

of Maui against any and all claims or demands for property damage, personal injury and/or death arising out of this permit, including, but not limited to: (1) claims from any accident in connection with the permitted use, or occasioned by any act or nuisance made or suffered in connection with the permitted use in the exercise by the applicant of said rights; and (2) all actions, suits, damages and claims by whomsoever brought or made by reason of the nonobservance or nonperformance of any of the terms and conditions of this permit. Proof of a policy naming County of Maui as an additional named insured shall be submitted to the Planning Department within ninety (90) calendar days from the date of transmittal of the decision and order.

- No X 8. That full compliance with all applicable governmental requirements shall be rendered.
9. That the applicant shall submit plans regarding the location of any construction-related structures such as, but not limited to trailers, sheds, equipment and storage areas and fencing to be used during the construction phase to the Maui Planning Department for review and approval.
10. That the applicant shall submit to the Planning Department five (5) copies of a detailed report addressing its compliance with the conditions established with the subject Special Management Area Use Permit. A preliminary report shall be reviewed and approved by the Planning Department prior to issuance of a grading permit. A final compliance report shall be submitted thirty (30) days after the completion of the subdivision to the Planning Department for review and approval.
- No X 11. That the applicant shall develop the property in substantial compliance with the representations made to the Commission in obtaining the Special Management Area Use Permit. Failure to so develop the property may result in the revocation of the permit.

PROJECT SPECIFIC CONDITIONS:

- No X 12. That the applicant shall be responsible for all required infrastructural improvements including, but not limited to water source and system improvements for both domestic and fire protection, drainage improvements, traffic-related improvements, wastewater system improvements, and utility upgrades. Said improvements shall be constructed concurrently with the development and shall be completed prior to final subdivision approval or bonded in accordance with Title 18, Maui County Code, relating to the subdivision ordinance.

*they are
doing this
cultural
reserve*

13. That as represented by the applicant, an approximate 54-acre cultural reserve for historic and cultural preservation operated and managed by the Olowalu Cultural Reserve, a non-profit organization, shall be established in perpetuity to ensure preservation of historic and cultural resources, as well as to perpetuate the Hawaiian culture and continued access to Native Hawaiians to "gather", to perform religious practices, and to attend to their own kuleana. Access to the cultural reserve shall be open to the general public as a cultural reserve. Access for recreational purposes shall be as approved by the Olowalu Cultural Reserve (as amended).

*Not
done*

14. As represented by the applicant, the roadways for the proposed subdivisions shall be constructed in substantial compliance with the proposed greenway plan identified in the application. For each phase of development, final plans for the applicable increments of the approximate sixty (60) acres of greenways shall be submitted to the Maui Planning Department for review and approval. Said greenway areas shall be regularly maintained and access to the greenways shall be open to the general public for access and recreational purposes (as amended).

*Not
properly
maintaining
inferior construction
& engineering*

15. That the applicant shall establish an irrigation system for the proposed agricultural subdivisions which addresses the supply, storage, and distribution of irrigation water to the proposed lots, and is secured in terms of permit acquisition, quality, quantity, availability, and year-round operations and maintenance. Documentation that the irrigation system has been established shall be submitted to the Maui Planning Department within ninety (90) days of construction of the subdivision.

16. That the applicant shall prepare a dust- and erosion-control plan for review and approval by the Maui Planning Department to ensure that any fallow agricultural lands do not create future adverse dust and erosion impacts on the surrounding area. Said plan shall be reviewed and approved by the appropriate State of Hawaii agencies and implemented as soon as practicable by the applicant and its assigns and successors. A copy of the approved dust- and erosion-control plan for the agricultural lands shall be submitted to the Maui Planning Department and the Department of Public Works and Waste Management for our records (as amended).

17. That potential buyers will be advised that the lots are for sale as commercial agricultural lots and of Hawaii's Right to Farm Act which prohibits conditions, covenants, and restrictions that will prevent or impede reasonable agricultural use of the lots.

18. That the Maui/Lanai Islands Burial Council shall review the mitigation proposals for all burials.

Mr. Robert Hercale
September 18, 2000
Page 6

19. That the applicant shall submit a detailed preservation plan (scope of work) for the sites identified for preservation to the Department of Land and Natural Resources, State Historic Preservation Division (SHPD), for approval. This plan will include buffer zones, interim protection measures (as needed), and long-range preservation plans. No land alteration may occur in the vicinity of these sites until minimally the buffer zones and interim protection measures are approved and the SHPD verifies the interim protection measures are in place. No preservation activities may occur in these sites until the preservation plan is approved. The SHPD shall verify in writing to the County when the plan has been successfully executed.
20. That archaeological data recovery shall occur at the sites identified in the survey reports. The applicant shall submit an archaeological data recovery plan (scope of work) for these sites to the SHPD for approval. The SHPD shall verify in writing to the County when the plan has been successfully executed. Further, as noted, the gleyed marsh soils shall also undergo archaeological data recovery. Minimally, data recovery fieldwork must be successfully concluded (and verified in writing by SHPD) prior to land alteration in this part of the project area. The SHPD shall verify in writing to the permitting agencies when the plan has been successfully completed.
21. That archaeological monitoring of land-altering construction in the sand areas along the shore shall occur, as a contingency to identify, document, and treat any burials that might be found. A monitoring plan (scope of work) shall be submitted to and be approved by the SHPD prior to the beginning of the monitoring. This plan must specify how any burials that are found will be documented archaeologically, notification procedures, and treatment measures that will be taken. This scope should be completed before a monitoring contract is negotiated.
22. All preservation areas and buffer zones shall be clearly marked on the subdivision plans and recorded with the property documents to ensure that future owners of the lots are aware of these restrictions to the lots.
23. That as represented by the applicant, the oral history work shall be expanded to include more people of the Olowalu area, such as existing and former residents, persons who have knowledge of their ancestors living in the area, and the kupunas.
24. That adequate buffers between the cultural preserve areas and the agricultural lots shall be established to ensure that the cultural experience is not impacted by the agricultural use and structures on the adjoining lots. Mitigation measures from high boundary

walls, residences, farm buildings, and operations shall be submitted to the Maui Planning Department for review and approval.

25. Unless removal is necessary for intersection improvements, to the extent practicable, the Monkey Pod trees within the subject property on both sides of Honoapiilani Highway shall be retained and consideration shall be given to extending the Monkey Pod trees as part of the cultural landscape (as amended).

26. That structures located within the floodway Flood Zone AO and A4 shall be constructed above the flood elevation. Measures such as post and pier construction shall be considered to conform to the Flood Hazard District and to allow flood waters to continue to traverse the property (as amended).

27. That future buyers of lots shall be informed that development within flood hazard areas shall be implemented in accordance with Chapter 19.62, Maui County Code (as amended).

28. That use of soil as fill is prohibited within the Shoreline Setback Area, except for clean sand. Further, any grading or mining of a coastal dune is prohibited.

29. That a minimum shoreline setback of 150 ft. from the certified shoreline shall be established for all lots on the makai portion of the subdivision regardless of a government beach reserve fronting the subdivided lots. No structures shall encroach into the Shoreline Setback Area to ensure that future shoreline erosion and storm-wave action will not adversely affect structural development on the properties.

30. That public lateral pedestrian access along the shoreline within the Shoreline Setback Area shall be provided. Landscaping in the area within 50 ft. of the shoreline should be spaced far enough apart so as not to interfere with lateral access. Further, as represented by the applicant, mauka/makai public shoreline access from Honoapiilani Highway and public beach parking shall be provided near the Olowalu Mill site to Olowalu Landing, as well as access points to the shoreline from both ends of the makai Olowalu lands. Documentation that access, as required, has been provided shall be filed with the Departments of Public Works and Waste Management, Parks and Recreation, and Planning prior to final subdivision approval (as amended).

31. As represented by the applicant, the existing cane haul road (approximately 80 ft. wide) on the mauka side of Honoapiilani Highway shall be set aside as a reserve (Roadway Lot 39) for

relocation of
"D" driveway
removal of
Monkey Pod trees

Violated this
see: Final Improvements

future roadway expansion or relocation of Honoapiilani Highway (as amended).

*This did
not happen*

32. That roadway improvements to Honoapiilani Highway, including left-turn storage lanes, acceleration and deceleration lanes, driveway connections, etc., as identified in the applicant's Traffic Impact Assessment Report (TIAR), and as required by the Department of Transportation shall be provided in conjunction with the development of the subdivision. The roadway improvements shall be reviewed and approved by the Department of Transportation. Construction of the improvements shall be completed prior to occupancy of the agricultural lots unless a phasing plan for the improvements is reviewed and approved by the Department of Transportation. *→ no phasing plan*

NO

33. That the outdoor lighting plans for the subdivision shall be submitted to the Maui Planning Department for review and approval to reduce the negative impacts on seabirds, especially the dark-rumped petrel (*Pterodroma phaeopygia sandwichensis*) which is a federally endangered species. All potential owners of the lots shall be informed that appropriate measures approved by the Maui Planning Department shall be taken to reduce the negative impacts of night lights (as amended).

?

34. That future buyers of the lots shall be informed that there may be potential waste from the old mill site (Olowalu Mill) and other vacated agricultural industrial areas. Remedial cleanup must be conducted before any new development occurs.

35. That future buyers of the lots shall be informed of the survey monuments located within the boundaries of their lots which need to be protected from any development activities. Further, in the event the survey monuments are disturbed or destroyed during development of the subdivision or properties, it will be the responsibility of the applicant, assigns or successors to reference and replace the monuments.

36. That Condition Nos. 16, 17, 21, 24, 25, 26, 27, 28, 29, 30, 31, 33, 34, and 35 shall run with the land and shall be set forth in a unilateral agreement recorded by the applicant with the Bureau of Conveyances within sixty (60) days from the date of receipt of this decision. A copy of the recorded unilateral agreement shall be filed with the Planning Director and the Director of the Department of Public Works and Waste Management within ten (10) days of recordation.

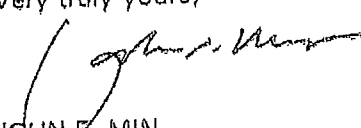
The conditions of this Special Management Area Use Permit shall be enforced pursuant to Sections 12-202-23 and 12-202-25 of the Special Management Area Rules for the Maui Planning Commission.

Mr. Robert Horajo
September 18, 2000
Page 8

Further, the Commission adopted as its Findings of Fact, Conclusions of Law, Decision and Order the Planning Department's Report and Recommendation Report prepared for the September 12, 2000 meeting and authorized the Planning Director to transmit said Decision and Order for the Commission.

Thank you for your cooperation. If additional clarification is required, please contact Ms. Colleen Suyama, Staff Planner, of this office at 270-7735.

Very truly yours,



JOHN E. MIN
Planning Director

JEM:CMS:omb

c: Clayton Yoshida, AICP, Deputy Planning Director
Aaron Shinmoto, Planning Program Administrator (2)
LUCA (2)
Department of Water Supply
Michael Munekiyo, AICP, Munekiyo, Arakawa & Hiraga, Inc.
Patricia Nishiyama, Na Kupuna O Maui
Ed Lindsey
Buck Buchanan
Timothy Johns, Department of Land and Natural Resources
Kazu Hayashida, Department of Transportation
James Nakatani, Department of Agriculture
Gary GIII, Department of Health
Colleen Suyama, Staff Planner
Project File
General File

(K:\Planning\SM1199SM121199SM121v)



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION
P.O. BOX 571
HONOLULU, HAWAII 96808

DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION
COUNTY AND LOCAL RELATIONS
CONSERVATION AND
RECREATION
CITY AND COUNTY
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
LAND DIVISION
STATE PARKS
WATER RESOURCE MANAGEMENT

Ref: PD:TC

File: CHIA HA-3050

OCT 18 2001

Mr. Robert Horcajo
Olowalu Elua Associates, LLC
173 Ho Ohaana Street, Suite 201
Kahului, HI 96732

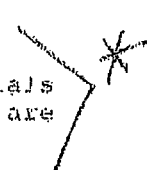
Dear Mr. Horcajo:

SUBJECT: Conservation District Use Application (CDUA) for
waterline improvements and a consolidation and re-
subdivision of land at Olowalu, Maui

I am pleased to inform you that on October 12, 2001, the Board of
Land and Natural Resources (Board) approved your CDUA for the
waterline and subdivision at Olowalu, Maui, with the following
conditions:

1. The applicant shall comply with all applicable statutes, ordinances, rules, and regulations of the federal, State and county governments, and the applicable parts of Section 13-5-42, HAR;
2. The applicant, its successors and assigns, shall indemnify and hold the State of Hawaii harmless from and against any loss, liability, claim or demand for property damage, personal injury or death arising out of any act or omission of the applicant, its successors, assigns, officers, employees, contractors and agents under this permit or relating to or connected with the granting of this permit;
3. The applicant shall comply with all applicable Department of Health administrative rules;
4. Any work or construction to be done on the land shall be initiated within one year of the approval of such use, in accordance with construction plans that have been signed by the Chairperson, and, unless otherwise authorized, shall be completed within three years of the approval of such use. The applicant shall notify the Land Division in writing when construction activity is initiated and when it is completed;

EXHIBIT 5

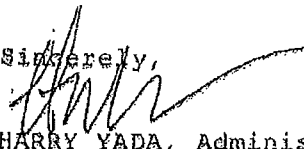
- 
5. All mitigation measures set forth in the application materials and in the Final Environmental Assessment for this project are hereby incorporated as conditions of the permit;
 6. Where any interference, nuisance, or harm may be caused, or hazard established by the use, the applicant shall be required to take measures to minimize or eliminate the interference, nuisance, harm, or hazard;
 7. The applicant understands and agrees that this permit does not convey any vested rights or exclusive privilege;
 8. In issuing this permit, the Department and Board have relied on the information and data that the applicant has provided in connection with this permit application. If, subsequent to the issuance of this permit, such information and data prove to be false, incomplete or inaccurate, this permit may be modified, suspended or revoked, in whole or in part, and/or the Department may, in addition, institute appropriate legal proceedings;
 9. In the event that unrecorded historic remains (i.e., artifacts, or human skeletal remains) are inadvertently uncovered during construction or operations, all work shall cease in the vicinity and the applicant shall immediately contact the State Historic Preservation Division;
 10. The applicant shall provide documentation (e.g. book and page or document number) that the permit approval has been placed in recordable form as a part of the deed instrument, prior to submission for approval of subsequent construction plans;
 11. Within one year of The Board's approval of After-the-Fact CDUP MA-3014 (August 24, 2002), the applicant shall designate a public access easement and parking through the subject lands to allow public access to the shoreline. A metes and bounds description of the access and parking shall be provided to the Chairperson for his review and approval;
 12. Access to the West Maui Forest Reserve, Lihau Natural Area Reserve, and State Game Management Area, shall be provided through the proposed Cultural Reserve in the project area unless provided elsewhere.
 13. Other terms and conditions as may be prescribed by the Chairperson; and

14. That failure to comply with any of these conditions may render this Conservation District Use Permit null and void.

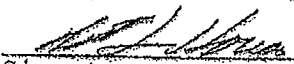
Please contact Traver Carroll of our Planning Branch at 587-0439 should you have any questions on this matter.

Please acknowledge your receipt of this permit and acceptance of conditions by signing in the space provided below and returning a copy to us.

Sincerely,


HARRY YADA, Administrator
Land Division

Receipt acknowledged:

 Oct. 19, 2001
Signature Date

cc: Board Chair
Maui Board Member
County of Maui, Department of Planning
DOH/QHA
DOCARE/HPD/DAR

FINAL COMPLIANCE REPORT
SPECIAL MANAGEMENT USE PERMIT

(SM1 990021)

DEPT OF LAND & NATURAL RESOURCES
COLLECTOR'S OFFICE
RECEIVED
MAR 15 10:34

OLOWALU MAUKA LANDS
LAHAINA, MAUI

March 2002

Olowalu Elua Associates, Inc.
173 Ho'ohana Street, Suite 201
Kahului, Hawaii 96732
Telephone: (808) 877-4202
Fax: (808) 877-9409

EXHIBIT 6

FINAL COMPLIANCE REPORT
SPECIAL MANAGEMENT USE PERMIT
(SM1 990021)

LOWALU MAUKA LANDS
LAHAINA, MAUI

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 - B. *Revised* Construction Related Structures Plan (SMA condition #9)
 - B. *Revised* Greenway System Plan (SMA condition #14)
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V. Exhibits

- A Master Subdivision Plan
- B Construction Related Structures Plan .
- C Irrigation System Plan
- D Final Plat-Olowalu Mauka Subdivision (LUCA FILE No. 4.766)

INTRODUCTION

INTRODUCTION

Olowalu Elua Associates, LLC applied for a Special Management Area Use Permit for the subdivision of lands at Olowalu, Lahaina, Maui. At a public hearing on September 12, 2000, the Maui Planning Commission granted approval of the SMA Use Permit, subject to thirty six (36) conditions.

Pursuant to Condition # 10 of the SMA Use Permit, a Preliminary Compliance Report dated November 29, 2000 was submitted to the Maui County Planning Department for review and approval. Based on comments from the Planning Department review, this Final Compliance Report is being submitted to the Planning Department for review and approval.

As the project is being developed in phases, namely makai (oceanside of highway) and mauka (mountainside of highway), separate Final Compliance Reports will be submitted for each phase. The Final Compliance Report for the makai lands was approved September 28, 2001. This report is for the mauka lands.

SPECIAL MANAGEMENT AREA USE PERMIT APPROVAL
LETTER AND REVIEW OF PRELIMINARY COMPLIANCE
REPORT

RESPONSE TO SMA USE PERMIT CONDITIONS-MAUKA REPORT

Conditions:

1. Applicant is expected to initiate construction of the proposed project by September 30, 2002.
2. Applicant expects that the construction of the project will be completed within five (5) years after the date of its initiation.
3. Applicant understands that applicant or any aggrieved person may appeal to the Maui Planning Commission any action taken by the Planning Director on the subject permit no later than ten (10) days from the date the Director's action is reported to the Commission.
4. Applicant acknowledges that final construction shall be in accordance with preliminary subdivision plans included in the SMA submittal received by the Planning Department on November 9, 1999.
5. Applicant acknowledges that appropriate measures shall be taken during construction to mitigate the short-term impacts of the project relative to soil erosion from wind and water, ambient noise levels, and traffic disruptions.
6. Applicant understands that subject SMA Use Permit shall not be transferred without prior written approval by the Planning Commission.
7. A \$1,000,000 comprehensive liability insurance policy naming the County of Maui as additional insured, is attached under **IV. Individual Reports-Insurance Binder**.
8. Applicants intends to comply will all government requirements.
9. A *Revised Construction Related Structures Plan* is herewith submitted under **IV. Individual Reports-Revised Construction Related Structures Plan**. This plan was approved on September 28, 2001 with the Final Compliance Report for the makai lands.
10. A Preliminary Compliance Report dated November 29, 2000 was submitted to the Planning Department for review and approval. This Final Compliance Report for the makai lands was approved September 28, 2001.
11. Applicant intends to develop the property in substantial compliance with the representations made to the Commission in obtaining the SMA Use Permit.

12. Applicant acknowledges that all required infrastructure improvements shall be constructed concurrently with the development and shall be completed prior to final subdivision approval or bonded in accordance with Title 18, Maui County Code. *
13. Applicant acknowledges that an approximate 54-acre cultural reserve will be established in perpetuity, to be managed by the Olowalu Cultural Reserve, a non-profit organization. Access shall be open to the general public as a cultural reserve, however, access for recreational purposes shall be as approved by the Olowalu Cultural Reserve.
14. A Revised Greenway System Plan is herewith submitted under **IV. Individual Reports-Revised Greenway System Plan**. This plan was approved on September 28, 2001 with the Final Compliance Report for the makai lands.
15. An Irrigation System Plan for the proposed agricultural subdivision is herewith submitted under **IV. Individual Reports-Irrigation System Plan**.
16. A Revised Dust and Erosion Control Plan is herewith submitted under **IV. Individual Reports-Revised Dust and Erosion Control Plan**. This plan was approved on September 28, 2001 with the Final Compliance Report for the makai lands. Copies of the approved plan were previously submitted to the Planning Department and Department of Public Works and Waste Management.
17. Through the recordation of the SMA Unilateral Agreement and the Declaration of Covenants, Conditions and Restrictions, as encumbrances on the property, potential buyers will be advised of Hawaii's Right to Farm Act and that lots are being sold as commercial agricultural lots.
18. The Maui/Lanai Island Burial Council approved the Preservation Plan for the mauka lands during its February 22, 2000 meeting. A copy of the Preservation Plan and approval letter are herewith attached under **IV. Individual Reports-Burial Preservation Plan-Mauka Lands**.
19. The State Historic Preservation Division (SHPD) has reviewed and approved the Mitigation and Preservation Plan for archaeological sites within the Olowalu mauka lands. A copy of the final approval letter dated March 7, 2002 is herewith submitted with this report under **IV. Individual Reports-Archaeological Mitigation and Preservation Plan-Mauka Lands**. No land alteration will occur in the vicinity of any sites without verification by SHPD that the approved interim protection measures are in place.
20. The State Historic Preservation Division (SHPD) has reviewed the Mitigation and Preservation Plan for archaeological sites within the Olowalu Mauka

Lands. As all the sites were being preserved, no data recovery actions were taken. A copy of the final approval letter dated March 7, 2002 is herewith submitted with this report under IV. Individual Reports- Archaeological Mitigation and Preservation Plan-Mauka Lands.

21. The State Historic Preservation Division (SHPD) has reviewed the Mitigation and Preservation Plan for archaeological sites within the Olowalu Mauka Lands. There are no required monitoring areas within the mauka lands, therefore, no report is being submitted.
22. All archaeological preservation areas and buffer zones are identified on the subdivision final plat and will be noted as an encumbrance on conveyance documents for the affected lots. Upon recordation, a copy of the final plat will be forwarded to the Planning Department. **See Exhibit D.**
23. It was the intent that most of the oral history work previously started by applicant would be expanded by the Olowalu Cultural Reserve (OCR), the Lessee of the cultural reserve. The Olowalu Cultural Reserve however, have not organized themselves enough to continue the oral history at this time.
24. A *Revised Cultural Reserve Buffer Plan* is herewith submitted under IV. **Individual Reports-Revised Cultural Reserve Buffer Plan.** This plan was approved on September 28, 2001 with the Final Compliance Report for the makai lands.
25. Unless removal is necessary for intersection improvements, applicant will retain the Monkey Pod trees along the highway, both within applicants property and the State Honoapiilani Highway right of way. Applicant will consider the addition of Monkey Pod trees along the highway corridor, as part of the cultural landscape.
26. Through the recordation of the Unilateral Agreement and the Declaration of Covenants, Conditions and Restrictions, as encumbrances on the property, all lots within the Flood Zone AO and A4 will be subject to requirements that structures will be constructed above the flood elevation and that measures such as post and pier construction shall be considered to allow flood waters to traverse the property.
27. Through the recordation of the Unilateral Agreement and the Declaration of Covenants, Conditions and Restrictions, as encumbrances on the property, future buyers of lots shall be informed that development within flood hazard areas shall be implemented in accordance with Chapter 19.62, Maui County Code.

