-BUILDING FOUNDATION	_____	_____
2-BUILDING SLAB/FLOOR	_____	_____
3-BUILDING LOAD/UPLIFT TIES	_____	_____
4- FLOOD ELEVATION CERTIFIED	_____	_____
5- FORM 1 RECEIVED	_____	_____
6-BUILDING FRAMING	_____	_____
7-BUILDING LATH/GYPSUM	_____	_____
8-BUILDING FINAL	_____	_____

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[www.kauai.gov/buildingpermits](http://www.kauai.gov/buildingpermits)

JOB SITE COPY

PERMIT

**EXHIBIT "J"**



COUNTY OF KAUA'I  
 BUILDING DIVISION  
 4444 RICE STREET  
 MO'IKEHA BLDG, SUITE 175  
 LIHU'E, KAUA'I, HAWAII 96766  
 PHONE: (808)241-6655

BUILDING / PLUMBING  
 ELECTRICAL / SIGN  
**PERMIT**

Permit Type: BUILDING

Permit/Application No: 06-00000568  
 Permit Type: BUILDING  
 Valuation: \$4,745,000.00  
 Permit Fee: 20184.00

Date Issued: 2/19/08  
 Prepared By: JCHOW  
 Total Fees Paid: 20184.00  
 Plan Review Fee: .00

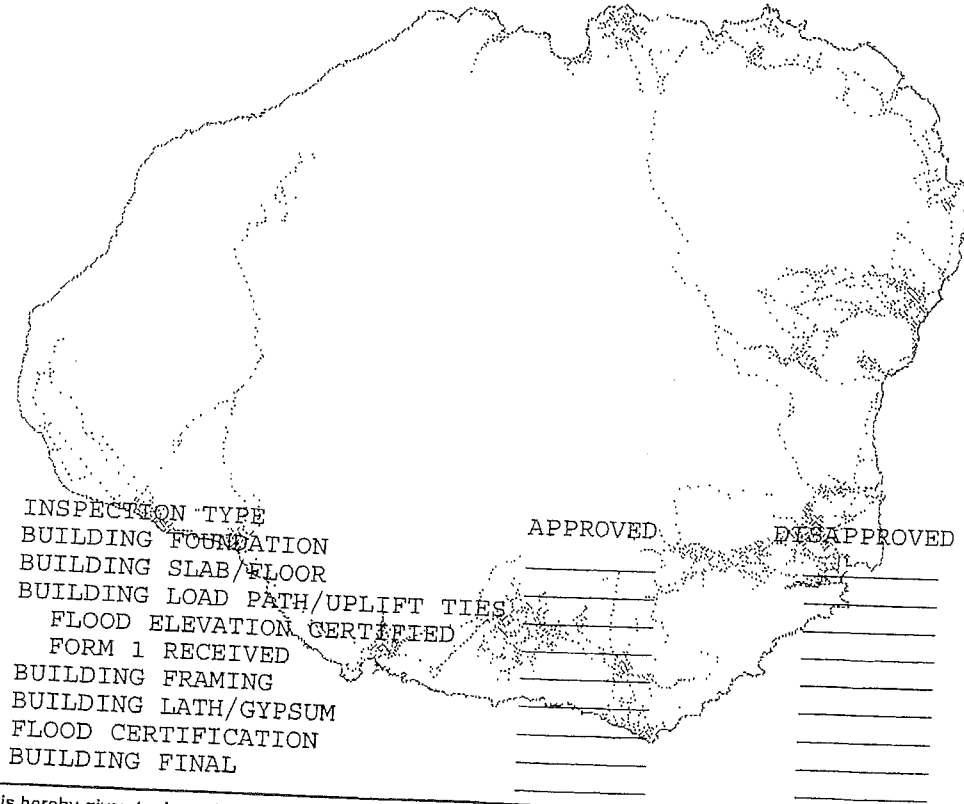
Property Address: 2611 KIAHUNA PLTN DR  
 Owner Name: KIAHUNA FAIRWAYS INC  
 Tenant Name: PILIMAI

Tax Map Key: 2-8-014-033-  
 Contractor: BROOKFIELD HOMES  
 Sub Contr:

Structure Information

Construction Type V-1  
 NUMBER OF STORIES: 3  
 Description of Work: 3 STORY APT/PILIMAI/TYPE 100/BLDG 11  
 Misc Information:  
 NEW THREE STORY APT BLDG - 26,285