28. As none of the mauka lands front the shoreline, there is no report being submitted regarding the prohibition of soil as fill material or coastal dune actions.
29. Through the recordation of the Unilateral Agreement and the Declaration of Covenants, Conditions and Restrictions, as encumbrances on the property, a shoreline setback of 150 ft from the certified shoreline will be established for all the makai lots of the subdivision regardless of a government beach reserve fronting the subdivided lots. No structures shall encroach into this Shoreline Setback Area.
30. This condition pertains to lateral shoreline access and mauka/makai access from Honoapiilani Highway to the shoreline, therefore, no report is being submitted.
31. Roadway lot #39 of the mauka subdivision, 80 ft wide and within the existing cane haul road corridor, is being set aside as a reserve for future roadway expansion or relocation of Honoapiilani Highway. **See Exhibit D.**
32. Plans for required roadway improvements involving Honoapiilani Highway have been reviewed and approved by the State Department of Transportation. Roadway improvements shall be provided in accordance with said approval prior to occupancy of the subdivided lots, unless a phasing plan for said improvements is approved by the DOT. *
33. An *Revised* Outdoor Lighting Plan is herewith submitted under **IV. Individual Reports-Revised Outdoor Lighting Plan**. This plan was approved on September 28, 2001 with the Final Compliance Report for the makai lands.
34. Through the recordation of the "Unilateral Agreement" and the "Declaration of Covenants, Conditions and Restrictions" as encumbrances on the property, future buyers of lots shall be informed that there may be potential waste from the old Olowalu Mill site and other vacated agricultural industrial areas, and that remedial cleanup must be conducted before any new development occurs.
35. Through the recordation of the "Unilateral Agreement" and the "Declaration of Covenants, Conditions and Restrictions" as encumbrances on the property, future buyers of lots shall be informed that any survey monuments within their property, if any, need to be protected from any development activities. Also, it is the lot owners responsibility to reference or replace any disturbed or destroyed monuments.
36. An executed and recorded Unilateral Agreement is herewith submitted under **IV. Individual Reports-Unilateral Agreement**.

JAMES "NIMOY" APANA
Mayor

DAVID C. GOODE
Director

MILTON M. ADAKAWA, A.I.C.P.
Deputy Director



COUNTY OF MAUI
DEPARTMENT OF PUBLIC WORKS
AND WASTE MANAGEMENT
LAND USE AND CODES ADMINISTRATION
250 SOUTH HIGH STREET
WAILUKU, MAUI, HAWAII 96793

RALPH M. NAKAMING, L.C., P.E.
Land Use and Codes Administration

TRACY TAKAMINE, P.E.
Wastewater Reclamation Division

LLOYD P.C.W. LEE, P.E.
Engineering Division

JOHN D. HARDER
Solid Waste Division

BRIAN HASHIRO, P.E.
Highways Division

April 30, 2002

Mr. Robert Horcajo, Project Manager
LOWALU ELUA ASSOCIATES, LLC
173 Hoohana Street; Suite 201
Kahului, Hawaii 96732

SUBJECT: **LOWALU MAUKA SUBDIVISION**
TMK: (2) 4-8-003:010, 050-070, & 073-082
(2) 4-8-004:011-016
LUCA FILE NO. 4.766

Dear Mr. Horcajo:

Final approval for the subject subdivision (consolidation of 38 lots and resubdivision into 34 lots and 5 roadway lots) has been granted on April 30, 2002. This final approval is based upon Section 18.04.020(C) of the Maui County Code (Ordinance 2372). An approved final plat is enclosed for your records.

The State of Hawaii, Department of Land and Natural Resources, State Historic Preservation Division has attached the following condition to this final approval:

"..the terms specified in the accepted preservation plan and burial treatment plan are followed and an acceptable archaeological monitoring plan for sites 4820 and 4821 is submitted to this office for review prior to the commencement of any ground-altering activities. In addition, an acceptable report documenting the findings of the monitoring activities will be submitted to this office for review upon 180 days following the completion of the proposed undertaking."

- In accordance with Section 18.04.020(D) of the Maui County Code, the lots created by this subdivision shall not qualify for this exception with respect to any subsequent consolidation/resubdivision of any of the parcels.

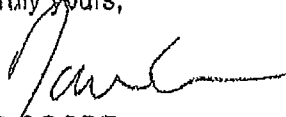
EXHIBIT 7

Mr. Robert Horcajo, Project Manager
SUBJECT: OLOWALU WAIKA SUBDIVISION
LUCA FILE NO. 4766

April 30, 2002
Page 2 of 2

If you have any questions regarding this letter, please call Mr. Lance Nakamura of our
Land Use and Codes Administration at 270-7252.

Very truly yours,



DAVID GOODE
Director of Public Works
And Waste Management

Enclosure: Approved Final Plat

LSN:ay 51\UCAM\LSUBD\UCASUBDIVREG414\766-1.fm

xc: Dept. of Finance, Real Property Tax Division w/final plat
Dept. of Finance, Tax Map Division w/final plat
Building Permit Section w/final plat
Engineering Division w/final plat
Dept. of Planning w/final plat
Dept. of Water Supply w/final plat
Police Dept. w/final plat
State Dept. of Health w/final plat
Maui Electric Co. w/final plat

WEST MAUI LAND COMPANY, INC.
LAHUPHOKO OLOWALU MAUKA KAHULUI HAWAII

33 Lono Ave., Suite 450
Kahului, Maui, Hawaii 96732

Phone: (808) 877-4202
Fax: (808) 877-9409

200 JUN 26 PM 3:50

June 26, 2003

Mr. Ferdinand Cajigal
State Department of Transportation, Maui Division
650 Palapala Drive
Kahului, HI 96732

Re: Follow-up on May 22, 2003 meeting regarding DOT sign off on three Building Permits to construct farm dwellings on existing lots and construction plan approval for Olowalu Mauka Subdivision.

Dear Mr. Cajigal:

On May 22, 2003, Kirk Tanaka, David Ward, Heidi Bigelow and I met with you to discuss the Proposed Highway Access for Olowalu Mauka, building permits being delayed until the County obtains an approval letter from the State DOT and construction plan approval for 14 lot Olowalu Mauka Subdivision. In the meeting, it felt as though we found solutions to the concerns at hand that could be fairly efficiently resolved. More than a month later, we have not made much progress. I understand you are busy, but we are anxious to resolve these issues and move forward. To my knowledge, our consultants have provided you with all the information requested in a timely manner.

Of the items discussed, my highest priority is getting the building permits processed for the three Olowalu Mauka lot owners who are unable to obtain building permits until an 'Approval letter from the State Department of Transportation for access onto a State Highway' is received. (Copies of the Department of Public Works comments are attached.) In our meeting, it was agreed that DOT would write approval letters.

To review, the Olowalu Mauka lots, which have been in existence since the early 1900s, were consolidated and reconfigured under County Ordinance No. 2372 in April 2002. This process is also called a lot line adjustment subdivision. Each lot has the same legal rights as before the consolidation/resubdivision. There were no additional lots created in the Olowalu Mauka Subdivision. As these lot owners hold legal title and pay real property taxes, they are allowed to build houses. Before the re-configuration and still today, lot owners can access the highway at any of the numerous permitted accesses from the Olowalu Dump along our property to the Ukumehame Access. Perhaps until the access across from Camp Pecussa is approved, we could direct the lot owners to use our cane road to access at the Olowalu dumpsite for safety reasons. Please let us know how we get this resolved quickly and efficiently.

My second priority is to obtain construction plan approval from the State DOT for roadway and related infrastructure for the fourteen Olowalu Mauka Subdivision lots. In the May 22, 2003 meeting you questioned why the plans were even sent to your office since the improvements do not touch a State Highway. In fact, the improvements are approximately 1/2 mile away. We agreed, but acknowledge that once the County sent them to DOT and required approval, we must get a response. My understanding was that DOT would notify Public Works that they would not be reviewing the construction plans other than for drainage since the improvements were not in the vicinity of the State Highways. We have received all approvals from all other agencies, and are anxious to receive approval from DOT.

I will call to set up a meeting. The lot owners are frustrated. Please call me at 877-4202 or 283-1273 if you would like to discuss further.

Sincerely,
WEST MAUI LAND COMPANY, INC.


Peter Martin

Enclosures

EXHIBIT 8

ME 02-01

Tanaka Engineers, Inc.

871 Kolu Street, Suite 201, Wailuku, Maui, Hawaii 96793-1436
Phone: (808) 242-6861 Fax: (808) 244-7267 E-Mail: rtanaka@gte.net

civil engineering land surveying construction management inspectional services

State of Hawaii
Department of Transportation
Highways Division
650 Palapala Drive
Kahului, HI 96732

Date February 19, 2003
Project: Olowalu Mauka Subdivision
ME 02-01
Proposed Access Relocation

Attn: Mr. Paul Chung, P.E.

Gentlemen:

We are sending you:

☒ Herewith

☐ Separately

Sent by:

☐ Mail

☒ Deliver

☐ Pick-Up

☐ Fax

☐ Revised Drawings

☒ Prints

☒ For Approval

☐ For Your Use

☐ Specifications

☐ Tracings

☐ As Requested

☐ Approved as Noted

☐ Letter

☐ Invoice

☐ For Submission

☐ Other: See Remarks

No. of Copies

Description

1

Print of Preliminary Layout of Proposed Subdivision Access on Highway at
Sta. 36+40±

Remarks: Please review the attached intersection layout for our meeting on February 24 at 1:00 p.m.
Mr. David Ward, owner's representative, will also be at the meeting.

Thank you for your support and attention to this matter.

Very truly yours,

R. Hidalgo

Rogelio Hidalgo, P.E., L.S.
Project Engineer

0323

c: Mr. David Ward (via Fax)

EXHIBIT 9

J.N. 01-099

LINCOLN L. LEE
GOVERNOR



STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
HIGHWAYS DIVISION

MAUI DISTRICT
650 PALAPALA DRIVE
KAHULUI, HAWAII 96732

July 14, 2003

RODNEY L. HARRIS
DIRECTOR

Acting Deputy Director
GLENN M. CHOMOTO

IN REPLY REFER TO:
HWY-M2.323-03

MEMORANDUM

TO: Bert Ratte
Land Use & Codes Administration

FROM: Paul M. Chung
State Highways

SUBJECT: Olowalu Mauka Subdivision -- Phase 1
LUCA No. 4.766
ME 02-01

*
Thank you for the opportunity to review and comment on the construction plans for the subject project. Based upon our review of the plans, it appears that all of our concerns have been addressed. Therefore, we recommend approval of these construction plans.

If there are any questions or concerns, please call me at 873-3535.

/pmc

cc: Kirk Tanaka

EXHIBIT 10

WEST MAUI LAND COMPANY, INC.

LAUNIPOKO • OLOWALU • KAAHALA • KAHOMA • MAKALA

33 Lono Ave., Suite 450
Kahului, Maui, Hawaii 96732

Phone: (808) 877-4202
Fax: (808) 877-9409

March 17, 2005

Transmittal

Lance Nakamura
County of Maui
Department of Public Works & Waste Management
250 South High St.
Wailuku, HI 96793

Re: Warranty & Guaranty of Improvements

Dear Mr. Nakamura,


Please find enclosed the following Warranty and Guaranty of Improvements for your action and files:

1. Mahanalua Nui Subdivision Phase III, File No. 4.827
2. Makila Plantation Subdivision Phase II, File No. 4.838
3. Olowalu Mauka Subdivision, File No. 4.766
4. Mahanalua Nui Subdivision Phase IV, File No. 4.883

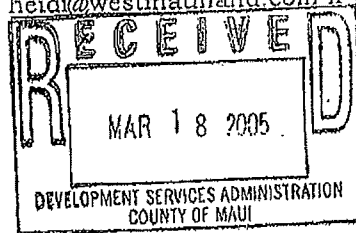
I am enclosing Mahanalua Nui Subdivision Phase IV so it is available for execution upon completion and approval of improvements.

Please contact me at 877-4202 or via email heidi@westmauland.com if you have any questions or need additional information.

Sincerely,
WEST MAUI LAND COMPANY, INC.

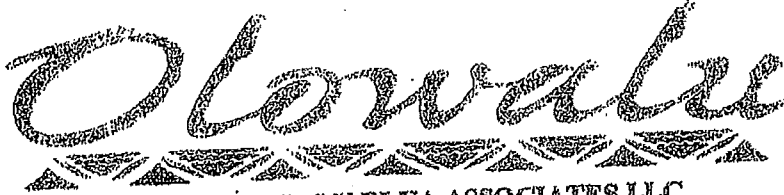

Heidi Bigelow

Enclosures



4/1/05. Received by County of Maui for processing. No longer needed.

EXHIBIT II



LOWALU ELUA ASSOCIATES LLC
33 Lono Avenue, Suite 450 • Kahului, Maui, Hawaii 96732
Telephone (808) 877-4202 • Facsimile (808) 877-9409

Date: October 7, 2003

To: Olowalu Community Members

From: Olowalu Elua Associates LLC

Re: Olowalu Mauka Highway Access &
Olowalu Conceptual Master Plan

Dear Olowalu Community Member:

We are writing to thank those of you who were able to attend the meeting on August 19, 2003 and to give an overview and update of the Mauka Highway Access and Olowalu Master Plan to those of you who were unable to attend.

Olowalu Mauka Highway Access

We are working with State Department of Transportation to develop a safe intersection for Olowalu Mauka Subdivision and Olowalu Village. The new intersection is located across from the Camp Pecusa entrance. Plans include acceleration and deceleration lanes, a left-hand turn lane and striped median. Enclosed for your information is a schematic plan of the proposed intersection and relocated cane haul road along with landscape concept sketches of entry. We were hopeful that the intersection improvements could be in place in 12 to 18 months, but have recently been told that an Environmental Assessment (EA) may be required which could add another year to process.

Olowalu Conceptual Master Plan

Enclosed is the conceptual master plan that we are proposing for the Olowalu area. This plan is a product of five years of brainstorming and numerous layouts for the area. We started by relocating the highway Mauka and providing greenways and beach parks at the popular surf and snorkel locations with beach accesses in between. The heart of the town centers on an oceanfront community park with mixed-use buildings intended for small businesses that would benefit the Olowalu residents, such as a mom and pop grocery store, daycare, café, restaurant, bed & breakfasts/inns and cultural museum. Smaller lots (a blend of affordable and market prices) about the Community Park and existing Olowalu Village, and larger 1/2 to 2-acre lots are proposed to complete the Makai community. The existing fourteen 3 to 6-acre lots in Olowalu Mauka are surrounded by greenways and cultural reserves with a few additional 15 to 25-acre lots proposed Mauka of the relocated highway.

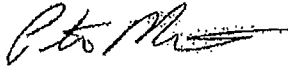
EXHIBIT 12

10/7/2013

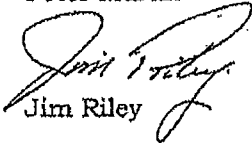
Olowalu Main Highway Access & Conceptual Master Plan
Page 2 of 2

The application process for the Olowalu Master Plan is complex and lengthy. We believe it will take about five years to complete the Change in Zoning, and then between ten and fifteen years to complete build-out of the project. Before we submit a formal application, there is much work to be done. You are among the first to see the plan since this is your town. We plan on holding ongoing community meetings, and will keep you posted on the progress. There is ample opportunity for public testimony and input through out the process.

Sincerely,
Olowalu Elua Associates, LLC

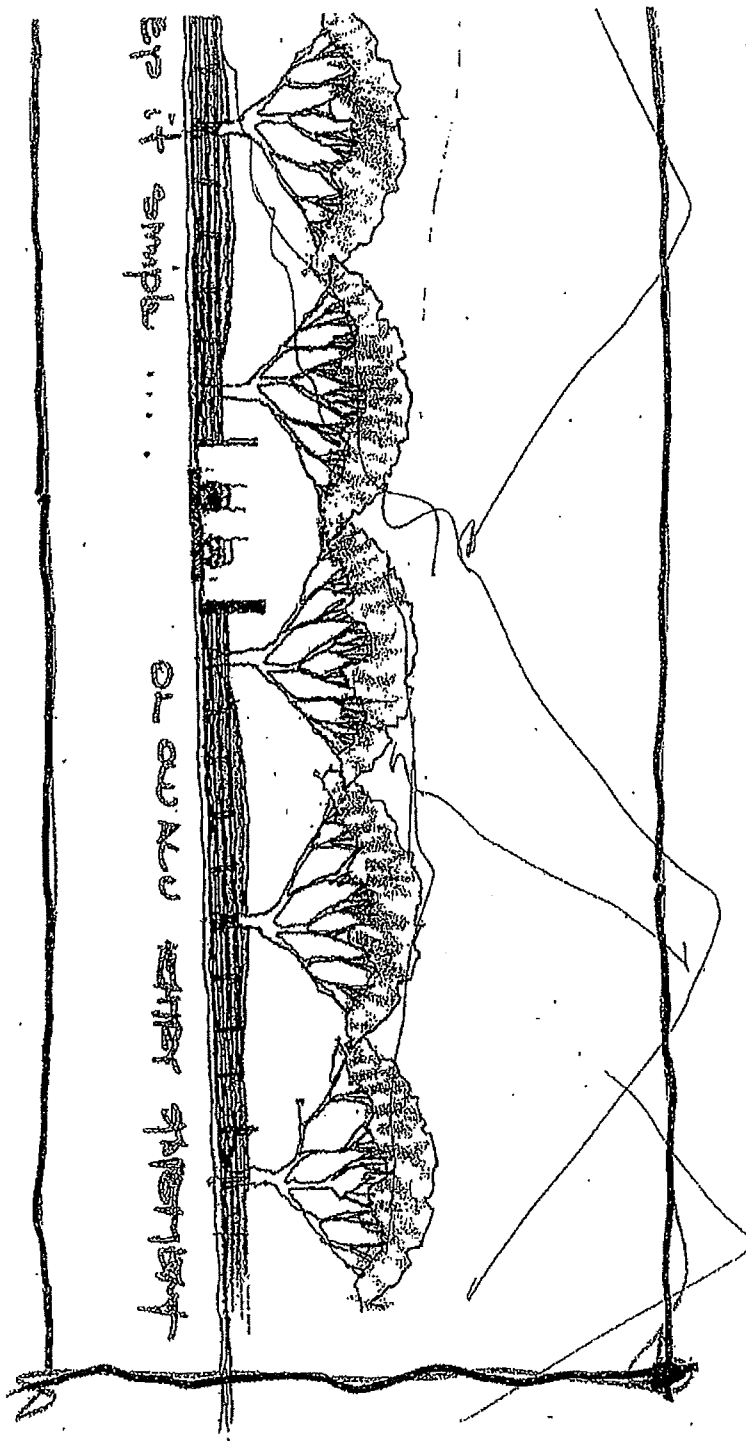


Peter Martin



Jim Riley

Enclosures



INTRODUCTION

Xamanek Researches was contacted during late August 1998 by Mr. Robert Horeajo, Project Manager, Olowalu Elua Associates LLC, Kahului, Maui, regarding the Olowalu project area at Olowalu *ahupua'a*, Lahaina District, Maui. The overall project area encompassed much of the existing Olowalu *ahupua'a* and a small portion of Ukumehame *ahupua'a* (Figure 1). We were asked to prepare and submit a proposal for an archaeological inventory survey, following an onsite meeting.

Xamanek Researches was subsequently contracted to carry out an inventory survey of the c. 732 acre property, which was to be carried out in two phases. Phase 1 focussed on the area *makai* (southwest) of Honoapi'ilani Highway, while Phase 2 was carried out on the area *mauka* (northeast) of the road. We located Site 50-50-08-4693, a precontact burial ground on the eastern portion of the *makai* project area, in November 1998. A burial preservation plan for Site 4693 was prepared in consultation with the Maui/Lana'i Islands Burial Council (MLIBC) [Fredericksen and Fredericksen, 28 Feb. 1999]. Fieldwork on the *mauka* project area began in late 1998 and continued through June 1999. We identified 11 sites that contain or are thought likely to contain human remains during the Phase 2 inventory survey. We recently prepared a burial treatment plan for these 11 sites on behalf of Olowalu Elua Associates, LL. The Maui/Lana'i Islands Burial Council (MLIBC) at its November 2000 meeting approved this treatment plan (Fredericksen and Fredericksen November 2000). The following preservation plan for these sites has been prepared in order to address State Historic Preservation Division requirements for these sites on the *mauka* portion of the Olowalu project area. This plan has again been prepared on behalf of Olowalu Elua Associates, LLC.

BACKGROUND RESEARCH

In precontact times, Olowalu—the largest and deepest valley in Lahaina district—had extensive taro *loʻi* in both the stream valley and the alluvial fan below. Production of taro was continued into the 20th century in the *kuleana* near the ocean according to Handy and Handy (1972, p. 492). A total of 34 Land Commission Awards are located on the *mauka* project area, and numbers of these were awarded for taro and/or house lot use (Figure 1). Several of these LCAs are probably the *kuleana* noted above by Handy and Handy, and are situated near what was formerly the mouth of Olowalu Stream. This stream was rechanneled near the beginning of the 1900s, and its mouth now lies c. 1 km to the northwest of its former bed. The agricultural productivity of Olowalu supported a sizable population into historic times. As long as there was water available, the hot climate was ideal for producing taro.

Coastal Olowalu was the site of the historic Olowalu Massacre, which took place in 1790, by the hand of Captain Simon Metcalf, as retaliation for the theft of a longboat. He lured Hawaiians to the side of his vessel, *Eleanora*, and opened fire on the canoes—at point blank range. It was reported that the bodies of the slain warriors were recovered from the ocean, and “heaped upon the sand” where family members came to mourn and identify their dead (Kamakau, 1992, p. 147). Although less dramatically destructive than the Olowalu Massacre incident, the influence of foreigners began making a more subtle long-term impact on native Hawaiians in this part of Maui and elsewhere. Commercial activities in Lahaina town, the capital of the Hawaiian Islands after the time of Kamehameha I, drew people away from their homes in Olowalu. By 1819 whaling ships had begun to arrive off Lahaina, and their provisioning became a lucrative new venture. Following a few years later were the missionaries from New England. By 1832, the census recorded by the missionaries placed the population of Olowalu at 832 souls.

The Olowalu Sugar Company is said to have been an enterprise of King Kamehameha V, who reigned from 1863 to 1872. This plantation began operating sometime during his reign under the name of West Maui Sugar Company. It was incorporated as the Olowalu Sugar Company in 1881, and continued to operate as such until Pioneer Mill Company purchased it in 1931. The Olowalu Sugar Mill was decommissioned in 1933. However, sugarcane continued to be cultivated on the property until 1999, when Pioneer Mill ended an era of sugarcane production.

**PAGE 5 MISSING FROM ATTACHMENTS
SENT BY RANDY RAGON**

SUMMARY OF ARCHAEOLOGICAL FINDINGS ON THE MAUKA PROJECT AREA

A total of 34 archaeological sites were identified during our 1999 inventory survey (Figure 1 and Table 1). Twenty-eight of these are previously unrecorded cultural resources. These various sites include an unnamed *heiau* (Site 4718); temporary habitation areas and rock overhang shelters; agricultural terraces; a possible *heiau*, a pre- and post-contact burial ground on Pu'u Kilea (Site 4715); two petroglyph panels; a probable burial cave (Site 4699); a possible ceremonial site; plantation era retaining walls; a plantation ditch irrigation system; and a plantation hydropower facility. A total of 11 sites on the *mauka* project area are thought to contain or contain human remains and/or burials.

These 11 culturally significant sites will be addressed by the following preservation plan. Sites discussed in this plan include Kawaialoa/Kaiwaloa *heiau* (Site 04), a coffin burial associated with the old stone Hawaiian Protestant Church (Site 1603), a probable burial cave (Site 4699), Feature B at Site 4707, Feature E at the Site 4710 habitation complex, Feature B at Site 4712, the Pu'u Kilea Burial Ground (Site 4715), two or more probable burials at a small unnamed *heiau* (Site 4718), The Awalua Cemetery³ (Site 4758), and two surface scatters of previously disturbed human remains (Site 4820 and 4821). Refer to Figure 2 for site locations within the proposed Green Way open area for the Olowalu Development.

³ The Awalua Cemetery was formerly known as the "Japanese Cemetery," a reflection of its past plantation-era usage. This site was referred to as the "Puha Cemetery" in the Burial treatment Plan, reflecting traditional use of the cemetery. Given the broad usage span of Site 4758, a more inclusive name was suggested at the 25 January 2001 meeting of the Maui/Lana'i Islands Burial Council meeting. The name 'Awalua' was chosen, because it refers to the area. This name change was approved by lineal descendants present at the meeting (Ms. Katie Nahina, Ms. Adeline Rodrigues, and Mr. William Wajohu).

TABLE 1
Significance Evaluations—Proposed Mitigation

SHHP #	Significance evaluation	Components/ features	Status	Condition	Age ⁶	Proposed mitigation
20-50-08						Interpretive preservation ⁷
04	C, D, E	heiau	U	Very good	I	NLS ⁸
3180	D	1	A	G	H	Passive preservation
4699	D and E	9	varies	G	I/H	Passive preservation—DR on Features B, J
4700	D	9	U	G	I	DR to determine function
4701	D	1	A	F	I	NLS
4702	D	1	A	G	H	NLS
4703	D	3	A	varies	?	Preservation—DR if impacted
4704	C, D, E	7	U	G	I	Passive preservation
4705	D	2	U	G	I	Passive preservation
4706	D	1	U	G	I	DR to ascertain age and function
4707	D, E	2	A	F-P	I	Interpretive preservation
4708	D	2	A	G	I/H	NLS
4709	C, D	4	A	G	H	Preservation
4710	D, E	7	A	G-F	I	NLS
4711	D	2	U	G-P	I	DR to ascertain if burial present
4712	D	2	A	G	I	Passive preservation
4713	D	1	U	G	I/H	Passive preservation
4714	D	1	U	G	I	Preservation
4715	D, E	cemetery	U	G	I/H	DR to determine function of Feature B
4716	D	2	A	F	I/H	NLS
4717	D	5	U	G-P	H	Interpretive preservation
4718	C, D, E	3 (heiau)	A	P	I	NLS
4719	D	1	A	P	H	NLS
4720	D	1	A	G	H	NLS
4721	D	1	A	F	H	Preservation
4758	D, E	cemetery	U	F	H	Preservation
1200	C, D, E	petroglyphs	A	F	I	Preservation as part of complex.
1201	D	1	A	F	I	Preservation
1603	D, E	burials	A	F	H	Preservation as an operating water system
3172	D	Water delivery system	U	G	H	Monitoring to recover remains
4820	D, E	Surface scatter of human remains	A	P	I	Monitoring to recover remains
4821	D, E	Surface scatter of human remains	A	P	I	DR-pollen samples, C14 dates
4822	D	Pond sediments	A	P	I/H	DR-pollen samples, C14 dates
4823	D	Marsh deposits	U	G	I/H	

⁴ A=altered; U=unaltered

⁵ G=good; F=fair; P=poor

⁶ I=indigenous; H=historic

⁷ Consultation with Native Hawaiian community recommended prior to implementation.

⁸ No longer significant—sufficient information has been collected.

⁹ Although the parcel on which this church is located is outside the property boundary, the portion in which at least one burial was found is within the project area. This will be preserved.

PRESERVATION PLAN FOR MAUKA PROJECT AREA SITES WITH HUMAN REMAINS, BURIALS, AND PROBABLE AND POSSIBLE BURIAL FEATURES

This overall preservation plan will present the proposed preservation treatment measures for the 11 sites that were addressed in the November 2000 burial treatment plan for the *mauka* project area. The following sites contain or are thought to contain burials and/or human remains. Human remains were located at Site 1603 (Old Stone Church), and Sites 4820 and 4821 (both surface scatters of previously disturbed human remains) during inventory level work. The remaining eight sites are thought to contain burials and/or human remains. While we did not physically identify human burials at these remaining eight sites, cultural and lineal descendents from Olowalu indicated that burials are present at four of these sites. Sites in this category include Kawaialoa/Kaiwaloa *heiau*—Site 04, the Pu'u Kilea Burial Ground—Site 4715, the small unnamed *heiau*—Site 4718, and the Awalua Cemetery—Site 4758. The four remaining sites are considered to contain probable or possible burial features. These include Site 4699, Site 4704, Site 4710, and Site 4712. Site 4699, a small lave tube, contained the remains of an old *hala* mat bundle that we did not further investigate. Individual preservation proposals are presented below for 9 of the 11 sites.¹⁰ Refer to Figure 2 for general site locations on the *mauka* project area.

The following plan outlined here follows suggestions in the SHPD rules (HAR Title 13, Subtitle 6, Chapter 148, pp. 2-5).

¹⁰ Sites 4820 and 4821 consist of surface scatters of previously disturbed human remains. These human remains will be reinterred at the Awalua Cemetery (Site 4758) per the MLIBC approved November 2000 burial treatment plan (Fredericksen and Fredericksen 2000).

Identification of Site(s) to be preserved

Nine of the 11 sites that contain or are thought to contain human remains and/or burials are recommended for in-place preservation on the Olowalu *mauka* project area in this December 2000 plan. Previously disturbed human remains recovered from Sites 4820 and 4821 shall be reinterred at the Puha Cemetery—Site 4758 (hereafter referred to as Awalua Cemetery) per the MLIBC approved Burial Treatment Plan (Fredericksen and Fredericksen, November 2000). Please note that the nine sites covered in this preservation plan do not include all sites to be preserved on the *mauka* project area. These other sites will be included in the final preservation plan for the Olowalu *mauka* project area (see Table 1). This first portion of the preservation plan has been prepared in order to address preservation treatment proposals for the sites that are covered by the November 2000 Burial Treatment Plan for the *mauka* project area. These sites include Kawaialoa/Kaiwaloa *heiau* (Site 04); a coffin burial associated with the old stone Hawaiian Protestant Church (Site 1603), a probable burial cave (Site 4699), a possible burial mound at Site 4707, a probable burial at the Site 4710 habitation complex, a possible burial feature at Site 4712, the Pu'u Kilea Burial Ground (Site 4715), two or more probable burials at a small unnamed *heiau* (Site 4718), The Awalua Cemetery (Site 4758), and two surface scatters of previously disturbed human remains (Sites 4820 and 4821).

Preservation Tasks

Recommended mitigation measures for the above sites include interpretive preservation for three sites, "as is" preservation for six sites, and reinterment of the recovered human remains from Sites 4820 and 4821.¹¹ Sites proposed for interpretive preservation include Site 04 (Kawaialoa/Kaiwaloa *heiau*), Site 4710, and Site 4718 (small unnamed *heiau*). Sites proposed for "as is" preservation include Site 1603 (Old Stone Church coffin burial), Site 4699 (Feature D burial cave), Site 4707, Site 4712, Site 4715 (Pu'u Kilea Burial Ground), and Site 4758 (Awalua Cemetery). Signage will be designed and worded to describe and/or identify the above sites. While some of these sites have limited interpretive value, signage is nevertheless recommended for all nine sites. It is felt that this step is necessary, in order to help ensure their long-term integrity.

Short-term preservation

To help ensure protection of the cultural features during future project construction, it is recommended that the nine sites scheduled for preservation be marked prior to construction with orange-plastic construction fencing or other means of delineating the site preservation perimeters in order to reduce the possibility of inadvertent damage. It is also recommended that all nonnative trees be flush cut within the

¹¹ Recall that these two sites lie in former sugar cane fields and consist of previously disturbed human remains.

recommended site preservation areas and the tree roots left in place to rot. This methodology will help minimize potential disturbance to the sites slated for preservation.

Long-term preservation

As noted earlier, three sites (Sites 04, 4710, and 4718) are recommended for interpretive preservation, and six sites (Sites 1603, 4699, 4707, 4712, 4715, and 4758) are recommended for "as is" preservation. Comments and recommendations from Native Hawaiian lineal and cultural descendants of Olowalu have been included in the recommended long-term actions for each of these sites listed below:

Sites Recommended for interpretive preservation

Site 04 – Kawaiāloa/Kaiwaloa *heiau* (Figure 3)

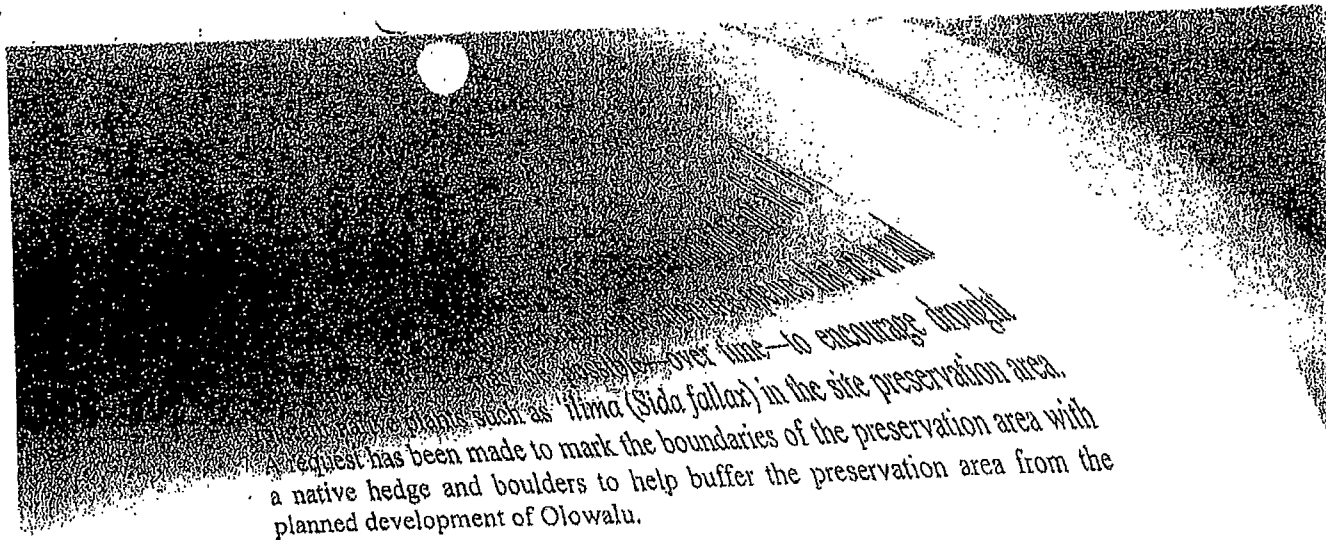
1. Interpretive preservation is recommended for this large *heiau*. This impressive structure is constructed with large rounded boulders and cobbles, and measures c. 50 meters (165 feet) N-S by c. 36 meters (120 feet) E-W. Several probable burials are likely contained in this site.¹² The *heiau* has been placed in the proposed Cultural Reserve for Olowalu.¹³ Site 04 is bounded by three parcels that are slated for development (Lots 6, 7 and 8).¹⁴
2. Interpretive signage shall be placed on the northern (*mauka*) side of the Site 04 preservation area. This sign should be placed where it is clearly visible at the trail terminus/parking area. The placement of this sign will help to inform the public of the site's overall significance. However, given the site's cultural significance, it has been requested that access to the interior of the *heiau* be reserved for traditional Native Hawaiian cultural purposes.¹⁵ Text and graphics will relay basic information about the *heiau*.
3. Provisions for access to the interior will be made for Native Hawaiians who wish to visit the *heiau* for traditional cultural purposes. Access to the interior of the structure by the general public will not be encouraged.
4. It is recommended that a path lead from the interpretive sign to a natural viewing platform that overlooks the site. The intention of this platform is to

¹² Walker noted that burials were contained in Site 04 in his island inventory in 1931. At the writing of this preservation plan, contemporary informants Ms. Katie Nahina, Mr. William Waiohu, and Ms. Adeline Rodrigues, all lineal and cultural descendants of Olowalu, have indicated that traditional burials are indeed contained within Kawaiāloa/Kaiwaloa *heiau*.

¹³ A nonprofit corporation—Olowalu Cultural Reserve—has been formed under 503 C3 rules to administer the c. 75-acre Cultural Reserve in Olowalu.

¹⁴ Mr. Robert Horeajo, Project Manager for Olowalu Elua Associates, LLC, has indicated that all parcels bordering the proposed Cultural Reserve will have a set back buffer of nearly 10 meters (30 feet), as required by a condition of the SMA permit.

¹⁵ This request has been put forth by lineal descendants of Olowalu, including Ms. Katie Nahina, Ms. Adeline Rodrigues, and Mr. William Waiohu.



request has been made to mark the boundaries of the preservation area with a native hedge and boulders to help buffer the preservation area from the planned development of Olowalu.

6. Olowalu Elua Associates LLC shall maintain a preservation area buffer of c. 30 meters (100 feet) for Site 04.

Site 4710 – habitation complex with probable burial—Feature E (Figure 4)

1. This late pre- to early post-European contact habitation complex consists of seven features including a probable burial (Feature E). It is located along the northeastern crest of Olowalu Valley relatively near the northern boundary of the project area. Interpretive preservation is recommended for this complex because it is a rare surviving example of a habitation complex that includes agricultural terraces in the project area. This site has been placed in the proposed Cultural Reserve for Olowalu. Site 4710 is bounded to the south by Parcel 6, a property slated for development. The southern portion of this site has been impacted by previous earth disturbance activities associated with sugarcane agricultural operations.
2. Interpretive signage shall be placed on the southern side of the Site 4710 preservation area. This sign should be placed where it is clearly visible at the trail head/parking lot. The placement of this sign will help to inform the public of the site's function and age. Text and graphics will relay basic information about Site 4710.
3. Access to the site will be from the proposed Cultural Reserve. The site will be readily visible from a natural viewing platform just to the south of the exposed portion of this complex.
4. It is recommended that a path lead from the interpretive sign to a viewing platform that overlooks this site. The intention of this platform is to help

¹⁶ Ms. Katie Nahina, a lineal and cultural descendant of Olowalu, has indicated that a group that includes her son, Mr. Daniel Kalanihou Lunailo Nahina, and Mr. Ke'eumoku Kapu, a family member, shall serve as caretakers of this *heiau*.

reduce foot traffic to the site preservation area itself. The suggested location of this platform is on top of existing sugar plantation era fill just to the south of the exposed portion of Site 4710, between Features A and B.

5. At this time, minimal landscaping actions are recommended for Site 4710, including flush cutting *kiawe* trees and other alien tree species that are in and nearby the site. It may be possible—over time—to encourage drought tolerant native plants such as *'ilima* (*Sida fallax*) in the site preservation area. The boundaries of the preservation area shall be marked with a native hedge and/or boulders or other method of demarcation approved by SHPD and the MLIBC to help buffer the preservation area from the planned development of Olowalu.
6. The Olowalu Cultural Reserve shall maintain a preservation area buffer of c. 10 meters (30 feet) around Site 4710.¹⁷

Site 4718 — small unnamed *heiau* (Figure 5)

1. This c. 12 meter (40 foot) by 18 meter (60 foot) structure is interpreted as the small, unnamed *heiau* noted by Walker in his earlier survey of 1929-30. The statewide inventory failed to relocate this site in 1972-73. Xamanek Researches noted at least three probable burial features within this enclosure (i.e. Features A, B and C). In addition, oral informants Mr. Sonny Waiohu and Mr. William Waiohu recounted that human remains disturbed by field tilling activities were reburied in the interior of Site 4718 (personal communication, 1999). Ms. Katie Nahina also indicated at the 25 January 2001 MLIBC meeting that her grand uncle (Mr. Alfred Kalanihou Keao Casson, deceased 1982) told her to take care of this *heiau* because burials were contained in it. The exterior of this structure has been previously impacted by sugarcane field operations and is in generally poor condition. Site 4718 will be contained within the proposed "Green Way" for the Olowalu development.
2. Interpretive signage shall be placed on the southeastern side of the Site 4718 preservation area. This sign should be placed where it is clearly visible at the trail head/parking area; text and graphics will help relay basic information about Site 4718.
3. Provisions for access to the site will be made for the general public. However, it has been requested that access to the interior of Site 4718 be for traditional Native Hawaiian cultural practices due to the site's significance.¹⁸

¹⁷ Lot 6 will also have a Cultural Reserve set back of c. 10 meters (30 feet) as a condition of the SMA permit.

¹⁸ This request has been made by lineal and cultural descendants of Olowalu, including Ms. Katie Nahina, Ms. Adeline Rodrigues and Mr. William Waiohu.

4. It is recommended that a cinder path lead from the interpretive sign to a viewing area at the southwestern end of the structure. The intention of this viewing area is to help reduce foot traffic to the interior of the structure. Additional signage will be placed at this location requesting that people only enter the interior of the *heiau* for traditional Native Hawaiian cultural practices.
5. At this time, minimal landscaping actions are recommended for Site 4718, including flush cutting *kiawe* trees and other alien tree species that are in and nearby the site. It may be possible—over time—to encourage drought tolerant native plants such as *'ilima* (*Sida fallax*) within the site preservation area. The boundaries of the preservation area will be marked with a native hedge and/or boulders or other method of demarcation approved by the SHPD and the MLIBC to help buffer the preservation area from the planned development of Olowalu. Specific drainage measures shall be designed and implemented to channel runoff away from the Site 4718 preservation area.
6. Olowalu Elua Associates, LLC or its assignee shall maintain a preservation area buffer of c. 30 meters (100 feet) for Site 4718.¹⁹

Sites recommended for "as is" preservation

Site 1603—coffin burial associated with Old Stone Church (Figures 6 and 7)

1. Xamanek Researches inadvertently disturbed a coffin burial during inventory level testing in a sugarcane field *mauka* (northwest) of the existing church building (Site 1603). This burial lies within c. 0.8 meter (2.5 feet) of the surface of the former sugarcane field. The burial is contained in a probable redwood coffin and is thought to be from the latter 1800s. A lineal and cultural descendent of Olowalu—Ms. Adeline Rodrigues—has indicated that additional graves also are present in this area that was formerly in cane cultivation for over 50 years. Ms. Rodrigues believes that the bulk of the remaining burials present on the former church property are of Hawaiian ancestry.²⁰ No formal, interpretive access is proposed for this site because of cultural considerations.²¹ Passive, "as is" preservation is recommended.

¹⁹ Mr. Robert Horcajo, Project Manager for Olowalu Elua Associates, LLC has indicated that Site 4718 will be contained within the Green Way for the proposed Olowalu development. This open area will also provide additional buffer for the site preservation area.

²⁰ According to Mrs. Rodrigues and the church deed, the church's property formerly extended onto Olowalu Elua Associates, LLC land. The Pioneer Mill Co. acquired the *mauka* portion of the property in the 1930s, in exchange for land *makai* of the church building. Ms. Rodrigues, a lineal descendant of Olowalu, has indicated that some of her relatives are buried in the Site 1603 preservation area.

²¹ Olowalu Elua Associates, LLC will create a preservation easement that will encompass the proposed preservation area. This easement will be offered to the United Church of Christ Hawaii Foundation. If accepted, the church would subsequently determine access considerations.

Olowalu Elua Associates, LLC shall create a preservation easement upon the former church land that totals c. 1.5 acres.²²

2. The identified burial shall be capped with concrete in order to help ensure its long-term integrity. Screened sand would be placed over the burial prior to the placement of the cement cap.
3. Signage is suggested for the preservation area to help identify it and ensure its long-term integrity. Signage, if deemed appropriate, should be placed on the southern side of the proposed preservation area.
4. It is suggested that the governing body of the church make decisions regarding access to the preservation area.
5. At the writing of this plan, minimal landscaping actions other than the removal of sugar cane are proposed for the preservation area. However, the perimeter of the preservation area shall be marked with a hedge of native plants and/or a boulder alignment or other method of demarcation approved by the SHPD and the MLIBC to help buffer the preservation area from the planned development of Olowalu. Drip irrigation should be used, in order to avoid unnecessary intrusion into the ground. Olowalu Elua Associates, LLC or its assignee shall maintain the Site 1603 preservation area.

Site 4699—including Feature D burial cave (Figure 8)

1. Site 4699 lies along an exposed and weathered basalt ridge and overlooks the nearby shoreline. The Feature D burial cave is part of a complex of temporary habitation rock shelters and overhangs. Xamanek Researches located a *hala* mat bundle in the Feature D cave during inventory level work. No subsurface investigation was carried out due to safety and cultural considerations. The presence of this very old matting in a very constricted lava tube strongly suggests a burial function.
2. Given the isolated nature of this burial cave, it is strongly recommended that the small entrance to the Feature D cave be sealed with boulders, rebar and cement. This measure will help to ensure the long-term integrity of the probable burial that is contained within this lava tube.
3. As noted above, Site 4699 lies along a ridge of weathered basalt. This site stretches along a relatively linear distance of c. 150 meters (490 feet). Signage is suggested for the Site 4699 preservation area to help identify it and ensure its long-term integrity. However, given the linear nature of this site, it is suggested that the signage be placed on the southern side of the site, in the vicinity of Feature I.

²² Mr. Robert Horcajo, Project Manager for Olowalu Elua Associates, LLC, has indicated that the developer will offer this easement to the church.

4. At the writing of this plan, no landscaping actions other than the possible removal of *kiawe* trees are recommended. Trees chosen for removal would need to be flush cut and their trunks subsequently poisoned.
5. Olowalu Elua Associates, LLC or its assignee shall maintain a preservation area buffer of 10 meters (30 feet) for Site 4699.

Site 4707—including Feature B possible burial mound (Figure 9)

1. This site lies near the mouth of Olowalu Valley, and is close to the northern boundary of the project area. Olowalu Stream passes within 15 meters to the west of Site 4707. No human remains were found during our inspection of this site. Feature A, a tumbled rock and rubble alignment extends beyond the project boundary. Feature B, a rock mound is interpreted as a possible burial.
2. Feature B and a portion of Feature A are contained in the Cultural Reserve.²³
3. Signage is recommended for Site 4707 to help identify it and ensure its long-term integrity. Given its location within the Cultural Reserve, it appears that a buffer area of 10 meters (30 feet) is adequate for this site. The Olowalu Cultural Reserve shall maintain the preservation buffer of 10 meters (30 feet).
4. At the writing of this plan, no landscaping actions other than the possible removal of trees is recommended. Trees chosen for removal would need to be flush cut and subsequently poisoned. Future landscaping in the preservation area should include native vegetation.