Occupancy Type R1  
 TOTAL FLOOR AREA: 26285



- INSPECTION TYPE
- BUILDING FOUNDATION
- BUILDING SLAB/FLOOR
- BUILDING LOAD PATH/UPLIFT TIES
- FLOOD ELEVATION CERTIFIED
- FORM 1 RECEIVED
- BUILDING FRAMING
- BUILDING LATH/GYPSUM
- FLOOD CERTIFICATION
- BUILDING FINAL

APPROVED \_\_\_\_\_ DISAPPROVED \_\_\_\_\_

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[www.kauai.gov/buildingpermits](http://www.kauai.gov/buildingpermits)

JOB SITE COPY

EXHIBIT "K"



**COUNTY OF KAUA'I**  
**BUILDING DIVISION**  
 4444 RICE STREET  
 MO'IKEHA BLDG, SUITE 175  
 LIHU'E, KAUA'I, HAWAII 96766  
 PHONE: (808)241-6655

**BUILDING / PLUMBING**  
**ELECTRICAL / SIGN**  
**PERMIT**

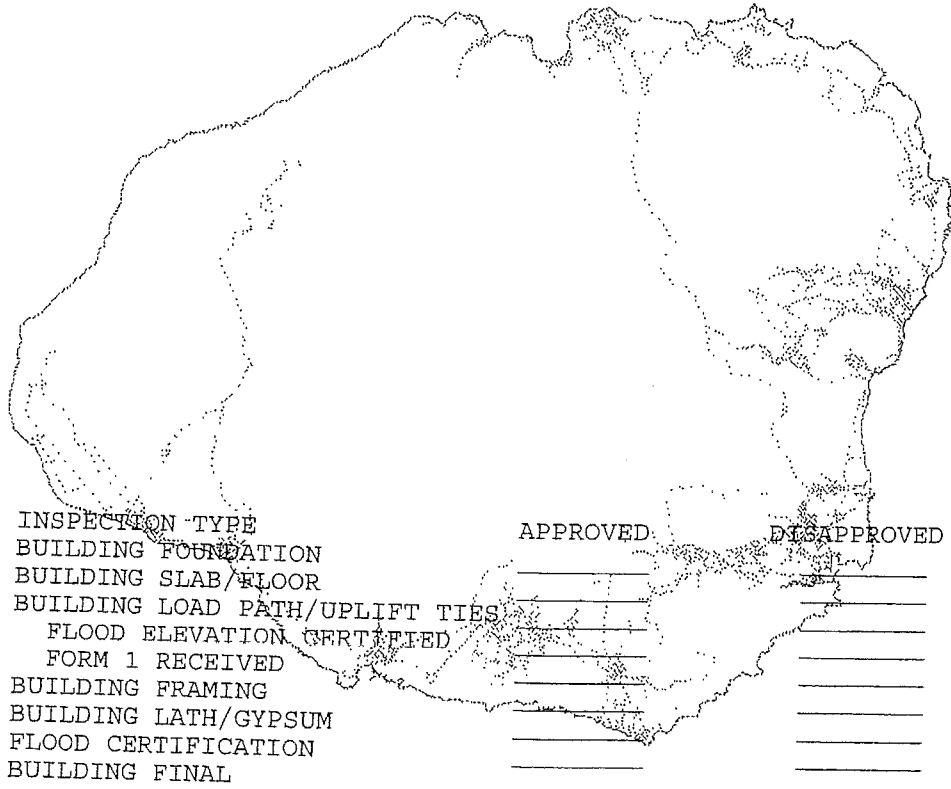
Permit Type: **BUILDING**

Permit/Application No: 06-00000569	Date Issued: 2/19/08
Permit Type: BUILDING	Prepared By: JCHOW
Valuation: \$4,745,000.00	Total Fees Paid: 20184.00
Permit Fee: 20184.00	Plan Review Fee: .00

Property Address: 2611 KIAHUNA PLTN DR	Tax Map Key: 2-8-014-033-
Owner Name: KIAHUNA FAIRWAYS INC	Contractor: BROOKFIELD HOMES
Tenant Name: PILIMAI	Sub Contr:

----- Structure Information -----

Construction Type V-1	Occupancy Type R1
NUMBER OF STORIES: 3	TOTAL FLOOR AREA: 26285
Description of Work: 3 STORY APT/PILIMAI/TYPE 100/BLDG 12	
Misc Information: NEW THREE STORY APT BLDG - 26,285	



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[www.kauai.gov/buildingpermits](http://www.kauai.gov/buildingpermits)

JOB SITE COPY

**EXHIBIT "L"**



COUNTY OF KAUA'I  
 BUILDING DIVISION  
 4444 RICE STREET  
 MO'IKEHA BLDG, SUITE 175  
 LIHU'E, KAUA'I, HAWAII 96766  
 PHONE: (808)241-6655

BUILDING / PLUMBING  
 ELECTRICAL / SIGN  
**PERMIT**

Permit Type: BUILDING

Permit/Application No: 06-00000570  
 Permit Type: BUILDING  
 Valuation: \$4,745,000.00  
 Permit Fee: 20184.00

Date Issued: 2/19/08  
 Prepared By: JCHOW  
 Total Fees Paid: 20184.00  
 Plan Review Fee: .00

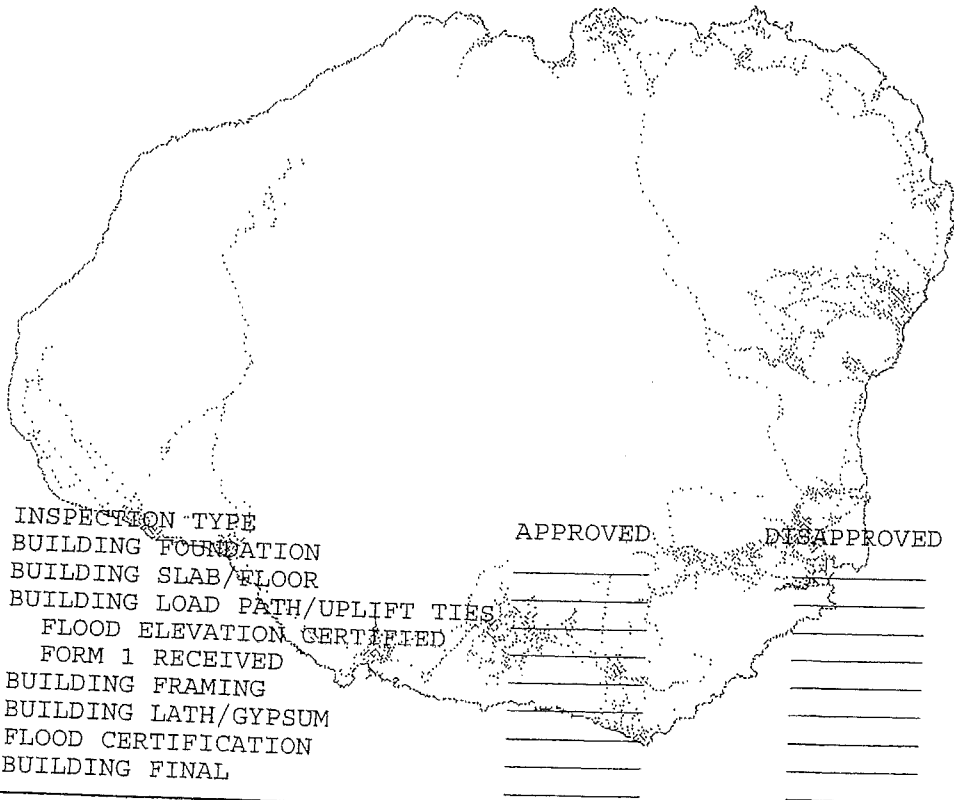
Property Address: 2611 KIAHUNA PLTN DR  
 Owner Name: KIAHUNA FAIRWAYS INC  
 Tenant Name: PILIMAI

Tax Map Key: 2-8-014-033-  
 Contractor: BROOKFIELD HOMES  
 Sub Contr:

Structure Information

Construction Type V-1  
 NUMBER OF STORIES: 3  
 Description of Work: 3 STORY APT/PILIMAI/TYPE 100/BLDG 13  
 Misc Information:  
 NEW THREE STORY APT BLDG - 26,285