Site 4712—including Feature B possible burial mound (Figure 10)

1. Site 4712 is located on the southeastern slope of Pu'u Kilea. This site is composed of a terrace (Feature A) and an oval rock mound (Feature B). Given the location of Feature B and its relative proximity to the Pu'u Kilea burial ground (Site 4715), it is interpreted as a possible burial mound.
2. All of Pu'u Kilea lies in the designated Cultural Reserve.
3. Signage is recommended for Site 4712 to help identify it and ensure its long-term integrity. Given its location within the Cultural Reserve, it appears that a buffer area of 10 meters (30 feet) is adequate for this site. It is, however, recommended that a more substantial gate be placed at the bottom of the old access road that leads to the top of the *pu'u*.
4. At the writing of this plan, no landscaping actions are recommended for Site 4712.

²³ Site 4707 extends beyond the project area to the northeast onto State property.

Site 4715—Pu'u Kilea burial ground (Figure 11)

1. Site 4715 is located on summit of Pu'u Kilea. This site consists of numbers of rock features that are interpreted as graves. We estimate that as many as 33 graves may be contained in this burial area. All of these features consist of mounds and low platforms. Many of the platforms are paved with 'ili 'ili pebbles. The Nahooikaika family and Ms. Katie Nahina reported that they have relatives buried at Site 4715. This area is interpreted as a traditional burial ground.
2. All of Pu'u Kilea lies in the designated Cultural Reserve.
3. Signage is recommended for Site 4715 to help identify it and ensure its long-term integrity. It is recommended that signage be placed at the top of the old access road near the USGS Kilea benchmark.
4. Given the location of Site 4715 on Pu'u Kilea within the Cultural Reserve, a landscape buffer of c. 10 meters (30 feet) beyond the burial ground is suggested. At the preparation of this plan, low impact landscaping actions are recommended and include the removal—flush cutting—of *ko'a haole* trees present in the burial area and the immediate vicinity (i.e. a band c. 30 feet beyond the burial area). It is, however, recommended that a more substantial gate be placed at the bottom of the old access road that leads to the top of the pu'u.

Site 4758—Awalua Cemetery (Figure 12)

Site 4758—Awalua Cemetery—was previously informally referred to as the "Japanese Cemetery", reflecting plantation-era use of this burial area. This cemetery was also briefly known as the "Puha Cemetery".²⁴ Xamanek Researches noted what appeared to be at least 60 graves at this cemetery during our inventory survey. Observed grave markers included a granite gravestone, concrete monuments, some engraved concrete headstones, water worn basalt uprights (some with inscriptions), some simple wooden uprights, water worn rock mounds and rectangular alignments. A cane fire swept through this cemetery and destroyed many of the wooden grave markers and cracked several headstones just before the completion of our inventory survey.²⁵ It appears probable that additional burials are contained in Site 4758. A former sugarcane field road passes just to the south of the cemetery.

²⁴ At the 25 January 2001 MLIBC meeting, lineal and cultural descendants of Olowalu (Ms. Katie Nahina, Ms. Adeline Rodrigues and Mr. William Waiohu (MLIBC member)) agreed that the name be changed to "Awalua Cemetery," to reflect the traditional name of this area. It was also felt that the name 'Awalua' would be more inclusive, because this cemetery contains both traditional and plantation-era burials.

²⁵ It is important to note that many of the former wooden markers appeared to be quite old, suggesting that the cemetery had not been burned over by cane fires in many years.

1. The Awalua Cemetery will be contained within the proposed Green Way system for the Olowalu development and bordered by residential lots. The proposed Green Way is up to 150 feet (45 meters) wide in the vicinity of Site 4758. Property set backs on the adjacent residential lots are 15 feet.
2. Signage is recommended for Site 4758 to help identify it and ensure its long-term integrity. It is recommended that signage be placed on the southwestern side of the cemetery where an existing field road provides access to the cemetery. Mr. William Waiohu, MLIBC member and lineal descendent of Olowalu, believes that this road follows an old trail. He has requested that the *makai* or southwestern portion of this field road be left in place to provide access to the Site 4758 preservation area from the old government road.
3. At the preparation of this plan, low impact landscaping actions are recommended for the Awalua Cemetery. These actions include the removal of *kiawe* trees (i.e. flush cutting and stump poisoning) and other non-native vegetation within the preservation area. The boundary of the preservation area shall be marked with boulders and/or a hedge of native plants or other form of demarcation approved by the SHPD and the MLIBC. Olowalu Elua Associates, LLC, or its assignee shall maintain a preservation buffer of c. 20 meters (60 feet) around Site 4758.²⁶ Specific drainage measures shall be designed and implemented to channel runoff away from the site preservation area.

Perpetual Maintenance and Access of Preservation Areas

As previously noted, this preservation plan covers the nine sites that contain or are thought to possibly contain burials and/or burial features. Sites 04, 4707, 4710, 4712, and 4715 lie within the proposed Cultural Reserve, Sites 4718 and 4758 are contained within the proposed Green Way system, and Sites 1603 and 4699 lie within the planned subdivision. Specific drainage measures shall be designed and implemented to channel runoff away from all nine site preservation areas. Maintenance and access issues are presented for these three groups below.

Sites within the Cultural Reserve (Sites 04, 4707, 4710, 4712, and 4715)

The nonprofit corporation—Olowalu Cultural Reserve—shall maintain the five site preservation areas within the Cultural Reserve. Precautions against unnecessary intrusions at each of the above site preservation areas shall be the responsibility of the Olowalu Cultural Reserve. The preservation areas shall be generally cleared by hand. However, hand-held weed eaters and chain saws could be used when necessary. Use of larger equipment is not recommended, and would need to be discussed with the Maui/Lana'i Islands Burial Council, the SHPD Burials Program, and the SHPD Maui staff archaeologist.

²⁶ This buffer area does not include the 15 foot set back on the lots that border the preservation area.

Daylight access hours are suggested for access to the five site preservation areas within the Reserve. Access to the Site 04 preservation area for traditional Native Hawaiian cultural practices will also be the responsibility of the Olowalu Cultural Reserve. Minimal suggested times for traditional Native Hawaiian access to the interior of Kawaialoa/Kaiwaloa *heiau* (Site 04) are from 8:00 a.m. to sunset. Permission for visitation to Site 04 at any other time would need to be approved by the Olowalu Cultural Reserve and recognized caretakers.

As noted previously, Site 04 and Site 4710 are recommended for some level of interpretive preservation. These sites are located in topographic settings that allow the placement of viewing platforms. The use of viewing platforms should assist in limiting casual foot traffic into both of the site preservation areas. In particular, Kawaialoa/Kaiwaloa *heiau* is well suited for this level of preservation treatment. The placement of such a viewing platform on the northern side of this site will provide a clear view of the structure and should help to reduce casual traffic into the interior of this *heiau*.²⁷ This platform could be constructed from wood or large field rocks and fill soil, and placed in the former sugarcane field that will lie within the c. 30 meter (100 foot) buffer area for the site. A viewing platform is also recommended for Site 4710. This platform could be located to the southeast of the exposed portion of this habitation area on old plantation era push/fill. Access to both preservation areas would be from the via an access road/trail easement from the Cultural Reserve. A gate could be placed on this access road, which would help to limit casual vehicular traffic to either of the above site preservation areas.

The three remaining sites within the Cultural Reserve include Site 4707, Site 4712, and 4715. Access to these sites shall occur from within the Reserve. As previously mentioned, these sites are recommended for "as is" preservation. Of the three, the Pu'u Kilea burial ground is the most culturally significant. It is recommended that a more substantial gate be placed at the base of the old summit access road. This will help to control vehicular access to the site preservation area.

Signage will need to be placed at all of the site preservation areas within the Cultural Reserve. This action will help to ensure the long-term integrity of these sites.

Sites within the Green Way (Sites 4718 and 4758)

The landowner or a future assignee shall maintain the preservation areas for the Site 4718 *heiau* and the Awaia Cemetery (Site 4758). Precautions against unnecessary intrusions at each of the above site preservation areas shall be the responsibility of the landowner, or its future assignee. The preservation areas shall be generally cleared by hand. However, hand-held weed eaters and chain saws could be used when necessary. The use of larger equipment is not recommended, and would need to be discussed with

²⁷ A sign at the viewing platform location informing the general public that access to the interior of the *heiau* is for traditional Native Hawaiian cultural practices only would also help reduce casual traffic into this significant site.

the Maui/Lana'i Islands Burial Council, the SHPD Burials Program, and the SHPD Maui staff archaeologist.

Daylight access hours are suggested for access to both of the site preservation areas within the Green Way. Access to the interior of the Site 4718 preservation area for traditional Native Hawaiian cultural practices will be the responsibility of the landowners' association or its future assignee. Minimal suggested times for access to the interior of this *heiau* for traditional Native Hawaiian cultural practices are from 8:00 a.m. to sunset. Permission for access to the Site 4718 preservation area at any other times would need to be approved by the landowner or its future assignee.

Sites within the Olowalu residential area (Sites 1603 and 4699)

As noted earlier, the Site 1603 coffin burial will be contained within a preservation easement. The preservation area shall be generally cleared by hand. However, hand-held weed eaters and chain saws could be used when necessary. The use of larger equipment is not recommended, and would need to be approved by the Maui/Lana'i Islands Burial Council, the SHPD Burials Program, and the SHPD Maui staff archaeologist. Subsurface disturbance should be avoided. Public access to this c. 1.5-acre preservation area will be from Olowalu Elua Associates, LLC property. Suggested access times are during daylight hours. Signage is recommended at the access location. (Note: the church may also wish to allow access from their property.)

The Site 4699 burial cave (Feature D) is part of a complex and will be contained within the overall site preservation area. This preservation area shall also generally be cleared by hand. Small hand-held power equipment may also be utilized, however. Subsurface disturbance should be avoided. Access to this site will be from the proposed Green Way. However, the site will not be contained within this system. Maintenance and access issues will be the responsibility of the landowner or its assignee. Signage is recommended along the southern portion of the Site 4699 preservation area.

Signage

Signage is recommended for all nine of the site preservation areas discussed in this plan. The use of signage will help to ensure the long-term integrity of these nine site areas. It is important to stress that signs will deteriorate over time and, consequently, should be periodically replaced. Sign proposals for the individual sites are discussed below.

Site 04 Kawaialoa/Kaiwaloa *heiau*

Interpretive signage should be placed on the *mauka* or northwestern portion of the preservation area. The sign should be clearly visible to people as they approach the site from the parking area and/or trail. The text and graphics will relay basic information about this *heiau*.

Site 04 is in generally fair condition. However, restoration is not proposed at this time. Rather, it is recommended that the site be preserved, "as is," with some interpretive signage. As noted earlier, access to the interior should be allowed for traditional Native Hawaiian cultural purposes. The proposed heading and text of this sign are as follows:

a. Heading of sign:

Site 04
Kawaialoa/Kaiwaloa *heiau*
Olowalu *ahupua'a*
Island of Maui

b. Text of sign (A brown background with black lettering is recommended):

"This large *heiau* (temple) has a commanding view of the Olowalu coastline. Sugar plantation era plowing activities have previously impacted the outer walls of this *heiau*. This structure, known as Kawaialoa/Kaiwaloa *heiau*, is part of this late pre-European contact to early post contact cultural landscape of Olowalu (1600s to 1800s). A small *heiau* lies to the southwest, a number of petroglyphs are located on Pu'u Kilea to the northwest, while other petroglyphs and remnants of agricultural and habitation areas and a possible *heiau* are contained within Olowalu Valley itself to the northwest. Kawaialoa/Kaiwaloa *heiau* is a significant cultural site. Please respect it. Damage to this site is punishable under Chapter 6E-11, Hawaii Revised Statutes"

"It is requested that the general public not go beyond the viewing platform area. In order to prevent damage to the interior of this culturally significant site, please do not enter the *heiau* except for traditional Native Hawaiian cultural practices."

c. Size of sign:

The recommended size for the main Site 04 sign is 2-ft. (0.61 m.) by 1-ft. (0.3 m.). The suggested size for the second sign regarding access is 1.5-ft. (0.45 m.) by 1-ft. (0.3 m.).

Site 1603

Signage is proposed for the preservation area in order to help ensure its long-term integrity. The text and graphics should relay basic information about the church and the associated cemetery. Proposed heading and text for the sign:

a. ~~Heading of sign:~~

Site 1603 Preservation Area
Olowalu *ahupua'a*
Island of Maui

b. Text of sign (A brown background with black lettering is recommended):

"This preservation area includes former Olowalu Lanakila Hawaiian Church property that contains associated church cemetery burials. Please respect the preservation area. Damage to this site is punishable under Chapter 6E-11, Hawaii Revised Statutes"

c. Size of sign:

The recommended size for the Site 1603 signage is 1.5-ft. (0.45 m.) by 1-ft. (0.3 m.).

Site 4699 Feature D burial cave

Site 4699 is one of the more isolated cultural resources on the Olowalu project. While this site complex is recommended for "as is" preservation, signage is nevertheless proposed, in order to help safeguard the site preservation area. As previously noted, signage should be placed on the southeastern portion of the site that will be accessed by the proposed Green Way trail system.

a. ~~Heading of sign:~~

Site 4699 Preservation Area
Olowalu *ahupua'a*
Island of Maui

b. Text of sign (A brown background with black lettering is recommended):

"This temporary habitation complex is a Native Hawaiian archaeological site. Please respect it. Damage to this site is punishable under Chapter 6E-11, Hawaii Revised Statutes"

c. Size of sign:

The recommended size for the Site 4699 sign is 1.5-ft. (0.45 m.) by 1-ft. (0.3 m.).

Site 4707—Feature B: possible burial mound

Given this site's location in the Cultural Reserve, access will likely be from a trail system that has not been developed. However, this site lies on the northern boundary of the project area. Consequently, access will likely occur from the southwestern side of Site 4707.

a. Heading of sign:

Site 4707 Preservation Area
Olowalu *ahupua'a*
Island of Maui

b. Text of sign (A brown background with black lettering is recommended):

"This wall and rock mound may be possible boundary markers. Please respect this site. Damage to the site is punishable under Chapter 6E-11, Hawaii Revised Statutes"

c. Size of sign:

The recommended size for the Site 4707 sign is 1.5-ft. (0.45 m.) by 1-ft. (0.3 m.).

Site 4710 – habitation complex with probable burial—Feature E

This habitation complex lies within the Cultural Reserve and is c. 135 meters (450 feet) northwest of the Site 04 *heiau*. Site 4710 will likely be accessed by a trail from the proposed Cultural Reserve for the Olowalu project. A viewing platform is recommended for this site.

a. Heading of sign:

Site 4710 Preservation Area
Olowalu *ahupua'a*
Island of Maui

b. Text of sign (A brown background with black lettering is recommended):

"This habitation complex was once more extensive. Sugar plantation-era plowing activities likely destroyed the site to the south. Site 4710 is part of a late pre-European contact to early post contact cultural landscape in

Olowalu. A large *heiau* lies to the southwest, numbers of petroglyphs are located on Pu'u Kilea to the west, and remnants of other agricultural and habitation areas, and a possible *heiau* are contained in Olowalu Valley below. Damage to the site is punishable under Chapter 6E-11, Hawaii Revised Statutes"

"Please do not go beyond the viewing platform except for traditional Native Hawaiian cultural practices."

c Size of sign:

The recommended size for the Site 4710 sign is 1.5-ft. (0.45 m.) by 1-ft. (0.3 m.).

Site 4712—Feature B possible burial mound

Site 4712 is located along the upper slopes of Pu'u Kilea. This site complex consists of a terrace and rock mound; it lies within the Cultural Reserve. While access to Pu'u Kilea will not be actively encouraged, signage is nevertheless recommended for Site 4712, to help ensure its long-term integrity.

a. Heading of sign:

Site 4712 Preservation Area
Olowalu *ahupua'a*
Island of Maui

b. Text of sign (A brown background with black lettering is recommended):

"This terrace and rock mound lie in a culturally sensitive location. Please respect this site. Damage to the site is punishable under Chapter 6E-11, Hawaii Revised Statutes"

c. Size of sign:

The recommended size for the Site 4712 sign is 1.5-ft. (0.45 m.) by 1-ft. (0.3 m.).

Site 4715---Pu'u Kilea burial ground

This burial ground represents the largest concentration of traditional Hawaiian graves located during the archaeological inventory survey. While access will not be encouraged to the site preservation area, the spectacular views afforded from this Pu'u ensures that foot traffic will continue to the summit. Consequently, signage is considered essential to the site's long-term integrity. Signage should be placed in the vicinity of the existing USGS monument.

a. Heading of sign:

Pu'u Kilea Preservation Area
Olowalu *ahupua'a*
Island of Maui

b. Text of sign (A brown background with black lettering is recommended):

"Site 4715 is a significant Native Hawaiian cultural site. Please respect this site and do not enter it except for traditional Native Hawaiian cultural practices. Damage to the site is punishable under Chapter 6E-11, Hawaii Revised Statutes"

c. Size of sign:

The recommended size for the Site 4715 sign is 1.5-ft. (0.45 m.) by 1-ft. (0.3 m.).

Site 4718 -- small unnamed *heiau*

Site 4718 lies within the proposed Green Way system for the Olowalu development. Access to this site will likely be via a foot/bike path. It appears probable that human remains and/or burials are contained within this structure. Lineal and cultural descendants of Olowalu have expressed concern over access to the interior of this *heiau*. Signage is proposed for the southeastern side of the site where a viewing trail will pass the site.

a. Heading of sign:

Site 4718 Preservation Area
Olowalu *ahupua'a*
Island of Maui

b. Text of sign (A brown background with black lettering is recommended):

"Site 4718 is a significant Native Hawaiian cultural site. Sugar plantation-era plowing activities have previously impacted the outer walls of this structure. Site 4718 is part of a late pre-European contact to early post contact cultural landscape in Olowalu. A large *heiau* lies to the northeast, a number of petroglyphs are located on Pu'u Kilea to the northwest, and remnants of other agricultural and habitation areas and a possible *heiau* are contained within Olowalu Valley itself. Please respect this Native Hawaiian site. Damage to the site is punishable under Chapter 6E-11, Hawaii Revised Statutes"

"Please do not go beyond the viewing area into the interior except for traditional Native Hawaiian cultural practices."

c. Size of sign:

The recommended size for the Site 4718 sign is 1.5-ft. (0.45 m.) by 1-ft. (0.3 m.). The suggested size for the second sign regarding access is also 1.5-ft. (0.45 m.) by 1-ft. (0.3 m.).

Site 4758—Awalua Cemetery

A former sugarcane field surrounds the Awalua Cemetery. Site 4758 lies within the proposed Green Way for the Olowalu development. Signage is recommended along the southwestern side of the cemetery.

a. Heading of sign:

Awalua Cemetery Preservation Area
Olowalu *ahupua'a*
Island of Maui

b. Text of sign (A brown background with black lettering is recommended):

"This cemetery was originally a traditional Hawaiian burial area that was subsequently expanded during the sugar plantation era. Please respect this culturally significant site. Damage to the site is punishable under Chapter 6E-11, Hawaii Revised Statutes"

c. Size of sign:

The recommended size for the Site 4758 sign is 1.5-ft. (0.45 m.) by 1-ft. (0.3 m.).

SUMMARY

Nine sites are covered by this preservation plan for sites that contain or are thought to contain human skeletal remains and/or burials. Sites 04, 4710, and 4718 are recommended for interpretive preservation, while Sites 1603, 4699, 4704, 4712, 4715, and 4758 are recommended for "as is" preservation. This plan has been prepared for review and comment by the Maui/Lana'i Islands Burial Council. A forthcoming preservation plan for Olowalu that encompasses the above sites as well as additional (non-burial) sites will be prepared and submitted to the State Historic Preservation Division for review and comment in the near future.

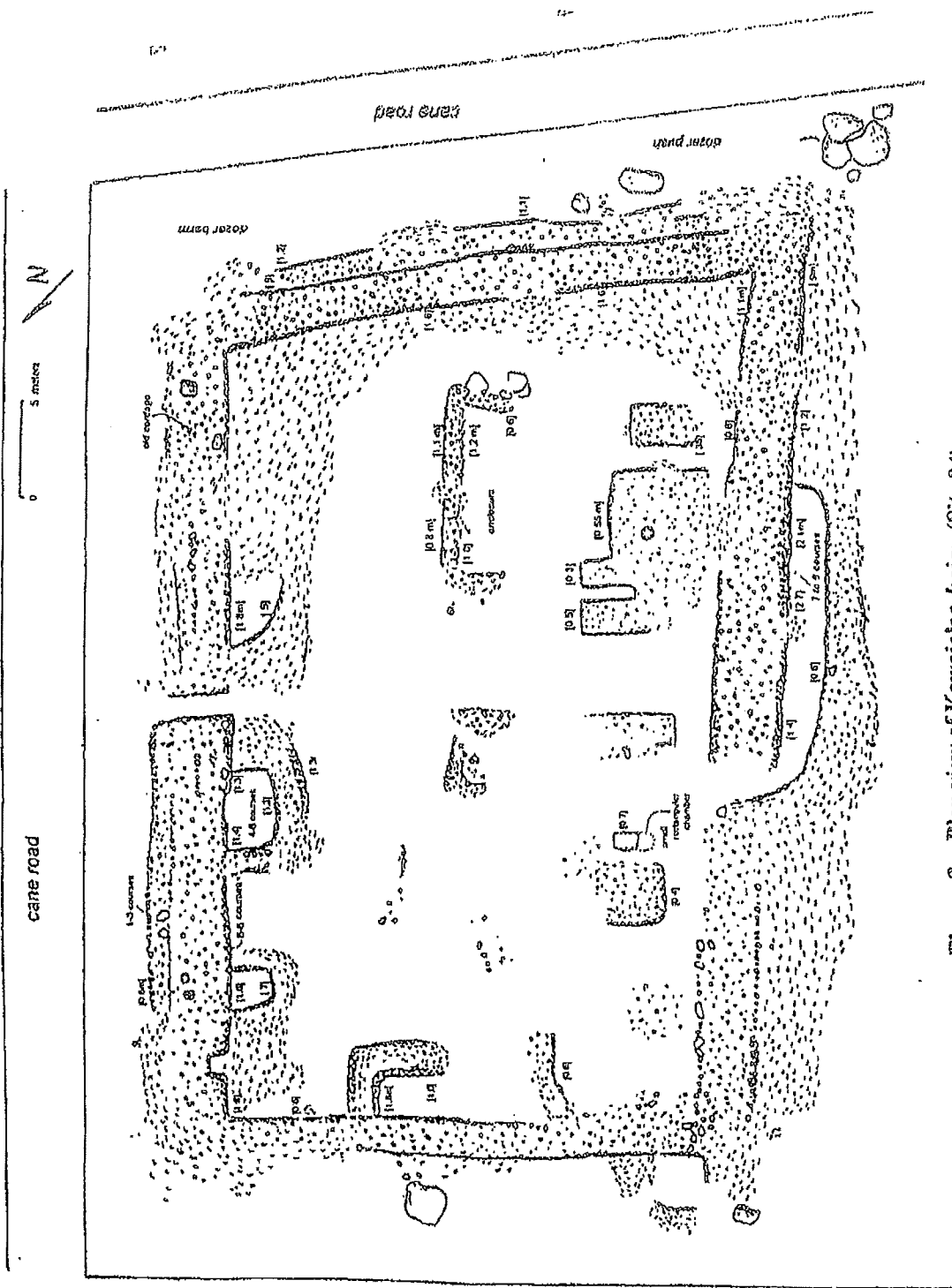


Figure 3 – Plan view of Kawaihoa Heiau (Site 04).