Occupancy Type R1  
 TOTAL FLOOR AREA: 26285



- INSPECTION TYPE
- BUILDING FOUNDATION
- BUILDING SLAB/FLOOR
- BUILDING LOAD PATH/UPLIFT TIES
- FLOOD ELEVATION CERTIFIED
- FORM 1 RECEIVED
- BUILDING FRAMING
- BUILDING LATH/GYPSUM
- FLOOD CERTIFICATION
- BUILDING FINAL

APPROVED	DISAPPROVED
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
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_____	_____
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[www.kauai.gov/buildingpermits](http://www.kauai.gov/buildingpermits)

JOB SITE COPY

**EXHIBIT** M



**COUNTY OF KAUA'I**  
**BUILDING DIVISION**  
 4444 RICE STREET  
 MO'IKEHA BLDG, SUITE 175  
 LIHU'E, KAUA'I, HAWAII 96766  
 PHONE: (808)241-6655

**BUILDING / PLUMBING  
 ELECTRICAL / SIGN  
 PERMIT**

Permit Type: **BUILDING**

Permit/Application No: 06-00000571	Date Issued: 5/12/08
Permit Type: BUILDING	Prepared By: SYAGIHARA
Valuation: \$4,745,000.00	Total Fees Paid: 20184.00
Permit Fee: 20184.00	Plan Review Fee: .00

Property Address: 2611 KIAHUNA PLTN DR	Tax Map Key: 2-8-014-033-
Owner Name: KIAHUNA FAIRWAYS INC	Contractor: BROOKFIELD HOMES
Tenant Name: PILIMAI	Sub Contr:

Structure Information

Construction Type V-1	Occupancy Type R1
NUMBER OF STORIES: 3	TOTAL FLOOR AREA: 26285
Description of Work: 3 STORY APT/PILIMAI/TYPE 100/BLDG 14	
Misc Information: NEW THREE STORY APT BLDG - 26,285	

INSPECTION TYPE	APPROVED	DISAPPROVED
BUILDING FOUNDATION	_____	_____
BUILDING FRAMING	_____	_____
BUILDING LATH/GYPSUM	_____	_____
BUILDING LOAD PATH/UPLIFT TIES	_____	_____
BUILDING SLAB/FLOOR	_____	_____
BUILDING FINAL	_____	_____

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EXHIBIT "N"





**COUNTY OF KAUA'I**  
**BUILDING DIVISION**  
 4444 RICE STREET  
 MO'IKEHA BLDG, SUITE 175  
 LIHU'E, KAUA'I, HAWAII 96766  
 PHONE: (808)241-6655