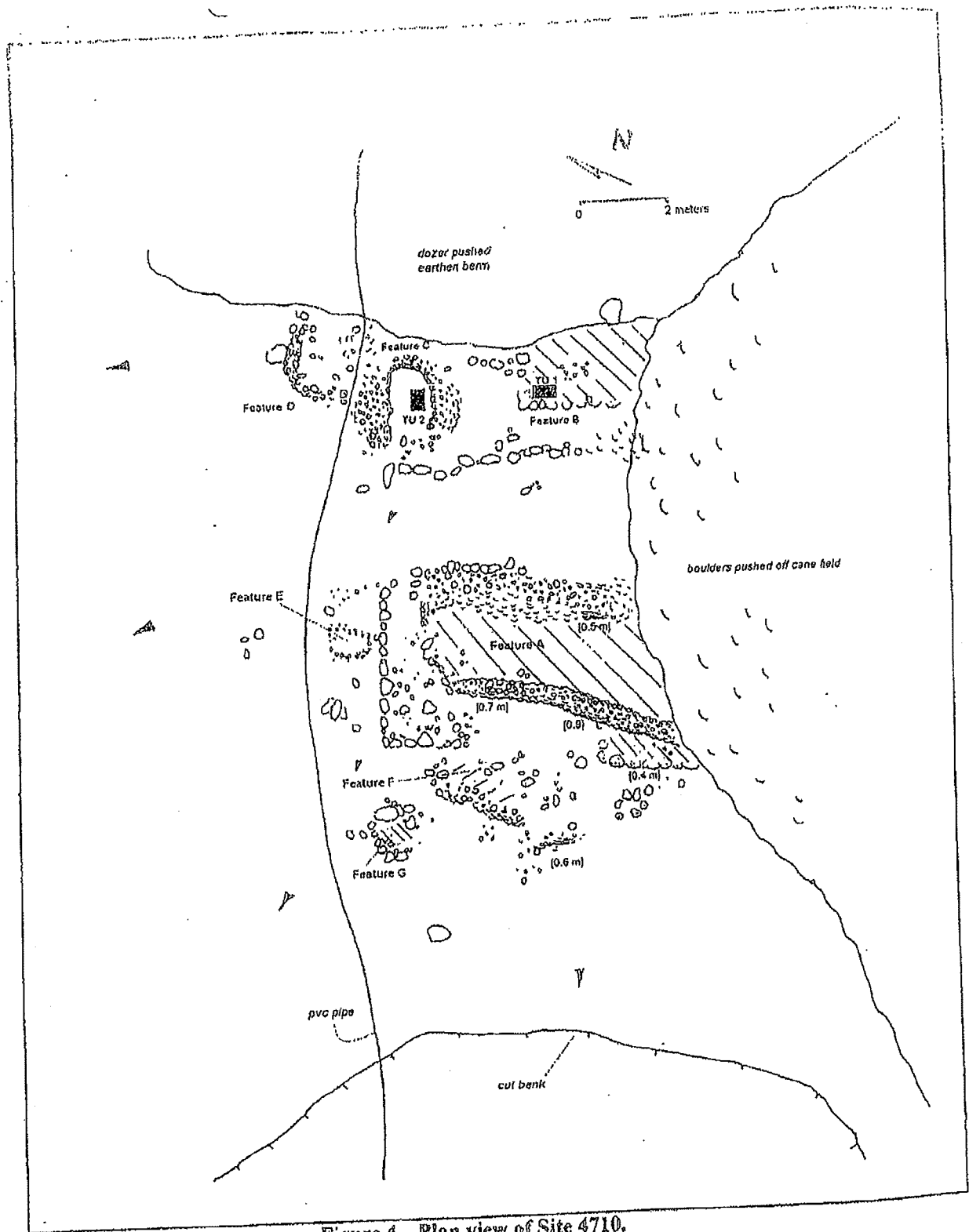


Figure 4 - Plan view of Site 4710.

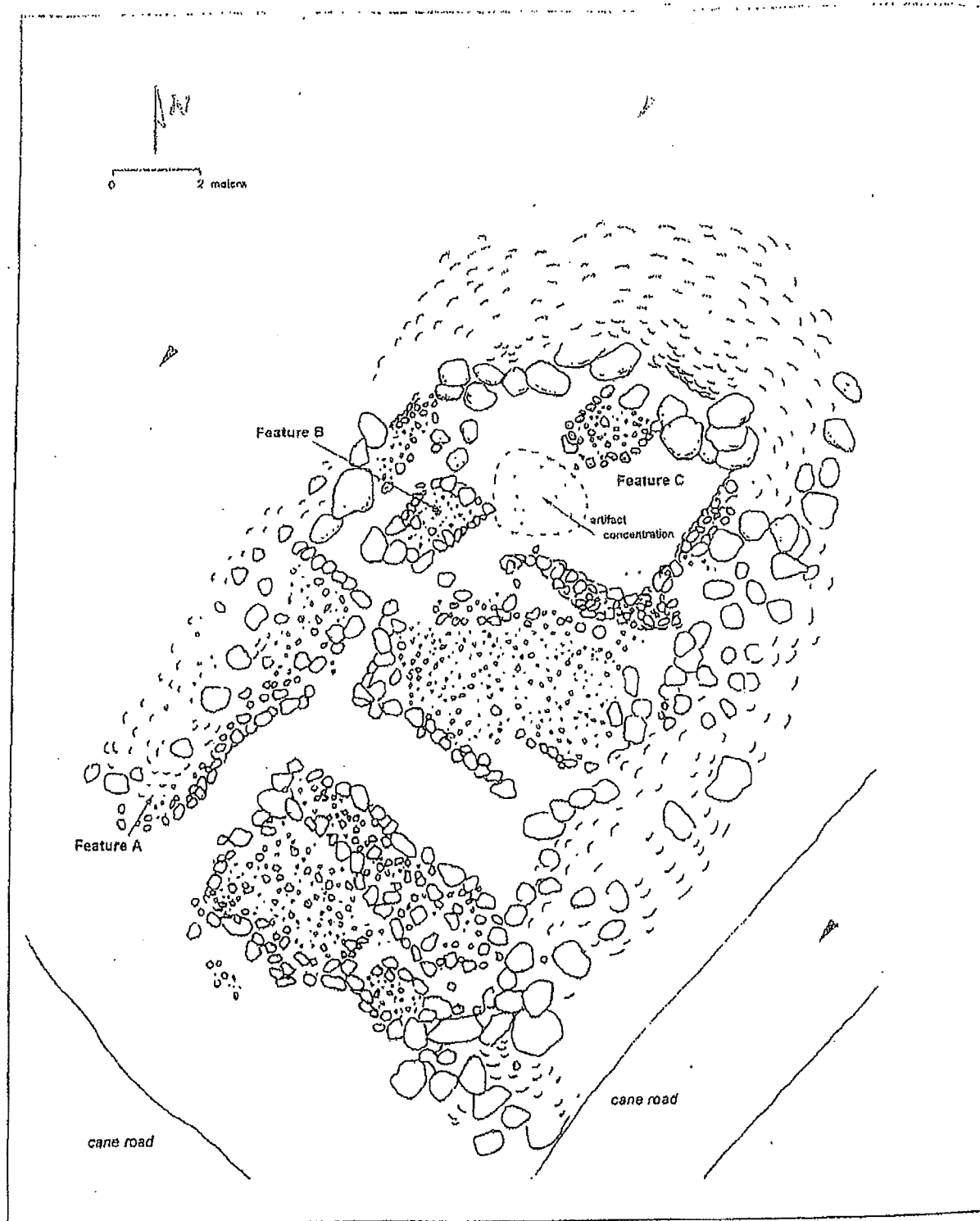


Figure 5 - Plan view of Site 4718—heiau remnant.

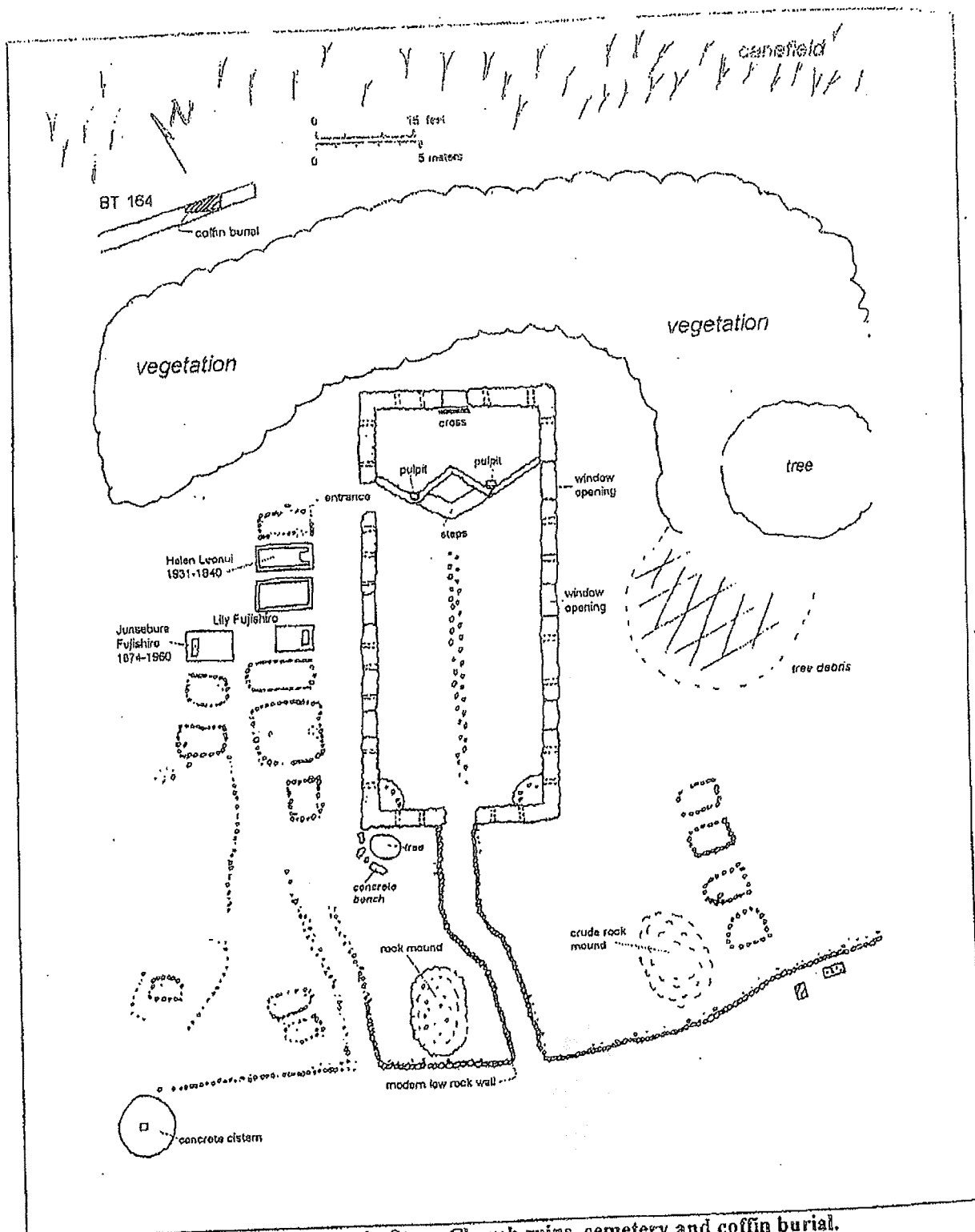
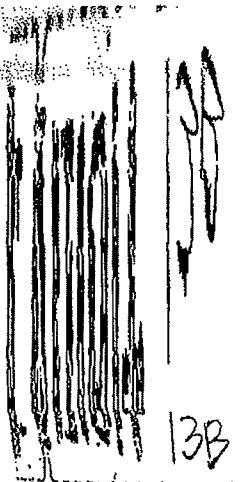


Figure 6 - Site 1603—Olowalu Stone Church ruins, cemetery and coffin burial.



BERNARD J. CAYEYAKI
COMMISSIONER OF HAWAII



STATE OF HAWAII

DEPARTMENT OF LAND AND NATURAL RESOURCES

HISTORIC PRESERVATION DIVISION
KAKULIHEWA BUILDING, ROOM 456
801 KAMOMILA BOULEVARD
KAPOLEI, HAWAII 96707

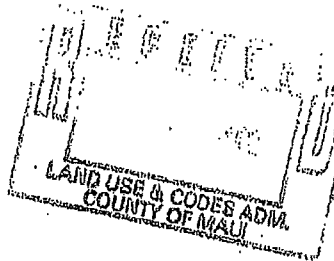
ALBERT D. CALDWELL, CHAIRMAN, HAWAIIAN
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCES MANAGEMENT

MANAGER
AND T. HAWAII
LOCAL RESOURCES

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
COMMISSION ON WATER RESOURCES
MANAGEMENT
CONSERVATION AND RESOURCES
ENFORCEMENT
CONVEYANCES
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
LAND
STATE PARKS

March 7, 2002

Mr. Bob Horcajo
Olowlu Elua Associates
173 Ho'ohana Street, Suite 201
Kahului, Hawaii 96732



LOG NO: 29336
DOC NO: 0202MK03

Dear Mr. Horcajo,

SUBJECT: Historic Preservation Review - Site Preservation Plan, Draft 2
Mauka Portion, Olowlu Elua Associates
Olowlu Ahupua'a, Lahaina District, Maui
TMK (2) 4-8-3:10, 50-82, 4-8-4:11-16

Thank you for the opportunity to review this revised plan which was sent to our office on January 22, 2002.

In this letter we specifically address your revisions to our initial recommendations. The buffer zones have been established and field checked by our office. The boundaries of the cultural preserve will not serve as the buffer, and you have provided a rationale for this decision. Instead, each site within the cultural preserve will have a set buffer zone boundary. You have clarified the following points.

1. Public access. You have clearly stated that access will be provided from either new or existing roads or trails. For sites within the preserve, access will be facilitated by pedestrian trails. Maintenance roads within the preserve may provide vehicular and ADA compliant access.
2. Maintenance. Clarification has been made regarding the removal of alien trees which will occur by flush cutting and rotting, not mechanical removal, and some trees may be left as barriers or to provide shade.
3. and 4. Fencing/Hedges and Landscaping. No landscaping is proposed at this time. The rationale for this is that sites within the cultural preserve will be under the jurisdiction of the OCR (Olowlu cultural preserve), a non-profit corporation. No plans are formalized for these sites, as input from the Board of the OCR is necessary. It is clear in the preservation plan that when specific landscaping plans are developed, they will be submitted to our Division for review, as amendments to the plan.

EXHIBIT 13B

Mr. Bob Morcizo
Page 2

5. Viewing platforms. Viewing platforms will be constructed only for Sites 4718 and 4710. These will utilize existing natural materials, including soil and field boulders. You have indicated that the platforms serve only to afford a view of the site, but other forms of access will be discouraged by signage.

6. Boundary Markers. The markers will consist of concrete blocks, 12" at the base, 7" at the top, with an overall height of 12". We question the height, it might be more appropriate to have the boundary markers higher so that they would be more visible. The hard plastic tags are satisfactory, providing they cannot be easily defaced.

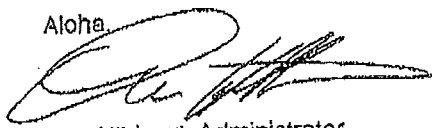
7. Sign Text. The sign texts have incorporated some of our suggested language and seem acceptable, with one minor exception, and with the understanding that it will be addressed, we can approve the text.

1. Site 4 text. We recommend that the last paragraph be deleted. The reference to paganistic could be misinterpreted by some individuals. The first paragraph is sufficient to clearly indicate the importance of the heiau.

8. Preservation Commitment. Appropriate clarification has been made to this section.

The preservation plan is acceptable. If you have any questions, please contact Dr. Melissa Kirkendall at 243-5169.

Aloha,



Don Hibbard, Administrator
State Historic Preservation Division

MK:jen

c: John Min, Director, Department of Planning, County of Maui, FAX 270-7634
Bert Ratte, County of Maui, Land Use and Codes, FAX 270-7972
Glen Ueno, County of Maui, Land Use and Codes, FAX 270-7972

ALAN M. ARIKAWA
Mayor

MICHAEL W. FOLEY
Director

WAYNE A. HOYTELMG
Deputy Director



COUNTY OF MAUI
DEPARTMENT OF PLANNING

May 29, 2003

Ms. Heidi Bigelow
Olowlu Elua Associates, LLC
173 Ho'ohana Street, Suite 201
Kahului, Hawaii 96732

Dear Ms. Bigelow:

SUBJECT: AMENDED APPROVAL OF LANDSCAPE
PLANTING/IRRIGATION PLANS

APPROVAL I.D. NO.: LPA 2003/0023
TMK: 4-8-003:010 (portion)
PROJECT NAME: Olowlu Mauka Subdivision
CONTACT PERSON: Heidi Bigelow
PHONE: 877-4202

PLAN REQUIREMENTS:

1. NUMBER OF LOTS IN SUBDIVISION: 14 and Greenway Lot 24
2. IRRIGATION DETAILS: (Specify Type) Spray ground cover and drip irrigation to trees
3. TREE SCIENTIFIC NAME(s): Pritchardia arecina, Aleurites moluccane, Cordia Subcordata, Pritchardia hillebrandii, Metrosideros polymorpha, Diospyros sandwicense, Acacia koala, Psydrax odoratum, Rauvolfia sandwicensis, Nesoluma polynesticum
4. TREE COMMON NAME(s): Loulu, Kukui, Kou, Loulu Palm, Ohia a lehua, Lama, Koal'a, Alahe'e, Hao, Keahi
5. TREE SIZE(s): 15 gallon, 2 inch caliper, minimum planted height 6 ft. above planted grade
6. TREE COUNT: 14 lot subdivision - 23 large trees (Loulu, Kukui) 45 medium trees (Ohia, Loulu Palm, Kou) and 60 small trees (Lama, Koal'a, Alahe'e, Hao, Keahi) Lot 24 Greenway - 20 large trees (Loulu, Kukui), 30 medium trees (Ohia, Loulu Palm, Kou) and 25 small trees (Lama, Koal'a, Alahe'e, Hao, Keahi)
7. TREE ROOT BARRIERS: Biobarrier
8. TREE STAKING DETAILS: Double Stake
9. GROUND COVER DETAILS: Ilima and Bermuda Grass

EXHIBIT 14

Ms. Heidi Bigelow
May 29, 2003
Page 2

10. DATE OF PLANTING & IRRIGATION PLANS: Revised plans dated May 14, 2003

CONDITIONS OF APPROVAL:

1. That the owner/developer shall maintain the planting for a minimum of one year or until the lot is sold, whichever is greater.
2. That a temporary barrier of an approximate 4 ft. x 4 ft. area consisting of stakes and construction tape shall be installed at each street to protect the tree during construction of the lot.
3. That this approval shall be in accordance with the plan requirements specified above.
4. That approval shall be obtained from Maui Electric Company prior to installation of the landscape planting and irrigation. A copy of the approval shall be submitted to the Planning Department for our records. Any major alterations to the plans approved by the Planning Department will require additional review and approval by the Department.

APPROVED: Mike Foley
MICHAEL W. FOLEY, Planning Director

MWF:CMS:lar

c: Wayne Boteilho, Deputy Planning Director
Clayton Yoshida, AICP, Planning Program Administrator
Aaron Shinmoto, Planning Program Administrator
Colleen Suyama, Staff Planner
Sue Kiang, Arborist Committee (w/ Plans)
Howard Hanzawa, DSA (w/ Plans)
Mike Silva, Maui Electric Company (w/ Plans)
David Sakoda, Maui County Arborist (w/ Plans)
Project File (w/ Plans)
General File
K:\WP_DOCS\PLANNING\LPA\2003\0023_OlowaluMaukaSubd\RevisedApproval.wpd

ALPHA 10 GREENWAY

MAINE TREES

+ GRASSY AREA

ACCENT TREE / SHUB (SILVER)

SHADE TREE

MAINT
TREE

OPEN

MAINE HAWAIIAN
GRASSES

ROAD

OLOWALLU ...

GREENWAY CONCEPT

28.1.99

NAR 17 2000

Olowalu Elua Associates, LLC

1 Ho Olowalu Street, Suite 201
Olowalu, HI 96732

Phone 808-877-2434
Fax 808-877-8408

March 16, 2000

Mr. Craddock, Director
Department of Water Supply
County of Maui
1 South High Street
Honolulu, Hawaii 96793

Olowalu Subdivision
(CDUA MA-2963) (SM1 990021)

Dear Mr. Craddock,

We have received a copy of your December 20, 1999 letter to Dan Uchida and your January 7, 2000 letter to John Miki relating to subject project. We would like to take this opportunity to provide a response.

As you know, Pioneer Mill Company, Ltd. has historically provided drinking water for the village of Olowalu. Currently, Olowalu Elua Associates, LLC continues providing potable water through a private water entity. However, we are certainly willing to discuss issues relating to a possible establishment of a public water system managed and operated by the County which includes the Olowalu region.

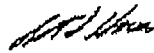
We would like to note our emphasis on the use of native and Polynesian introduced plants in greenways, the cultural reserve, roadway landscaping and the beach reserve.

We appreciate the transmittal of information on specific measures to conserve water resources and will consider the suggestions during project implementation.

EXHIBIT 15

Thank you for your comments regarding the proposed action. A copy of your letters will be incorporated in the final Environmental Assessment.

Very truly yours,



Robert L. Horcajo
Project Manager

Cc: Ed Henry-Land Division-DLNR
John Min-Director, Maui County Planning Department
Michael Munekiyo, Munekiyo, Arakawa & Hiraga, Inc.

FRAMPTON & WARD, LLC

Real Estate Consulting • Development • Project Management

173 Ho'ohana St., Suite 202A

Kahului, HI 96732

Office (808) 893-2300

April 16, 2003

Mr. Francis Cerizo
Department of Planning
County of Maui
250 South High Street
Wailuku, HI 96793

RECEIVED

APR 17 2003

RT TANAKA ENGINEERS, INC.

Via Hand Delivery

Re: Olowalu Mauka Construction Plan -- Response to Comments

Dear Francis,

On behalf of Olowalu Elua Associates, LLC, the following address your comments on the Construction Plans for the Olowalu Mauka Subdivision:

1. *Protection of Archaeological Sites* - In compliance with the January 15, 2001 (Final Revisions -- March 8, 2001) approved Preservation Plan for the Olowalu Mauka Area, the sites scheduled for preservation have been marked with orange-plastic construction fencing delineating the site preservation perimeters.
2. *100 Year Flood Limits* - The 100 yr. inundation limits have been added onto the construction plans; please note that the driveway access road has been relocated out of Lot 18.
3. *Flood Zones and Flood Permits* - The flood zones have been added to the construction plans. No work will be performed within the flood limits.
4. *SMA Compliance* - The Maui Planning Commission granted approval of an SMA Use Permit on September 12, 2000 subject to thirty-six conditions. Pursuant to Condition #10 of the SMA Permit, a Final Compliance Report for the Subdivision of Olowalu Mauka Lands was reviewed and approved by the Department of Planning on April 9, 2002. The following is a follow up review of the pertinent issues related to the Olowalu Mauka Construction Plans:
 - a. Condition #1 - The "proposed project" listed in Condition #1 relates to the construction of the improvements within the SMA application. These improvements are limited to the Makai Subdivision. Construction of the Makai Subdivision was initiated prior to September 30, 2002.
 - b. Condition #2-3 - There is no update or change to the approved responses to these conditions.
 - c. Condition #4 - The preliminary subdivision plans included in the November 9, 1999 submittal are for the Makai Subdivision plans. The final construction of the Makai Subdivision was in accordance with the preliminary subdivision plans.

EXHIBIT 16

Mr. Francis Cenzo
April 16, 2003
p. 2 of 3

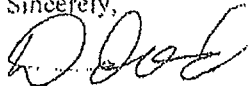
- d. Conditions #5-8 - There is no update or change to the approved responses to these conditions.
- e. Condition #9 - The construction related structures for this subdivision will include a small construction trailer and a 20 ft container to store materials. The temporary construction area will be established within the boundaries of the approved Construction Related Structures Plan on Lot 9 of the Olowalu Mauka Subdivision (see attached map highlighting this area). The temporary construction base yard will be limited to one base yard in operation at any given time.
- f. Condition #10-11 - There is no update or change to the approved responses to these conditions.
- g. Condition #12 - This condition relates to the construction of the improvements within the SMA application. These improvements are limited to the Makai Subdivision. The Makai Subdivision improvements were bonded in accordance with Title 18 relating to the subdivision ordinance.
- h. Condition #13 - There is no update or change to the approved responses to these conditions.
- i. Condition #14 - The approved responses to this condition have not changed. The requested Construction Plans will not greatly intensify the from agricultural or agricultural conservation practices of the parcels adjoining the Greenway Improvement Plan. As noted in the Revised Greenway System Plan within the Final Compliance Report, the perimeter portions adjacent to Lots #9-14 within Easement "13" (portion of Lot #24) will be defined by plantings of large and medium size trees in conjunction with the landscape improvements for the Olowalu Mauka Construction Plans.
- j. Condition #15 - The Irrigation System Plan approved within the Compliance Report has not changed. The submitted construction plans include the installation of a potable and a non-potable water system with meters from each supplied to Lots #1-14. These construction plans have been reviewed and approved by the State Department of Health Clean Water Branch including the non-potable and potable water system.
- k. Condition #16 - The Revised Dust and Erosion Control Plan within the Compliance Report has not changed. Olowalu Elua Associates, LLC has applied for and received a NPDES permit and will comply with restrictions related to such permit.
- l. Condition #17-31 - There is no update or change to the approved responses to these conditions.
- m. Condition #32 - The roadway improvements required in conjunction with the development of the subdivision (Makai Subdivision) have been completed. Please note that Olowalu Elua Associates, LLC is currently processing approval from the State Department of Transportation related to the relocation of mauka access including storage lanes.

Mr. Francis Cerizo
April 16, 2003
p. 3 of 3

- n. Condition #33 - There is only one Roadway Lighting Light within the construction plans for Olowalu Mauka. Such light will meet the maximum wattage of 100W HPS as an internal road intersection.
- o. Conditions #34-36 - There is no update or change to the approved responses to these conditions.

Please let me know if you have additional concerns or comments on these construction plans.

Sincerely,



David Ward

Cc: Jim Riley
Leslie Otani - Land Use and Codes (encl. Final Compliance Information)
Rogelio Hidalgo - Tanaka Engineers

Article VI. GENERAL TERMS AND CONDITIONS TO GLOWALL MALIKA DEPOSIT RECEIPT AND
SALES CONTRACT.

A. DESCRIPTION OF PROJECT AND SUBDIVISION PROCESS.

1. Overview. The lot being purchased by Buyer is the Lot as described on the sketch attached as Exhibit A. Exhibit A also shows the location and configuration of the subdivision. On the date of this agreement the Tract is zoned "agricultural."

Seller will use its best-efforts to seek all required governmental approvals for the subdivision. If successful, the Seller will construct the necessary roads, utilities, and other infrastructure requirements. Upon completion of all governmental approvals for the subdivision and upon the County of Maui's approval of construction plans for the infrastructure, Seller will convey legal title to the Lot to Buyer.

Under the agricultural zoning and the terms of the subdivision the Lot being purchased by Buyer cannot be further subdivided. A copy of the agricultural zoning ordinance has been provided to Buyer.

B. CLOSINGS AND TITLE.

Until closing, Buyer's funds will be held in escrow by Title Guaranty Escrow Services, Inc., 80 Puunene Avenue, Kahului, Hawaii 96732, (Attention: Lynn Sueda), phone 808-871-2200 ("Escrow").

At the time Seller will convey the Lot to Buyer (called the "Closing"), Seller will convey title to Buyer or Buyer's designee by general warranty deed, through Escrow, which shall arrange for the issuance of title insurance to Buyer. Title will be conveyed subject to all of the encumbrances listed on Exhibits B and C attached hereto, and any other utility easements and other matters which shall have been established by Seller as part of the subdivision, none of which shall have any material adverse effect on the value of the Lot or its use for a "farm dwelling" under the Maui County Agricultural Zoning Ordinance. One-half the cost of escrow, all recording fees, conveyance tax and brokerage commissions will be paid by Seller. Real Property taxes will be prorated between Buyer and Seller at closing. Buyer will be required to pay one half the cost of escrow, the cost of Buyer's title insurance and a start-up fee to the Association (see Section D.2 below).

C. SELLER'S DEVELOPMENT OBLIGATIONS.

1. Construction of Subdivision Improvements. Seller agrees to complete all subdivision infrastructure improvements and utility services in accordance with the plans and specifications for the subdivision approved by the County of Maui, including but not limited to the following improvements:

(a) Roads and Access. Seller shall construct the paved, private roadway for access to all lots at no expense to Buyer and in accordance with plans approved by the County of Maui. Seller shall complete the paving of the roadways within 15 months after the County of Maui shall have approved the plans for the infrastructure improvements, subject to any delays or causes beyond Seller's control. Buyer may experience some inconveniences in accessing the Lot during construction. Seller may temporarily limit access or provide alternate access to the Lot until the road (and utilities) is completed since such access during construction of the subdivision may entail a risk of injury or property damage and may affect the orderly progress of Seller's construction.

... shall be responsible for the construction of no water service to the property. The service shall be completed within 15 months after the County of Maui shall have approved the plans for the infrastructure improvements, subject to any delays by Maui Electric, Verizon, Hawaiian Cablevision, or for other causes beyond Seller's control. Buyer shall be responsible for connecting his or her service to the underground conduit to be located in the roadway near the property boundary of the Lot.

(c) Water. The wells and the domestic water distribution system will be held and operated by a public utility company for the purpose of holding, operating, maintaining, repairing and replacing the system for the benefit of all properties which are served by it.

Domestic water service may not be complete at closing but shall be completed within 15 months after the County of Maui shall have approved the plans for infrastructure improvements, subject to delays for causes beyond Seller's control.

Domestic water use shall be subject to PUC approved charges and assessments, and reasonable rules and regulations governing water use consistent with the sound water management, conservation standards, and other possible sources of water for irrigation.

Seller intends to offer separate, non-potable water service for irrigation for such charge and on such terms as Seller may in its discretion determine but without legal liability to do so.

(d) Sewage. Buyer shall be responsible to construct Buyer's own on-site sewage disposal system on the Lot at Buyer's own expense.

Buyer agrees to close this sale pursuant to the terms of this Contract and to accept the Lot at Closing notwithstanding the fact that roadways, water service, electrical service, or phone service may not yet have been completed. Seller's obligations to complete these improvements under this section shall survive the closing and shall inure to Buyer and its successors and interest in the Lot.

2. Entry and Staking. Buyer agrees that Seller shall have the right to enter upon the Lot after the Closing for all purposes in connection with the construction of roadways and utility services, as well as slopes, grades, improvements, utility services, and drainage. Seller shall, at Seller's expense, stake the corners of the Lot at the completion of the construction of subdivision roads and utilities.

D. RESTRICTIVE COVENANTS, DESIGN APPROVALS AND COSTS.

1. The Olowalu Mauka CC&Rs. Before Buyer's 14-day rescission right shall have expired, (see pages 2 and 3 of this agreement), Buyer shall receive and review drafts of the following documents pertaining to the subdivision:

- (a) The Olowalu Mauka Declaration of Covenants, Conditions, Restrictions and Easements (the "Declaration"), with Design Review Standards attached; and
- (b) The Bylaws of the Olowalu Mauka Community Association, Inc. (the "Association").
- (c) The Escrow Agreement.

RECEIVED
BY DATE 4/22/00



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION
P.O. BOX 321
HONOLULU, HAWAII 96809

AGRICULTURE DEVELOPMENT
PROGRAM
AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
CONSERVATION AND
RESOURCES INTERPRETATION
CONSERVATION
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
LAND DIVISION
STATE PARKS
WATER RESOURCES MANAGEMENT

Ref: PD/EAH

APR 25 2000

FD No: ENFMA0033
DOCAREMA00366

Olowalu Elua Associates, LLC
173 Ho Ohana St., Suite 201
Kahului, HI 96732

Dear Sirs:

Subject: Unauthorized Land Uses on State Unencumbered Lands and Within the State Land Use Conservation District

This is to inform you that at its meeting of April 14, 2000, the Board of Land and Natural Resources (Board) found you in violation of Conservation District law and State Land law relating to the unauthorized tree removal, grubbing and construction at Olowalu, Lahaina, County of Maui.

The Board derives its authority from Article X, Section 2 of the Hawaii State Constitution, and in this specific case, Chapters 171 and 183C, Hawaii Revised Statutes and Chapters 13-5 and 13-221, Hawaii Administrative Rules.

The Board assessed fines totaling \$6,500.00 and administrative fees totaling \$805.00. The total: \$7305.00, is due by May 15, 2000. If the Department of Land and Natural Resources (department) does not receive the total amount by the above date, the matter shall be turned over to the Attorney General for disposition, including all administrative costs.

Specifically, the Board found that you violated Chapter 183C, Hawaii Revised Statutes, by failing to obtain the proper conservation zoning approvals to remove Hau trees, engage in construction on Olowalu Wharf and to engage in construction on the side of Olowalu Wharf. In addition, the Board found that you violated Chapter 171, Hawaii Revised Statutes, by failing to obtain the proper approvals to disrupt geological features on state unencumbered land.

Furthermore, the Board ordered you to: (1) nurture the growth of the still living remnants of one Hau tree; (2) through consultation and concurrence of community groups and the department's Land Division, plant and nurture the retention of two adult Hau trees within 90 days; (3) through consultation and concurrence of community groups and the department's Land Division and Historic Preservation Division, remove cement applied during recent construction at Olowalu Wharf and any extant encroaching cement on state land to the side of Olowalu Wharf within 90 days; and (4)

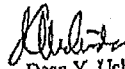
EXHIBIT 18A

through consultation with community groups and the department, file a Conservation District Use Application (CDUA) containing a restoration plan.

If you do not accomplish 2-3 above within 90 days you are hereby notified that a fine not to exceed \$2,000.00 per day will be applied to each action not completed starting on July 14, 2000 and that the Board may seek compensation for damages to state land. We advise you to seek the assistance of the department's Historic Preservation Division before removing cement from the wharf and in developing any wharf restoration measures in your CDUA. Furthermore, in your CDUA, you may wish to answer the following questions: how will Olowalu Wharf be restored; what native plants will you plant in what locations; how and where is public access to be provided or not provided; how will landscaping be maintained and by whom? The restoration plan and CDUA may serve as a vehicle to specify what you will do to restore areas of the beach reserve that are not in the Conservation District, however, a CDUA including a restoration plan and a restoration plan for areas of the beach reserve not in the Conservation District must be submitted before July 14, 2000 or the Board may take further action in this matter.

Should you have any questions on this matter, please call Eric Hill of our planning staff at 587-0383.

Aloha,



Dean Y. Uchida, Administrator

cc: Chairperson
Maui Board Member
HPD/MD(MDLO, EB)/DOCARE
County of Maui Planning Department
Na Kupuna O Maui
DAGS(Survey)



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION
P.O. BOX 521
HONOLULU, HAWAII 96809

ADMINISTRATIVE DEVELOPMENT
PROGRAMS
LAND AND NATURAL RESOURCES
COASTAL AND OCEAN RECREATION
CONSERVATION AND
RECREATION DEVELOPMENT
CONVEYANCES
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
LAND DIVISION
STATE PARKS
WATER RESOURCE MANAGEMENT

JUL - 5 2000

FILE NO. ENFMA00033
DOCAREMA00-366

Ref: PB:EAH

Olowalu Ejun Associates, LLC
173 Ho Ohana St., Suite 201
Kahului, HI 96732

Dear Sirs:

Subject: Board Action of April 14, 2000 Regarding Unauthorized Land Uses on State
Unencumbered Lands and Within the State Land Use Conservation District at
Olowalu, Maui

This is to confirm and re-inform you that at its meeting of April 14, 2000, the Board of Land and Natural Resources (Board) found you in violation of Conservation District law and State Land law relating to the unauthorized tree removal, grubbing and construction at Olowalu, Lahaina, County of Maui. The Board deferred action regarding dredging to the side of Olowalu Wharf and will take up this matter again at its meeting of July 14, 2000.

The Board derives its authority from Article X, Section 2 of the Hawaii State Constitution, and in this specific case, Chapters 171 and 183C, Hawaii Revised Statutes and Chapters 13-5 and 13-221, Hawaii Administrative Rules.

The Board assessed fines totaling \$6,500.00 and administrative fees totaling \$805.00. We have received payment of fines and fees for this matter. Below are specific conditions related to this Board action:

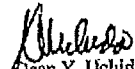
1. The Board of Land and Natural Resources found that you violated the provisions of Title 13-5, Hawaii Administrative Rules (HAR), by failing to obtain the appropriate approvals for the removal of Hau trees from the shoreline state beach reserve within the Conservation District at TMK (2)4-8-3:6;
2. The Board of Land and Natural Resources found that you violated the provisions of Title 13-221, HAR, by failing to obtain the appropriate approvals for the disruption of geological features at the shoreline state beach reserve at TMK (2)4-8-3:6 and the Board imposed a fine of \$500 pursuant to Title 13-221, HAR;

EXHIBIT 16B

3. That you nurture the growth of the still living remnants of the one Hau tree. That you plant and nurture the retention of two adult Hau trees to replace those removed in accordance with a plan approved by the department by July 13, 2000. That you plant and nurture the retention of native grasses, native trees and other native plants in the state beach reserve, both within and outside of the Conservation District, in accordance with a plan approved by the department;
4. Deferred
5. The Board of Land and Natural Resources found that you violated the provisions of Title 13-5, HAR, by failing to obtain the appropriate approvals for construction on Olowalu Wharf and for placing cement on state land within the Conservation District at the side of Olowalu Wharf. The Board imposed fines of \$2000 for construction on Olowalu Wharf and \$2000 for the placing of cement on state owned lands. The Board required that you restore Olowalu Wharf by removing concrete placed on Olowalu Wharf by July 13, 2000 or you will be subject to an additional fine of \$2000 per day;
6. That you remove any extant shoreline encroachments located on Olowalu Wharf, including any cement spill, in accordance with a plan approved by the department;
7. The Board fined you a total of \$6500 for four violations;
8. The Board fined you an additional \$805 for administrative costs associated with the subject violations (\$325 DOCARE, \$150 Maui District Land Office Staff and \$330 Planning Staff);
9. That you pay all imposed fines within 30 days;
10. That in the event of failure of yourself to comply with any of these conditions, the matter shall be turned over to the Attorney General for disposition, including all administrative costs; and
11. The Board required you to develop a plan for complete restoration through consultation with the community group Na Kupuna O Maui as the basis for a new CDUA and submit the new CDUA by April 13, 2000.

Should you have any questions on this matter, please contact Eric Hill of our planning staff at 587-0380.

Aloha,


Dean Y. Uchida, Administrator

cc: Chairperson
Board Members
HPD/LD(MDLO, EB)/DOCARE
County of Maui Planning Department
Na Kupuna O Maui

597



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION
P.O. BOX 881
HONOLULU, HAWAII 96809

RECEIVED
DATE 7/25/00

ADMINISTRATIVE DEVELOPMENT
PROGRAM
ACQUACULTURE
BOATING AND OCEAN RECREATION
CONSERVATION AND
RESOURCES ENFORCEMENT
CONSERVATION
FOREST AND WILDLIFE
HISTORIC PRESERVATION
LAND DIVISION
STATE PARKS
WATER RESOURCE MANAGEMENT

JUL 21 2000

File No.: ENFMA 00-33
DOCARE: MA 00-366

Ref.: PB:EAH

Olowalu Elua Associates, LLC
173 Ho Ohana St., Suite 201
Kahului, HI 96732

Dear Sirs:

Subject: Board Action of July 14, 2000 Regarding Unauthorized Dredging on State Land Seaward of the Shoreline and Within the Conservation District Adjacent to Olowalu Wharf, Island of Maui and Amendments to Board Action D-24 April 14, 2000; Conservation District and State Unencumbered Land Violations At Olowalu, Maui

This is to inform you that at its meeting of July 14, 2000, the Board of Land and Natural Resources (Board) found you in violation of Conservation District law and State Land law relating to unauthorized dredging at Olowalu, Lahaina, County of Maui. The Board also amended its action, D-24, of April 14, 2000 regarding Conservation District and State Unencumbered Land Violations At Olowalu, Maui.

The Board derives its authority from Article X, Section 2 of the Hawaii State Constitution, and in this specific case, Chapters 171 and 183C, Hawaii Revised Statutes and Chapters 13-5 and 13-221, Hawaii Administrative Rules.

The Board assessed fines totaling \$49,500.00, administrative fees totaling \$550.00 and damages to state land totaling \$1315.00, \$3365.00 of the total of these amounts is due by August 12, 2000. The balance, \$48,000, is due by September 11, 2000.

Previously, we informed you that the Board's action, D-24, of April 14, 2000 required you to submit a Conservation District Use Application (CDUA) containing a restoration plan for work done on Olowalu Wharf by July 13, 2000. At the Board meeting on July 14, 2000 you made a representation that such a CDUA had been submitted. The department did not, however, receive your CDUA submission by July 13, 2000. On July 19, 2000 we did receive one copy of your CDUA submission. Please immediately submit the CDUA application fee and extra copies of your CDUA submission, pursuant to Chapter 13-5, Hawaii Administrative Rules and the Board's action, D-24, of April 14, 2000.

EXHIBIT 18C

In regards to unauthorized dredging to the side of Olowalu Wharf and the Board's action D-34 of July 14, 2000:

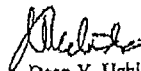
1. The Board of Land and Natural Resources found that you violated the provisions of Chapter 183C, Hawaii Revised Statutes (HRS), and Chapter 13-5, Hawaii Administrative Rules (HAR), by failing to obtain the appropriate approvals for the dredging of coral rubble and other material to the side of Olowalu Wharf and the placing of that material on Olowalu wharf and fined you \$48,000, pursuant to Chapter 183C, HRS. This portion of the total fine under this action is to be paid within sixty (60) days of this action (September 11, 2000) to allow you to submit legal objections and analysis of the fine to the Department of Attorney General for review;
2. The Board of Land and Natural Resources found that you violated the provisions of Chapter 171, HRS, and Chapter 13-221, HAR, for the unauthorized mining or taking of dead coral and other material from a location seaward of the shoreline on state unencumbered land for a period of three days. The Board of Land and Natural Resources imposed a fine of \$1500 and the collection of \$1315 for damages to unencumbered state land pursuant to Chapter 171, Hawaii Revised Statutes;
3. The Board of Land and Natural Resources imposed a fine of \$550 to pay for additional administrative costs (\$225 DOCARE and \$225 Planning Staff) and required you to pay all fines imposed by this action, \$51,365, excluding the \$48,000 fine for the dredging which will be paid within sixty (60) days (September 11, 2000), within 30 days (August 12, 2000);

In regards to the item D-24 of the agenda of the Board of Land and Natural Resources at its regularly scheduled meeting of April 14, 2000:

4. The Board amended condition number 3 of Board action D-24 of April 14, 2000 to require that Olowalu Elua Associates plant and nurture the retention of two local Hiau trees limbs to replace those removed and that Olowalu Elua Associates, its successors and assigns will nurture the growth of the transplanted trees after they are planted and when necessary for the life of the trees. If the transplanted trees do not survive or subsequently die or are removed for any reason, you, your successors and assigns shall transplant more trees according to this condition;
5. That condition number 5 of Board action D-24 of April 14, 2000 be amended regarding cement removal to allow for a stay; and;
6. That in the event of failure of Olowalu Elua Associates, its successors or assigns to comply with any of these conditions, the matters shall be turned over to the Attorney General for disposition, including all administrative costs.

Should you have any questions on this matter, please contact Eric Hill of our planning staff at (808) 587-0380.

Aloha,



Dean Y. Uchida, Administrator

cc: Chairperson
Board Members
HPD/LD(MDLO)/DOCARE
County of Maui Planning Department

Final Environmental Assessment

AFTER-THE-FACT APPROVALS FOR WORK PERFORMED AT OLOWALU, MAUI, HAWAII

Prepared for:

June 2001

Olowalu Elua Associates, LLC


HUNEKIYO TERRACE, INC.

EXHIBIT 18D

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Chapter 1

Overview

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OVERVIEW

A. BACKGROUND

Olowalu Elua Associates, LLC (OEA) is seeking after-the-fact approvals for activities conducted at TMK 4-8-03:43 and 4-8-03:06, Olowalu, Maui, Hawaii. See Figure 1. In particular, an after-the-fact Conservation District Use Application addressing the following actions within the Conservation District has been filed with the Department of Land and Natural Resources (DLNR):

1. Removal of coral rubble from an area adjacent to the Olowalu Wharf for use as fill material to level the wharf platform;
2. Filling of the wharf platform with coral fill and placing poured cement to provide a smooth walking surface; and
3. Removal of vegetation (remnant sugar cane) and damage to *hau* trees within the Government Beach Reserve (TMK 4-8-03:06).

At its meeting of April 14, 2000, the Board of Land and Natural Resources (BLNR) found OEA to be in violation of the Conservation District Rules with the foregoing unauthorized activities. The Board's action, as confirmed by letters dated April 25, 2000 and July 5, 2000 (see Exhibit A), resulted in the following compliance requirements:

1. Through consultation and concurrence of community groups and the department's Land Division and Historic Preservation Division, remove cement applied during recent construction at Olowalu Wharf and any extant encroaching cement on State land to the side of Olowalu Wharf within 90 days;
2. Nurture the growth of the still living remnants of one *hau* tree;
3. Through consultation and concurrence of community groups and the department's Land Division, plant and nurture the retention of two adult *hau* trees within 90 days; and

-
4. Through consultation with community groups and the department, file a Conservation District Use Application (CDUA) containing a restoration plan. This plan would include what the applicant would do to restore areas of the beach reserve that are not in the conservation district.

Towards addressing the foregoing requirements, OEA, on July 6, 2000, filed a Conservation District Use Application and accompanying restoration plans with the Department of Land and Natural Resources. At its meeting of July 14, 2000, the Board amended the conditions of their April 14th action by:

1. Requiring OEA to plant and nurture the retention of two local hau trees; and
2. Allowing for a stay on the restoration of the wharf.

By facsimile transmittal of August 29, 2000, the Department informed OEA that the application was incomplete. See Exhibit B.