**BUILDING / PLUMBING  
 ELECTRICAL / SIGN  
 PERMIT**

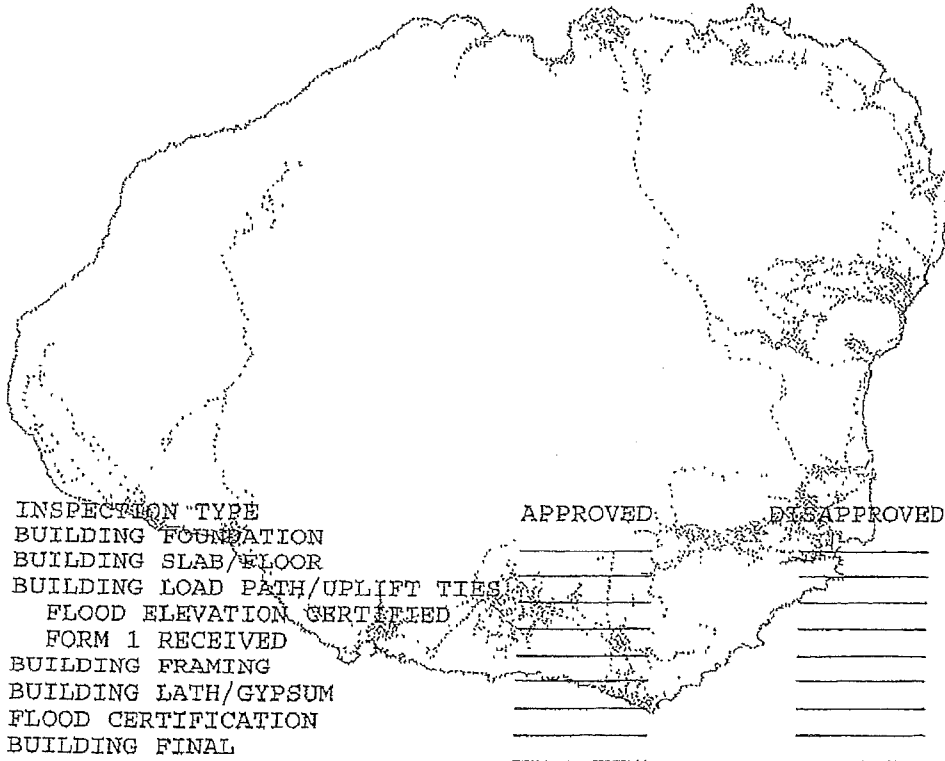
Permit Type: **BUILDING**

Permit/Application No: 06-00000572	Date Issued: 5/12/08
Permit Type: BUILDING	Prepared By: SYAGIHARA
Valuation: \$4,745,000.00	Total Fees Paid: 20184.00
Permit Fee: 20184.00	Plan Review Fee: .00

Property Address: 2611 KIAHUNA PLTN DR	Tax Map Key: 2-8-014-033-
Owner Name: KIAHUNA FAIRWAYS INC	Contractor: BROOKFIELD HOMES
Tenant Name: PILIMAI	Sub Contr:

----- Structure Information -----

Construction Type V-1	Occupancy Type R1
NUMBER OF STORIES: 3	TOTAL FLOOR AREA: 26285
Description of Work: 3 STORY APT/PILIMAI/TYPE 100/BLDG 15	
Misc Information:	
NEW THREE STORY APT BLDG - 26,285	



INSPECTION TYPE	APPROVED	DISAPPROVED
BUILDING FOUNDATION	_____	_____
BUILDING SLAB/FLOOR	_____	_____
BUILDING LOAD PATH/UPLIFT TIES	_____	_____
FLOOD ELEVATION CERTIFIED	_____	_____
FORM 1 RECEIVED	_____	_____
BUILDING FRAMING	_____	_____
BUILDING LATH/GYPSUM	_____	_____
FLOOD CERTIFICATION	_____	_____
BUILDING FINAL	_____	_____

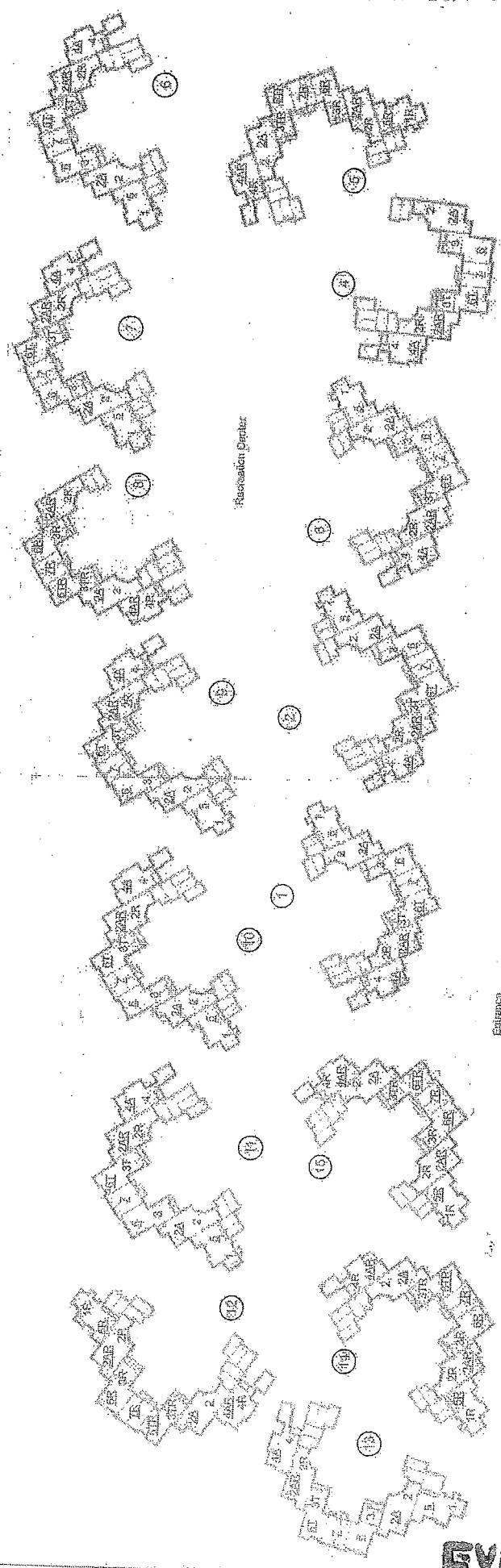
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JOB SITE COPY