This document addresses the Board's initial requirements of April 14, 2000, as well as the Department's request for additional information and clarification of August 29, 2000. Inasmuch as the subject actions involved Conservation District lands, this Environmental Assessment (EA) has been prepared pursuant to Chapter 343, Hawaii Revised Statutes.

B. CONSERVATION DISTRICT REQUESTS

The applicant is seeking the following approvals from the BLNR:

1. Coral Removal
 - a. After-the-fact Conservation District Use approval for the removal of coral from the side of the Olowalu Wharf.

2. Wharf Filling and Cementing

- a. After-the-fact Conservation District Use approval for the filling and cementing of the Wharf.
- b. Approval to retain the cemented area, as is.

3. Vegetative Clearing

- a. After-the-fact Conservation District Use approval for damaging the *hau* trees and removal of vegetation within the State beach reserve (TMK 4-8-03:06).

In seeking the foregoing approvals, the applicant has incorporated herein, documentation regarding its effort to comply with the orders of the BLNR,

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Chapter II

***Work Performed Within
the Conservation District***

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II. WORK PERFORMED WITHIN THE CONSERVATION DISTRICT

This assessment addresses three (3) specific actions for which the BLNR found OEA to be in violation of Chapter 13-5, Hawaii Administrative Rules entitled "Conservation District".

1. Removal of vegetation within the Government Beach Reserve (TMK 4-8-03:06)

Vegetation within the State's beach reserve was removed without authorization. This work resulted in damage to *hau* trees which lined a section of the shoreline area. This work was undertaken in February 2000.

2. Removal of coral rubble from an area adjacent to the Olowalu Wharf for use as fill material to level the wharf "platform".

Coral rubble deposited at the southeast end of the wharf, makai of the certified shoreline, was removed and placed on the wharf platform. Prior to the filling of the wharf, the platform surface was uneven, presenting difficult conditions for pedestrian access to the makai end of the wharf. This action was undertaken to address safety and liability issues relating to the public's use of the wharf. Approximately 12 cubic yards of rubble was removed and placed on the wharf. This work was conducted in December of 1999.

3. Filling of wharf platform with coral fill and placing poured cement to provide a smooth walking surface and to stabilize the wharf structure.

As previously noted, approximately 12 cubic yards of coral fill was placed onto the wharf platform for use as fill material to provide a smooth walking surface on the wharf itself. The makai extent of the wharf, portions of which were previously cemented, was capped with additional poured

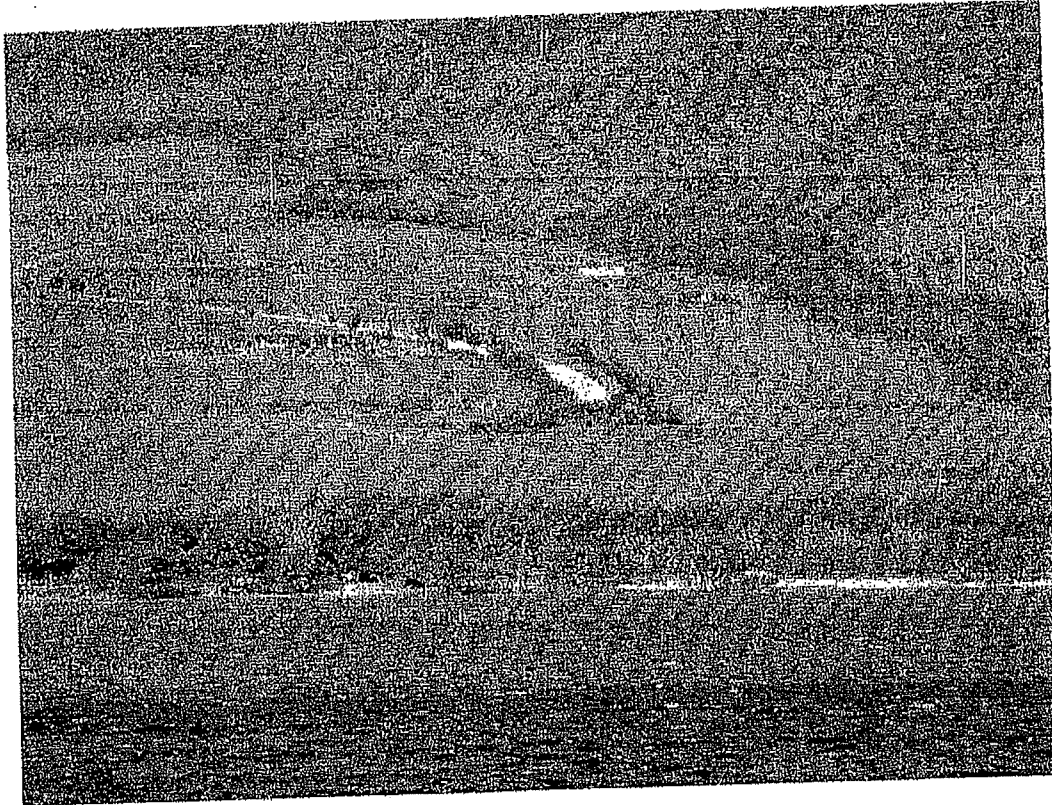
534

cement to provide a finished surface, while at the same time providing greater structural stability to the wharf. This work was conducted in December of 1999.

The BLNR, by order, required the applicant to consult with community groups and the DLNR's Land Division and Historic Preservation Division, and remove the cement applied to the wharf. Based on consultation with community groups and the DLNR's Land and Historic Preservation Divisions, the applicant seeks the BLNR's approval to retain the wharf in its "as is" cemented condition.

Olowalu Mauka Subdivision
Developer Violations of Drainage Requirements
January 22, 2010

Storm drain system does not run to the ocean as required. It simply dumps
below the bottom of the street.





NOTICE OF WARNING

Department of Planning
Zoning Administration and Enforcement Division

[X] 1st Warning 10/19/05 [] 2nd Warning
(Date)

Issued to: PETER MARTIN OWNER
() Hand Delivered (X) Certified Mail
Address: DBA: OLOMANA ESTATE ASSETS, LLC LAND CO.
210 OLOMANA VILLAGE
210 OLOMANA AVE ST#450, KAHALA, HI

TMK: 2480030430000

We have determined that the following violation exists on this property.

- [] Sign Violation
[X] Zoning Violation
[X] Special Management Area Violation
[X] Other STATE CDMA VIOLATION

Description of Violation: *HRS 205A 436
OBTAIN A SHORELINE SETBACK VARIANCE.

*MCC 12-202.25 SMARULES *MCC
M.H. 020 I.2 ACCESSORY USE OUTSOURCE

We are asking for your cooperation in correcting the above violation by: 10-21-05

Failure to correct violation shall result in penalties pursuant to the Maui County Code and the Hawaii Revised Statutes. If you need any assistance, please call: C. VILLALON at 270-7253.

CHUCK WELLS 10/19/05 10:05 AM
SIGNATURE OF INSPECTOR DATE / TIME

WITNESS SIGNATURE DATE / TIME

Comments: FINES IN EXCESS OF \$1,000.00
WILL BE ISSUED IF COMMERCIAL EVENTS
CONTINUE, WHO ABOVE COMPLIANCE TO LAWS
COUNTY & STATE MANDATES, WILL BE VIOLATED

RFS No. 05-4436

C 0390

Department (original) Inspector (pink) Issued To (Yellow)
7004 2510 004 6384-2897 10/19/05 GAN

EXHIBIT 19

HA

DECLARATION LETTER OF GABIJA MCLAUCHLAN

I, Gabija McLauchlan hereby state and declare under penalty of law, as follows

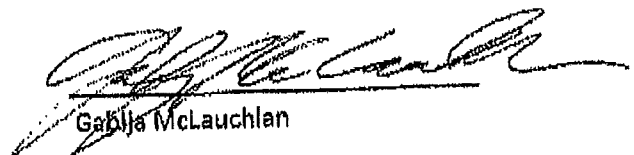
1. While living in Evergreen, Colorado I visited Maui in the fall of 2005 with the intention to purchase real estate. My broker Martin Limkilde with Jim Sanders Realty showed me several properties including lot #12 in Olowalu Mauka. The co-owner of lot #12 Todd Boyd personally wanted to show and walk the property with us. Todd Boyd showed us the property lines, views, explained the good qualities of the property and mentioned being good friends of the developer Peter Martin. Never during this lengthy conversation and visit did Todd Boyd mention any problems with the subdivision nor that the subdivision was never completed per SMA permits granted in 2000. Also there was no mention of lack of completion nor lack of compliance of the SMA in the sellers disclosure statement dated 9/20/2005 by the sellers Todd Boyd and Gary Dixon.
2. For the purchase of lot #12 in Olowalu Mauka I hired Paul Mancini of Mancini Welch and Gelger LLP per recommendation of my real estate attorney Ted Sells in Evergreen, Colorado. During the purchase and due diligence period of lot #12, Paul Mancini never disclosed that his firm and partner Tom Welch represented the developer Peter Martin as legal council. According to Paul Mancini all was good to go for the closing and I cash closed on lot #12 on October 31st, 2005. Within a year, without knowing there were any SMA permit violations, I put the property on the market. After a lengthy time and with no offers I decided to take the property off the market and put it back on the market a few years later – again without any offers received.
3. During the past few years, thanks to the efforts of Lorie Kruse – a licensed Hawaii attorney representing Olowalu Mauka HOA and also her husband at the time Randy Ragon who is the current President of the HOA and a property owner of lot #6 in Olowalu Mauka – it was uncovered that the developer never completed the subdivision Olowalu Mauka per SMA permits granted in 2000. This was the first time, while currently living in Jacksonville, Florida that I realized that I had purchased a property in an unfinished subdivision that was not in compliance with the law. Through continued hard work, Lorie Kruse was able to influence the County's to enforce against the developer as well as the DOT agreeing that occupancy should not have been allowed in the subdivision until the conditions of the SMA permit granted in 2000 were complete. Olowalu Mauka HOA planned to continue to have Lorie Kruse as legal council however she and Randy Ragon are going through a divorce and Lorie Kruse has requested the courts to leave with her daughter to California. Lorie Kruse has chosen Mancini Welch

and Gelger LLP to represent her in the divorce – the same firm representing the developer who she was working against. Ten years later the developer still has not finished Olowalu Mauka per SMA permits issued in 2000

4. Currently I have lot #12 in Olowalu Mauka that is unmarketable – lot #12 has been on the market for two periods without any offers. The property is not in compliance of the law and SMA permits granted in 2000 – this was never disclosed by the sellers nor my attorney and not enforced by the County of Maui. Unsafe with no fire road nor highway access road – there have been a number of accidents and residents evacuating near the fire flames. Given the lack of disclosure, conflict of interest and lack of enforcement, I have hired Randall Schmitt of McCorriston Miller Mukai Mackinnon LLP as legal council to represent me to rescind my purchase agreement contract for lot #12 in Olowalu Mauka.

I declare under penalty of law that the foregoing is true and correct.

Executed in Jacksonville, Florida on May 6th, 2010.


Gabija McLaughlan

Memo from: Bruce Curtis - P.O. Box 10541 - Lahaina - HI 96761

Tel & Fax 808/669-7547 e-mail Wenz49@cs.com

Date: May 5, 2010

Subject: Declaration - Olowalu Mauka of Bruce Curtis

Randy, the fire at Olowalu Mauka this week is freighting. This is the second one in the last four years. It is freighting to have experienced this and not to have a second exit that is safe to use. The exit that was developed after the previous fire is very inadequate.

We are owners of two lots, #1 and #3. We purchased the lots in 1902 and 1903. We were personally escorted to the area in a four wheel vehicle by an Executive of West Maui Land outlining their development plans. Bottom line, they have not met the goals they shared with us verbally and in print.

I have been on the Home Owners board for two years. It has been good to see the commitment of the Board members to work with West Maui Land to take corrective action on their shortfalls. I am not listing the shortfalls as that information has been exchanged with West Maui Land and the County of Maui, by Lorie Kruse. I hear rumor that Lorie is moving and we will not have her carrying the ball forward in addressing the issues that need corrective taken by West Maui Land and the County of Maui. I am disappointed to hear that Lorie Kruse became a client of Mancini Law firm who created these problems. Could this be a conflict and hurt our case? We need to get new legal consul to run with the ball and get the shortfalls corrected, NOW. No more waiting. I would hope that West Maui Land will honor their obligations and we will not have to go to Court.

The value of our lots has deteriorate and will continue to do so until we can hand a prospective buyer a list of the shortfalls and dates that the shortfalls were completed or scheduled to be completed backed up with Bonding. We can no longer live on "Promises". The County of Maui has exposure on this as well. Both the developer and County of Maui should be held accountable - NOW.

I declare under penalty of perjury under the laws in the State of Hawaii that the foregoing is true and correct, except to those things stated on information and belief and to those I believe them to be true and correct.

5 May, 2010. Where I am writing this declaration: Lahaina, Hawaii 96761

Signature

Bruce Curtis 5/5/10

Name Printed

Bruce Curtis

Msw/Olowalu/RandyDeclaration 5-5-10

To: 808-661-0688 via FAX

May 6, 2010

RE: Olowalu Mauka Subdivision SMA non compliance

To Whom It May Concern:

My name is Henry Vandervelde and I am the co-owner of Lot #2 in the Olowalu Mauka Subdivision at 282 Luawai St. Lahaina, Hawaii.

I am a Board member of the Olowalu Mauka Home Owners Association.

I purchased my lot in 2003.

I am very concerned that the developer was allowed to market and sell lots in the subdivision before it received approval.

I am very concerned about safety and liability issues and these dangers have hurt the value of my property. My property value will continue to drop as developer violations come to light. I have already incurred damages as a result of purchasing this property due to the County of Maui not enforcing SMA permit conditions.

Had I known these facts, I would never have invested in Olowalu Mauka. I have invested my life savings based on the County zoning, County ordinances and recorded land entitlement documents.

I declare under penalty of perjury under the laws in the State of Hawaii that the foregoing is true and correct, except to those things stated on information and belief and to those I believe them to be true and correct.

Dated this 6th day of May, 2010, in Goleta, California.


Henry Vandervelde

John F. Crinion
The Crinion Family Trust
P.O. Box 187
Lahaina, HI 96767

Declaration Letter

My name is John F. Crinion, The Crinion Family Trust (of which I am a Trustee) owns Lot 8 at Olowalu Mauka, Lahaina, Hawaii. I am Vice President of Olowalu Mauka HOA. We bought our property in October 2004 in good faith from the previous owners, not directly from the developers West Maui Land.

My wife and I built our home the following year and have been improving our property ever since. When we bought our property we were told that all the amenities would be brought in by the developer and that has not happened. We have no mail delivery, no cable TV, no internet, no trash pick up. They also provide our water in the form of potable and non-potable for agricultural purposes. We had to install a filter for the potable water to insure that we had clean drinking water and we had to install a filter for the non-potable water because our automatic watering system was clogging with all the debris left in the water by Olowalu Water Company.

I am concerned that our subdivision has not been completely finished and as such can put us in a precarious position concerning the County of Maui and possibly with our Property Insurance Company should we ever have to file a claim. There also might be an issue if we were to try to get financing using our property as collateral.

I feel the developer did not complete our subdivision and the County of Maui has not enforced it's own rules, that West Maui Land is being given special treatment because of its connections to the County and some of the Counties employees. I also feel that the SMA permit conditions were not met and that the County has chosen not to properly enforce the permit conditions.

Had we known all the facts we might have bought elsewhere and not had our investment brought down by unscrupulous developers and a County that can't seem to enforce it's own rules.

Further the developer hasn't followed through with the road improvements that were supposed to have been completed before any housing permits were issued or any occupancy was allowed in our subdivision. This puts all of us at Olowalu Mauka in a very scary position regarding the County of Maui as it is well known that the County could come in and take everything away from us with no

recourse on our part. Not to mention putting our lives at risk when attempting to turn into our subdivision from the Honoapiilani Highway, we also risk whiplash by falling into a deep rut. Another concern is the lack of a proper fire road as we have had multiple fires in our subdivision and access to a fire road is imperative. How this has been allowed to happen we will probably never know, what is more important now is when will we see action on all these issues that have not been resolved.

I consider the fact that Lorie Kruse, a licensed Hawaii Attorney, who at one time was working for our homeowners at Olowalu Mauka and was strongly opposed to the developers and the Mancini law firm and the County is now being represented by the very same law firm of Mancini in her divorce case against Randy Ragon. Maybe an investigation should be held to be sure there is no conflict of interest.

Knowing what we now know we would have been better off not buying at Olowalu at all, at this time it is highly unlikely we could sell if we tried because of the mess we have been left in by the developer, the County of Maui and the Dept. of Transportation. We have invested everything we have in Olowalu Mauka and it was our dream to live here in peace and prosperity. I don't see that happening if the present conditions continue.

I declare under penalty of perjury under the laws in the State of Hawaii that the foregoing is true and correct, except the things stated on information and belief and to those I believe them to be true and correct.

Dated 6th day of May, 2010 in OLOWALU, LAHAINA, HAWAII

Signature



Name

JOHN F. CRINION

----- Forwarded Message -----

From: Lawrence P. Carnicelli <Info@LahainaMaui.com>
To: Charmaine.Tavares@mauicounty.us; Elaine M Waldow <ElaineWaldow@cs.com>; GAD@ramau.com
Cc: danny.mateo@mauicounty.us
Sent: Thu, July 1, 2010 8:36:07 PM
Subject: RAM Meeting and follow up SMA question

Aloha Mayor Tavares,

Thank you for meeting with all of us today at the Maui Board of Realtors. I really appreciate you taking the time to give us your opinions and allowing us to ask some pointed questions. I appreciate it greatly. I just wanted to follow up with you in regards to my questions surrounding the SMA laws, approvals, compliance and enforcement as I was cut short by the other gentleman at the end.

As I stated the SMA "situation" has become passionate issue for me not only as a Real Estate Broker with disclosure issues but as a citizen with health, safety and environmental concerns. The numbers of incomplete, expired and non-compliant SMA permits here on Maui is astounding to me. The lack of enforcement by the Administrative Branch of Maui County is, in my opinion, potentially negligent and certainly embarrassing (I will note that it is not only your administration but previous ones have also exercised the "culture of leniency" as Jeff Hunt put it in a committee meeting recently).

As I said in the meeting, rather than speaking in generalities or from a macro-perspective I will choose to use Olowalu Mauka as my example. For the record I have several clients in the subdivision that I sold property to. However, please remember this is only one of MANY situations just like this here on Maui.

In short: The Olowalu Mauka subdivision SMA permit expired in 2005 with many incomplete and undone obligations left on that permit. Your administration has alerted the developer of such after being pushed to do so. However, the mandatory obligations still have failed to be enforced on the developer. One of which are fire break roads which luckily did not end up being disastrous just a few weeks back! Corporation Counsel has the authority to impose maximum fines and penalties if in fact the health, safety and welfare are at risk. The developer has neither applied for an extension nor a 'new' SMA permit. This leaves my clients (and friends) with property that should not have certificates of occupancy and is rendered essentially worthless. This leaves me as a Real Estate Broker with potential serious disclosure issues and may leave me exposed for recourse. All the while the developer has made his millions and run off without fulfilling his required responsibilities. He can even use those millions to tie up the courts and the county so as to evade his responsibilities.

Will this end up being your Maui Lani/Palama Drive issue? Are you going to make citizens sue the county in order for laws to be followed, adhered to and enforced? Is the county going to align itself with developers against these citizens at la Palama Drive? In the Palama Drive case the courts ruled against the County; disagreeing with Corporation Counsel and your Directors interpretation of their powers within the laws. If a ruling like this happens again my clients will potentially end up with uninhabitable dwellings and/or a condemned property. I trust your resounding answer of NO to the above questions! For that I thank you. You said that you were unaware of this situation and that you would follow up to ensure it does not become such. However, that is where we got interrupted in the meeting... I would like to know what your findings are and how you intend to follow up. In finale... What are your conclusions for action in enforcing the SMA laws in light of the County losing the Palama Drive rulings? I look forward to hearing what you have to say.

Again, thank you for your time and consideration,

Lawrence

Lawrence P. Carnicelli, Broker

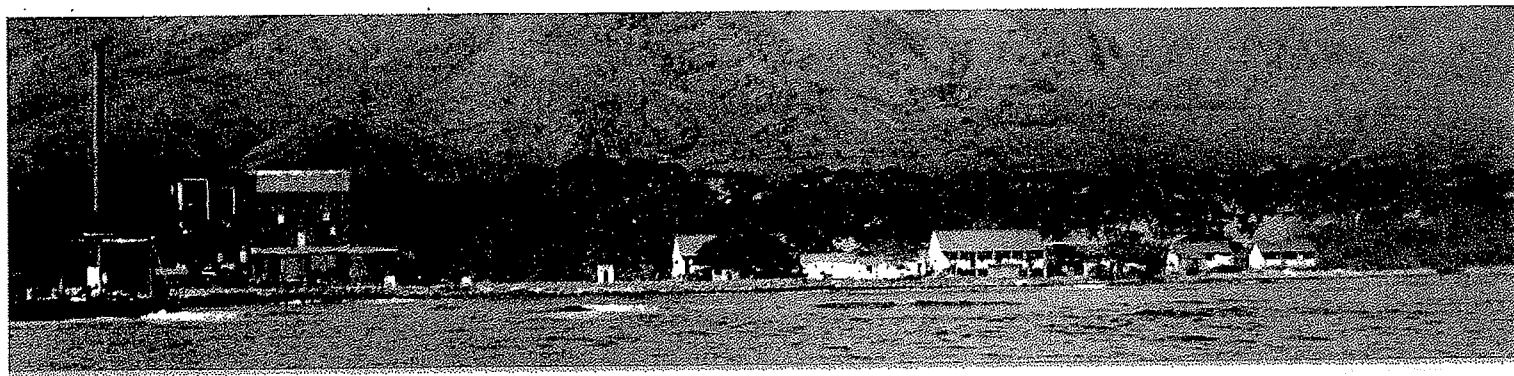
Prudential Maui Realtors

<http://www.LahainaMaui.com>

LPC@LahainaMaui.com

(808) 283-6090 cell

(808) 661-5210 fax



Olowalu Talk Story
A Community-Based Planning Process

December 28, 2011

Mr. Randy Ragon
713-A Front Street
Lahaina, Hawaii 96761

SUBJECT: Comments on the Environmental Impact Statement
Preparation Notice (EISPN) for the Olowalu Town Master
Plan at Olowalu, Maui, Hawaii

Dear Mr. Ragon:

We are in receipt of your letter dated July 20, 2010 to Mr. Orlando "Dan" Davidson, Executive Director, Land Use Commission. The Special Management Area (SMA) Use Permit granted by the Maui Planning Commission referenced in your comment letter refers to the Olowalu Subdivision project proposed by Olowalu Elua Associates, LLC in 2000. We understand that your concerns were originally filed with the Maui Planning Department and have since been resolved through that agency. See **Exhibit "A"**.

Further, on March 22, 2011, the Maui Planning Commission granted SMA Permit No. 2010/0008 for the relocation of Driveway "D" for the Olowalu Mauka Subdivision and related intersection improvements. A copy of the approval letter dated April 7, 2011 is attached as **Exhibit "B"**.