**EXHIBIT "O"**

BUILDING PLAN



Entrances

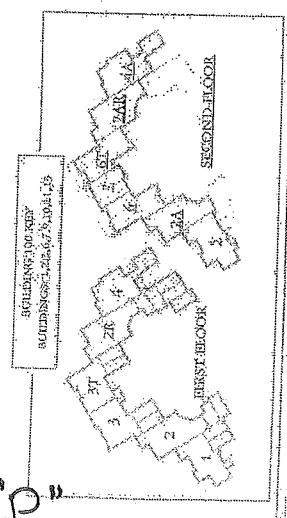
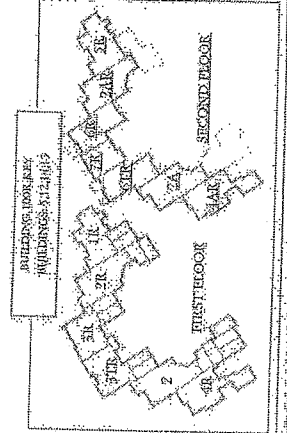
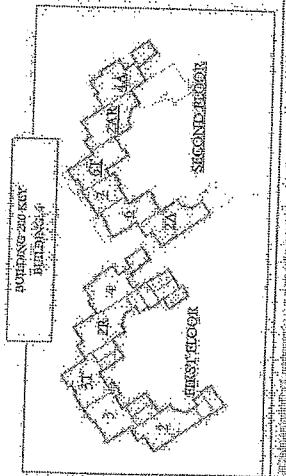
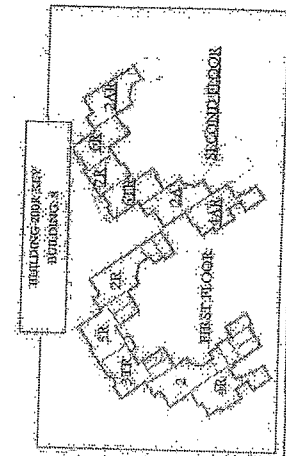


EXHIBIT "P"

EXHIBIT "4"

Conveyance of Water Facility

6 DEC 29 12:19

DEPT. OF WATER  
COUNTY OF KAUAI

THE ORIGINAL OF THE DOCUMENT  
RECORDED AS FOLLOWS:  
STATE OF HAWAII

BUREAU OF CONVEYANCES

Doc 2006-237525  
DEC 27, 2006 08:02 AM

LAND COURT SYSTEM

REGULAR SYSTEM

After Recordation, Return by: Mail  Pickup ( )

DEPARTMENT OF WATER  
County of Kauai  
P. O. Box 1706  
Lihue, Kauai, Hawaii 96766  
Telephone: (808) 245-5408

This document contains 6 pages

TYPE OF DOCUMENT:

CONVEYANCE OF WATER FACILITY

PARTIES TO DOCUMENT:

OWNER: KIAHUNA MAUKA PARTNERS LLC, a Hawaii limited liability  
company  
2291 Loke Road  
Koloa, Kauai, Hawaii 96756

BOARD: BOARD OF WATER SUPPLY, COUNTY OF KAUAI  
P. O. Box 1706  
Lihue, Kauai, Hawaii 96766

TAX MAP KEY FOR PROPERTY:

(4) 2-7-04-014

CONVEYANCE OF WATER FACILITY

KNOW ALL PEOPLE BY THESE PRESENTS:

In compliance with the Rules and Regulations of the Department of Water, County of Kauai, State of Hawaii, and in consideration of the water supply, service and maintenance hereafter to be provided by said department, KIAHUNA MAUKA PARTNERS LLC, a Hawaii limited liability company, herein called the "Owner", whose mailing address is 2291 Loke Road, Koloa, Kauai, Hawaii 96756, does hereby convey and transfer unto the BOARD OF WATER SUPPLY, COUNTY OF KAUAI, herein called the "Board", whose mailing address is P. O. Box 1706, Lihue, Kauai, Hawaii 96766, for Kauai Tax Map Key No. (4) 2-7-04-014 located at Koloa, Kauai, Hawaii, all of the Owner's right, title and interest in and to all facilities constructed and installed in accordance with the as-built construction drawings for OMAO WATER SYSTEM 0.5 M.G. RESERVOIR AND CONNECTING PIPE LINES prepared by Esaki Surveying & Mapping, Inc. and approved by the Department of Water on April 4, 2005 (hereinafter referred to as "Water Facilities"), including but not limited to the Water Facilities described in Exhibit "A", attached hereto and incorporated herein. The Owner covenants with the Board, its successors and assigns, that the Owner is the lawful owner of the facilities above conveyed and that the same is free and clear of all liens and claims and that the Owner will hold said Board free and clear of all claims against said facilities of all persons whomsoever.

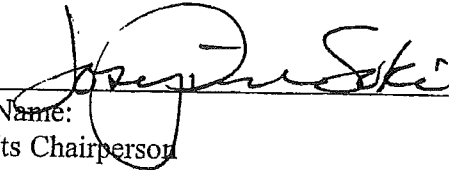
IN WITNESS WHEREOF, the parties have executed this Conveyance Of Water Facility on the 14<sup>th</sup> day of December, 2006.

KIAHUNA MAUKA PARTNERS LLC

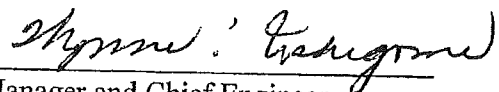
By Chester W. Hunt  
CHESTER W. HUNT  
Its Managing Member

**ACCEPTED:**

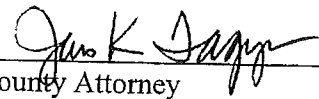
BOARD OF WATER SUPPLY, COUNTY OF KAUAI

By   
Name: \_\_\_\_\_  
Its Chairperson

**APPROVED:**

  
Manager and Chief Engineer  
Department of Water, County of Kauai

**APPROVED AS TO FORM  
AND LEGALITY:**

  
Deputy County Attorney

STATE OF HAWAII )  
 ) SS:  
COUNTY OF KAUAI )

On this 1st day of December, 2006, before me appeared CHESTER W. HUNT, to me personally known, who, being by me duly sworn or affirmed, did say that such person(s) executed the foregoing instrument as the free act and deed of such person(s), and if applicable, in the capacities shown, having been duly authorized to execute such instrument in such capacities.

L.O.

Jenny A. Uyeda-Gali  
Name of Notary: **JENNIFER A. UYEDA-GALI**  
Notary Public, State of Hawaii

My commission expires: 12/17/2008

STATE OF HAWAII )  
 ) SS.  
COUNTY OF KAUAI )

On this 14<sup>th</sup> day of December, 2006, before me appeared Josephine Skea, to me personally known, who, being by me duly sworn, did say that (s)he is the Chairperson of the BOARD OF WATER SUPPLY, COUNTY OF KAUAI, and that the foregoing instrument was signed on behalf of said Board by authority of said Board, and said officer acknowledged said instrument to be the free act and deed of said Board, and that said Board has no corporate seal.

Rona Mura  
Name of Notary Public: Rona Mura  
Notary Public, State of Hawaii.

My commission expires: 10-22-07

EXHIBIT "A"

**Omao Water System, 0.5 MG Reservoir and Connecting Pipelines**

The project consists of constructing 0.5 MG Water Tank with feed controls and piping, construction of a new feed control station to regulate flow from the 677 feet Omao Water System into the 366 feet Koloa Water System, including all necessary piping and appurtenances, electrical and all other incidental and necessary appurtenant work after demolition of 0.2 MG Water Tank. Following is the list of items that is being conveyed to the Department of Water:

- 1 each 0.5 million gallon reinforced concrete reservoir including structural excavation and base course, access and overflow hatches with intrusion detection switches, roof ventilator with removable filters, interior and exterior ladders, ladder shield, influent/effluent line, overflow line, washout line, sampling lines, tank level indicator transmitter, water level indicator, 4" perimeter drainline, 11' wide perimeter road.
- 80 LF of 8" ductile iron waterline, including various fittings and concrete reaction blocks
- 77 LF of 16-inch ductile iron waterline, including various fittings and concrete reaction blocks
- 193 LF of rip rap drain ditch with the drainage inlet and concrete swale
- 154 LF of 12" ductile iron drainline (approximately 100 feet being washout/overflow and the remaining approximately 54 feet being part of ht reconnecting waterline)
- 29 LF of 18" HDPE drainline
- 425 LF of 6' tall chain link fencing with 14' gate and 30" pedestrian gate
- 2 each 8" pressure sustaining, pressure reducing, solenoid valves with valve vaults and hatches
- 2 each 12" solenoid valves with valve vaults and hatches
- 1 each 8" pressure sustaining and pressure reducing manual control valve with pressure gauges and transmitters, valve vault and hatch
- 1 each 4" air and vacuum relief valve
- 3 each 16" butterfly valves with valve box and covers
- 4 each 12" butterfly valves
- 7 each 8" butterfly valves



- 1 each 8" venture flow tube with differential pressure transmitter, conduit and control wiring
- 2 each hose bibs near valve vault
- 2 each curb boxes near tank level indicator transmitter
- 1 lump sum valve control equipment with electrical conduits, wiring and stainless steel enclosures with multiple cabinets, new utility pole on-site, antennae, junction boxes, SCADA equipment, etc.

**[END OF EXHIBIT "A"]**

EXHIBIT "5"

Will-Serve Letter from HOH Utilities for  
acceptance and treatment of sewage and waste water

HOH Utilities, LLC  
P.O. Box 1214  
Lawai, HI 96765

December 1, 2005

Kiahuna Mauka Partners  
c/o Mr. Greg Kamm, Project Manager  
P.O. Box 1200  
Koloa, HI 96756-0537

Subject: Confirmation of Wastewater Service (Will Serve Commitment) for  
Kiahuna Mauka Partners Development, Poipu, Kauai

Dear Mr. Kamm:

This letter confirms receipt of your payment of our contribution in aid of construction (CIAC) fees of \$2,400,000 for the WWTP and \$163,875 for the lift station and force main, per our agreement. Per our earlier agreement, 300,000 gpd wastewater treatment capacity at the Poipu Water Reclamation Facility (PWRF) has been reserved for the subject project.

In addition, up to 300,000 gallons per day of treated R-1 effluent will be made available for use within the subject project. A similar amount of treated R-2 effluent will be available to KMP for dust control during construction prior to the PWRF conversion to R-1, but compliant use of the R-2 is the sole responsibility of KMP.

The Hawaii Public Utilities Commission issued their Decision and Order No. 22117 which was filed on November 10, 2005 that expands the HOH Utilities service area to include all of the areas of the Kiahuna Mauka Partners' projects.

If you have any questions regarding this matter or need more information, please call me at 332-9320.

Sincerely,

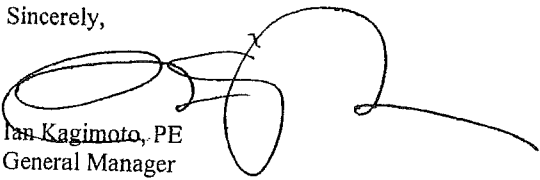
  
Ian Kagimoto, PE  
General Manager  
HOH Utilities, LLC

EXHIBIT "5"

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing were served on the following by depositing the same in the United States Postal Service, certified mail, postage prepaid, or by hand delivery of the same, addressed as follows, on this date:

OFFICE OF PLANNING  
Attention: Jessie K. Souki, Director  
State Office Building, Room 600  
235 South Beretania Street  
Honolulu, HI 96813

PLANNING DEPARTMENT (by hand delivery)  
COUNTY OF KAUAI  
Attention: Michael Dahilig, Planning Director  
4444 Rice Street  
Lihue, HI 96766

ALFRED CASTILLO, JR. (by hand delivery)  
County Attorney, County of Kauai  
4444 Rice Street  
Lihue, HI 96766

GRACE NIHEI KIDO, Esq.  
Cades Schutte Fleming & Wright  
1000 Bishop Street, Suite 1200  
Honolulu, HI 96813  
Attorney for Knudsen Trusts

TERESA TICO, Esq.  
P. O. Box 220  
Hanalei, HI 96714  
Attorney for Intervenors Walter Chang et al.

Dated: Lihue, Hawaii, this 8<sup>th</sup> day of January, 2013.

  
\_\_\_\_\_  
Walton D. Y. Hong  
Attorney Kiahuna Mauka Partners, LLC