We note that the Olowalu Town Master Plan is proposed by Olowalu Town, LLC and Olowalu Ekolū, LLC, which are separate entities from Olowalu Elua Associates, LLC. We welcome any comments regarding the Olowalu Town Master Plan which is under review in the Environmental Impact Statement Preparation Notice (EISPN).

Thank you again for your participation in the Chapter 343, Hawaii Revised Statutes (HRS), review process. A copy of your letter will be included in the Draft Environmental Impact Statement (EIS).

Olowalu Town LLC
2035 Main Street
Suite 1
Wailuku, HI 96793

Tel: 808 249.2930
Fax: 808 249.2333
talkstory@olowalu.net
www.olowalu.net

Photo: Olowalu Sugar Mill
and Oceanside Camp,
Hawaii State Archives.



Olowalu Talk Story

Please contact me if you have any questions at 244-2015.

Very truly yours,

William Frampton
Olowalu Town, LLC

BF:tn

Attachments

Cc: Orlando "Dan" Davidson, Executive Director, Land Use Commission
Heidi Bigelow, Olowalu Ekolu, LLC
Michael Munekiyo, Munekiyo & Hiraga, Inc.
B. Martin Luna, Esq.
William Spence, Maui Planning Director

K:\DATA\OlowaluTown\MasterPlan\ISPNI\ragonresponse.ltr.doc

CHARMAINE TAVARES
Mayor

KATHLEEN ROSS AOKI
Director

ANN T. CUA
Deputy Director



COUNTY OF MAUI
DEPARTMENT OF PLANNING

December 16, 2010

CERTIFIED MAIL -- #7008 0500 0002 0444 6310

Mr. Peter Martin, President
Olowalu Elua Associates, LLC
33 Lono Avenue, Suite 450
Kahului, Hawaii 96732

Dear Mr. Martin:

**SUBJECT: SECOND NOTICE OF WARNING - REQUEST FOR SERVICE
NO. 10-0000452: FAILURE TO COMPLY WITH SPECIAL
MANAGEMENT AREA (SMA) USE PERMIT FOR THE OLOWALU
SUBDIVISION, LOCATED AT OLOWALU, ISLAND OF MAUI, HAWAII;
TMK(S): (2) 4-8-003:005, 10 (POR.), 41, 42, 43, 50 (POR.), 63 (POR.),
AND 78 (POR.); AND (2) 4-8-004:011, 12, 13, 14, 15, AND 16
(SM1 99/0021)**

The County of Maui (County) issued a Second Notice of Warning on June 29, 2010, to clarify action steps that needed to be implemented in order to bring the Olowalu Mauka Subdivision project (Project) into SMA compliance. From that June 29, 2010 date, the Department of Planning (Department) has worked with the developer to further review each of the outstanding issues.

Condition No. 32, requiring the completion of roadway improvements to the Honoapiilani Highway, is stated as follows: *"That roadway improvements to Honoapiilani Highway, including left-turn storage lanes, acceleration and deceleration lanes, driveway connections, etc., as identified in the applicant's Traffic Impact Assessment Report (TIAR), and as required by the Department of Transportation shall be provided in conjunction with the development of the subdivision. The roadway improvements shall be reviewed and approved by the Department of Transportation. Construction of the improvements shall be completed prior to occupancy of the agricultural lots unless a phasing plan for the improvements is reviewed and approved by the Department of Transportation."*

At the time of the June 29, 2010 letter, the Department did not have any documentation that a phasing plan had been approved and therefore, was of the opinion that the project was not in compliance with Condition No. 32. In light of the June 29, 2010 opinion that Condition No. 32 had not been adequately met, the Department determined that the project was not in compliance with Conditions 2, 4, 8, 11, and 12.

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CURRENT DIVISION (808) 270-8205; LONG RANGE DIVISION (808) 270-7214; ZONING DIVISION (808) 270-7253

EXHIBIT A

Subsequently, the developer in a letter dated October 25, 2010 as attached, provided documentation from the State Department of Transportation (DOT), Maui District Office, that a verbal agreement between Olowalu Elua Associates and the DOT established a phasing plan per Condition No. 32 which stated the following: *"DOT will permit issuance of building permits for dwellings on up to 50% of lots 1-14 in the Olowalu Mauka subdivision prior to construction of the Driveway 'D' intersection in its new location."* Additionally, the developer has submitted an application for a new SMA permit for the relocation of Driveway "D".

With such a phasing plan confirmed by the DOT, the Department believes that the developer has adequately addressed the issues raised regarding Condition Nos. 2, 4, 8, 11, 12, and 32 in the Department's June 29, 2010 letter at this time. It is only until very recently that fifty percent (50%) of the lots 1-14 in the Olowalu Mauka subdivision have commenced construction. As the project has now reached this 50% threshold referenced in the phasing plan, completion of Driveway "D" and associated roadway improvements must commence.

Three (3) other conditions of concern were brought to the Department's attention. These conditions were of concern as a matter of continuing project monitoring. Condition No. 14 concerns the development of a phased greenway system. A site visit by the Department required that the developer give an accounting of the live trees and plants by species that have been planted to date. Additional mitigation and planting was required in order to bring the project into compliance. Some plantings had died over time and certain species were replaced.

Condition No. 19 concerns archaeological and site preservation with both long and short-term milestones. No specific timetable was developed for preservation. A recent site-visit confirms that the Olowalu Cultural Reserve is working on preservation throughout the site and has prioritized each of the projects. Therefore, the Department is satisfied that the developer is working on both short-term and long-range preservation projects, and this issue has been adequately addressed by the developer at this time.

Finally, Condition No. 33 was adhered to when a light bulb of a lower wattage was replaced, as required by the conditions of approval.

The developer has given evidence of a phasing plan for subdivision development and improvements to the Honoapiilani Highway. Additionally, a new SMA application for the relocated Driveway "D" has been received by the Department, and mitigation measures for other conditions have been completed or shall be according to a priority phasing plan. Based on the information available to the Department, the issues referenced in the Department's June 29, 2010, Second Notice of Warning has been adequately addressed at this time.

Mr. Peter Martin, President
December 16, 2010
Page 3

Thank you for your cooperation in addressing this matter. The Department looks forward to processing the new SMA application for the proposed Driveway "D" and related project improvements. Should you require further clarification, please contact Staff Planner Kurt Wollenhaupt at kurt.wollenhaupt@mauicounty.gov or at (808) 270-1789.

Sincerely,

Kathleen Ross Aoki

KATHLEEN ROSS AOKI
Planning Director

Attachment

xc: Ann T. Cua, Deputy Planning Director
Clayton I. Yoshida, AICP, Planning Program Administrator
Aaron H. Shinmoto, PE, Planning Program Administrator (2)
Kurt F. Wollenhaupt, Staff Planner
Michael Hopper, Attorney, Corporation Counsel
Jay Arakawa, Supervisory Zoning Inspector
Michael T. Munekiyo, AICP, Principal, Munekiyo & Hiraga, Inc.
Colleen Suyama, Project Manager, Munekiyo & Hiraga, Inc.
David Ward, Frampton & Ward LLC
Dean Frampton, Frampton & Ward LLC
Project File
General File

KRA:KFW;vb

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ALAN M. ARAKAWA
Mayor

WILLIAM R. SPENCE
Director

MICHELE CHOUTEAU McLEAN
Deputy Director



APR 14 2011

COUNTY OF MAUI
DEPARTMENT OF PLANNING

April 7, 2011

CERTIFIED MAIL - #7008 1140 0002 4319 5575

Mr. Peter K. Martin
Olowalu Elua Associates, LLC
33 Lono Avenue, Suite 450
Kahului, Hawaii 96732

Dear Mr. Martin:

SUBJECT: SPECIAL MANAGEMENT AREA (SMA) USE PERMIT APPROVAL FOR THE RELOCATION OF DRIVEWAY "D" FOR THE OLOWALU MAUKA SUBDIVISION AND RELATED IMPROVEMENTS AT THE INTERSECTION OF HONOAPIILANI HIGHWAY AND LUAWAI STREET, OLOWALU, MAUI, HAWAII; TMK: (2) 4-8-003:084 (POR.), 101 (POR.), 102 (POR.), AND 118 (POR.) (SM1 2010/0008)

At its regular meeting on February 8, 2011, the Maui Planning Commission (Commission) conducted a public hearing on the above request, and further deliberated on the application at the Commission's meetings of February 22, 2011, and March 22, 2011. The Applicant for the SMA application is Olowalu Elua Associates, Peter K. Martin.

After due deliberation, the Commission voted to grant approval of the SMA Use Permit, subject to the following twelve (12) Standard Conditions and six (6) Project Specific Conditions:

STANDARD CONDITIONS:

1. That construction of the proposed project shall be initiated by **March 31, 2014**. Initiation of construction shall be determined as construction of on-site and/or off-site improvements, issuance of a foundation permit and initiation of construction of the foundation, or issuance of a grading permit and initiation of grading, whichever occurs first. Failure to comply within this three (3) year period will automatically terminate this SMA Use Permit unless a time extension is requested no later than ninety (90) days prior to the expiration of said three (3) year period. The Planning Director (Director) shall review and may approve a time-extension request, but may forward said request to the Commission for review and approval.

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CURRENT DIVISION (808) 270-8205; LONG RANGE DIVISION (808) 270-7214; ZONING DIVISION (808) 270-7253

EXHIBIT B

2. That the construction of the project shall be completed within two (2) years after the date of its initiation. Failure to complete construction of this project will require unfinished portions of the project to obtain a new SMA Use Permit unless a time extension is requested no later than ninety (90) days prior to the expiration of said two (2) year period. A time extension shall be requested no later than ninety (90) days prior to the completion deadline. The Director shall review and may approve a time-extension request, but may forward said request to the Commission for review and approval.
3. That the permit holder or any aggrieved person may appeal to the Commission any action taken by the Director on the subject permit no later than ten (10) days from the date the Director's action is reported to the Commission.
4. That appropriate measures shall be taken during construction to mitigate the short-term impacts of the project relative to dust and soil erosion from wind and water, ambient noise levels, and traffic disruptions.
5. That the subject SMA Use Permit shall not be transferred without prior written approval in accordance with Section 12-202-17(d) of the *Special Management Area Rules of the Maui Planning Commission*. However, in the event that a contested case hearing preceded issuance of said SMA Use Permit, a public hearing shall be held upon due published notice, including actual written notice to the last known addresses of parties to said contested case and their counsel.
6. That the Applicant, its successors, and permitted assigns shall exercise reasonable due care as to third parties with respect to all areas affected by subject SMA Use Permit and shall procure at its own cost and expense, and shall maintain during the entire period of this Special Management Area Use Permit, a policy or policies of comprehensive liability insurance in the minimum amount of ONE MILLION AND NO/100 DOLLARS (\$1,000,000.00) naming the County of Maui as an additional named insured, insuring and defending the Applicant and County of Maui against any and all claims or demands for property damage, personal injury, and/or death arising out of this permit, including but not limited to: (1) claims from any accident in connection with the permitted use, or occasioned by any act or nuisance made or suffered in connection with the permitted use in the exercise by the Applicant of said rights; and (2) all actions, suits, damages, and claims by whomsoever brought or made by reason of the non-observance or non-performance of any of the terms and conditions of this permit. A copy of a policy naming County of Maui as an additional named insured shall be submitted to the Department of Planning (Department) within ninety (90) calendar days from the date of transmittal of the Decision and Order.
7. That full compliance with all applicable governmental requirements shall be rendered.

Mr. Peter K. Martin, Olowalu Elua Associates, LLC
April 7, 2011
Page 3

8. That the Applicant shall submit plans regarding the location of any construction related structures such as, but not limited to trailers, sheds, equipment and storage areas and fencing to be used during the construction phase to the Department for review and approval.
9. That the Applicant shall submit to the Department five (5) copies of a detailed report addressing its compliance with the conditions established with the subject SMA Use Permit. A Preliminary Report shall be reviewed and approved by the Department prior to issuance of a grading permit. A Final Compliance Report shall be submitted to the Department, within thirty (30) days of acceptance of the highway improvements by the State Department of Transportation (DOT).
10. That the Applicant shall develop the property in substantial compliance with the representations made to the Commission in obtaining the SMA Use Permit, and with preliminary plans outlined by the Department in the Staff Report presented to the Commission on February 8, 2011, and supplemental documents presented at the Commission's February 22, 2011, and March 22, 2011, meetings. Failure to so develop the property may result in the revocation of the permit.
11. That appropriate energy conservation measures shall be incorporated into the project, as applicable, which may include but are not limited to, energy conserving building materials, solar water heaters, state of the art air conditioning systems, photo voltaic systems, etc.
12. That all exterior illumination, if applicable, shall consist of fully shielded downward lighting throughout the project.

PROJECT SPECIFIC CONDITIONS:

13. That the project shall be reviewed for compliance with all applicable State and County requirements, during the grading permit application process, including receiving final approval from the State DOT prior to construction initiation.
14. That construction and demolition waste shall be disposed of in the Maui Construction & Demolition Landfill or at a certified site other than the County Landfill.
15. That the Applicant will submit domestic and irrigation calculations prepared, signed, and stamped by a certified engineer or architect during the grading permit process and provide domestic, irrigation and fire protection in accordance with system standards, as applicable for any irrigated landscaping.
16. That the Applicant utilize Best Management Practices (BMPs) designed to minimize infiltration and runoff from construction and vehicle operations, and implement the following mitigation measures:

Mr. Peter K. Martin, Olowalu Elua Associates, LLC

April 7, 2011

Page 4

- a. Prevent cement products, oil, fuel, and other toxic substances from falling or leaching into the water;
 - b. Properly and promptly dispose of all loosened and excavated soil and debris material from drainage structure work; and
 - c. Keep runoff on-site.
17. That the Applicant shall meet all requirements of the Department of Fire and Public Safety with regards to required fire code standards for this project.
18. That the Applicant shall post a bond with the County of Maui by procedures and policies approved by the Director, Finance Director, and Corporation Counsel in the amount of \$675,000.00, to be held as a guarantee of project completion. The bond shall be posted within thirty (30) days of project approval by the Commission and the State DOT (whichever is later). Completion of the project per the preliminary plans approved by the Commission and in accordance with the timetable set out under these conditions, unless an extension is approved by the Commission, and upon receipt of acceptance of the highway improvements by the State DOT for the project shall deem the project complete and the bond shall be released to the Applicant or designated representative.

Further, the Commission adopted the Report and Addendum Reports, and Addendum Recommendation, prepared by the Department for the February 8, 2011, February 22, 2011, and March 22, 2011, meetings as the Findings of Fact, Conclusions of Law, and Decision and Order, attached hereto and made a part hereof. Parties to proceed before the Commission may obtain Judicial Review of Decision and Orders issued by the Commission in the manner set forth in Chapter 91-14, Hawaii Revised Statutes.

Thank you for your cooperation. If additional clarification is required, please contact Staff Planner Kurt Wollenhaupt at kurt.wollenhaupt@mauicounty.gov or at (808) 270-1789.

Sincerely,



WILLIAM SPENCE
Planning Director

Mr. Peter K. Martin, Olowalu Elua Associates, LLC
April 7, 2011
Page 5

xc: Clayton I. Yoshida, AICP, Planning Program Administrator
Aaron H. Shinmoto, PE, Planning Program Administrator (2)
Kurt F. Wollenhaupt, Staff Planner
Ferdinand Cajigal, PE, State Department of Transportation
Glenn Okimoto, Director, State Department of Transportation
Department of Public Works
Department of Water Supply
Department of Fire and Public Safety
Police Department
Department of Environmental Management
Maui Electric Company
Dean Frampton, Frampton & Ward, LLC
Dave Ward, Frampton & Ward, LLC
Michael Munekiyo, AICP, Munekiyo & Hiraga, Inc.
CZM File (SM1)
Project File
General File

WRS:KFW:sa

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**END OF CORRESPONDENCES
FROM/TO RANDY D. RAGON**



August 1, 2010

To: State Land Use Commission
PO Box 2359
Honolulu, HI 96804
Contact: Dan Davidson

Re: Comments on EISPN for Proposed Olowalu Town Master Plan
TMK (2) 4-8-003: 84, 98-118 and 124

Aloha Kakou

Maui Tomorrow Foundation, Inc. (MTF) appreciates the opportunity to offer comments on the EISPN for the Proposed Olowalu Town Master Plan, TMK (2) 4-8-003: 84, 98-118 and 124.

The Ahupua'a Model

The EISPN notes that the project is guided by the values and principles of the "ahupua'a," but that term is not defined. The EISPN does not refer to it, but the DEIS should discuss whether the ahupua'a of Olowalu verifiably supported 1500 households, who consumed 500 gallons of water a day per household? Would the ahupua'a system plan dwelling units in a known flood zone, or leave it open for crops and aquaculture? It would be important to know more about the "ahupua'a plan" for the Olowalu village and what natural carrying capacities it is based upon? The DEIS should provide this information.

The EISPN informs the Land Use Commissioners that Olowalu was once a thriving plantation community, and therefore would be a sensible place for a new town. A population of over 800 was noted in the 1832 census, but the geographical boundaries of this thriving Olowalu Community were not made clear. Are they the same as the proposed project area?

Olowalu Village Population

Was the 800 population in 1832 counted by how many habitations stretched from Launiupoko to Ukumehame, and based upon families who lived in the region and attended Olowalu Church? Or was it based upon dwellings in the Olowalu

Landing and stream area? It should be noted in the DEIS what the verified population for the project site was during the early Olowalu Plantation days, and later Pioneer Mill days. Records of these times do exist.

Records in our files indicate that Olowalu Plantation, in its report to the Territory in the early 1900's, had about 90 workers living on site. The manager noted that the crops and people ran short of water in the dry season. Will a future town of up to 1500 units, plus commercial areas be viable?

MTF feels the LUC should require a DEIS which analyzes a variety of unit counts for any proposed Olowalu village project.

Smart Planning Principles

The stated goal of this project is to be sustainable, green, use cutting edge technology, etc. This is all laudable, but the EISPN offers very little specific information to affirm the project goals, except in chosen areas such as expected population growth, roadways, or economic benefits.

Coverage of topics in the EA/EISPN is very uneven. The document strings together many undefined terms, designed to give an impression of environmentally sound planning, with no supporting data and, in general, does not meet the minimum standards put forth in HAR §11-200-10 and §11-200-16. The EISPN is the first opportunity for the public and regulatory agencies to review specific plans for the project and offer input yet the document offers more questions than answers.

Incomplete Information

Although the project's EISPN contains elaborate site maps and public relations brochures (p. 155- 176 of the pdf version of the EISPN), it puts forth little information about the project's specific impacts.

A number of maps provided in the electronic version of the EISPN do not accurately portray the 100 ft wide Government Beach Reserve as spanning the majority of the project's oceanfront land, regardless of ownership. Maps do not indicate what plans are for "lands owned by others."

What will happen to Kapaiki Village, where land is privately owned? The maps give no indication how many units are proposed for each colored polygon in the Olowalu Master Plan, only an overall project count by acreage.

A separate high-density development (Olowalu Elua) was proposed during the Maui Island Plan discussions on lands between Honoapiilani Hwy and the ocean at the north end of the project area. Would this former proposal be incorporated into the proposed Project District? It would be beneficial to decision makers to have specific information regarding what is proposed on prime agricultural lands adjacent to sensitive reef environments.

Impact issues which should have been discussed in the EISPN, and must be discussed in the Draft EIS:

Community Support Facilities

Will community support facilities such as a library, parks, school, fire and police stations, or community center be built by the developer? If they are "provided space," will it be at a cost to the public? Who will be responsible for building these facilities, and at what phase of the development are they expected to be built? Please elaborate on how and when these support facilities will be sustainably built.

Potable Water Supplies

The Sustainable Yield (SY) of Olowalu aquifer is noted as being 2 million gallons per day (mgd) in the beginning of the EISPN and 3 mgd on p. 54, then 2 mgd again on p. 55. The correct figure is 2 mgd according to the state's Water Resources Protection Plan (WRPP) of 2008.

The WRPP assigns Olowalu's SY value a 'confidence rating' of "2" meaning "Moderately Confident." The 2 rating means a moderate amount of hydrologic data is available about the aquifer, however, "more detailed studies are required to better refine the potential range of Sustainable Yields." **The DEIS should provide those studies through installation and monitoring of an observation well in the Olowalu aquifer.**

The EISPN lists the development's projected demand for potable water at .75 mgd (750, 000 gallons a day). It indicates that the system currently has one well with a capacity of .36 mgd, that could possibly be boosted to .6 mgd.

The EISPN does not indicate what peak system demand will be, during hotter months, only that use of .75 mgd would be 37% of the aquifer's sustainable yield. Figures for fireflow will be provided later, even though the area has had 5 major fires in the last decade, and fireflow demands are very likely known.

It is doubtful that any independent hydrological expert would recommend exceeding more than 75% of a sustainable yield figure that is not fully confirmed.

The EISPN does not discuss how many wells are proposed for the system's future needs, or how they will be funded, or how many units would trigger the need for an additional well, only that a future analyses will be provided.

The EISPN does not discuss plans for backup wells for system redundancy; what water rates currently are in the private Olowalu system, or whether water costs will be the higher, lower, or the same, as current Olowalu system rates.

Will affordable housing water rates in the Olowalu project be the same as rates

for market priced housing?

What are existing nitrate levels in the project's wells supplying the potable water for the proposed development? Will groundwater quality be affected by use of reclaimed water? Will this be determined in the DEIS?

The Olowalu water system is currently in operation. While we are given detailed information about the proposed roadways the EISPN contains very little information on a water system that would be key to the project's viability. Current residents of the area have lodged complaints about the quality of water delivered to their homes. The LUC should ask for complete and thorough information about the proposed water source.

Stream Water

The EISPN states that 4 mgd was historically diverted from Olowalu stream, and state Water Commission records show that to be the case from 1988 to the closing of Pioneer Mill in 1999. Olowalu stream is characterized in the EISPN as "intermittent" although no source is given for this information and no data is presented to note months of low, high or no flows.

The EISPN refers to plans to enhance habitat for native stream life, but does not discuss that Olowalu Cultural Reserve volunteers are primarily concerned with taro restoration. Plans for preserving the stream's function should include funding needs and sources of such funding.

How much stream water is currently utilized by local residents with kuleana rights? Do they desire to use more, or are there unmet claims or needs?

The EISPN states a goal to reduce use of Olowalu stream water, but no figures are given on how much acreage is currently cultivated and by what number of owners or lessees. What are current potable and total non-potable water uses per household, and overall. Is there currently a charge for stream water use?

Do all present users want to use the reclaimed water and, if so, will there be a charge for such use? Will phosphate and nitrogen levels in the reclaimed water be lower or the same as that in county effluent?

These questions should be answered in the DEIS, in order to provide decision makers with sufficient information about the project's water resources and water use.

Wastewater

The EISPN indicates that the expected output of the private wastewater system will be .5 mgd but no figures are given for the project's water use for landscaping, parks, greenways and common area maintenance, agriculture, traditional taro growing. Will that demand exceed .5 mgd?

Information is needed as to the cost structure of the non-potable water supplies. Will reclaimed water costs be subsidized, as is County reclaimed water, or will it be full market value? Will residents or cultural restoration projects be charged for delivery of stream water? Will present residents with kuleana water rights be offered a choice of stream water or reclaimed water for agricultural needs?

Drainage

The EISPN has no specific information regarding drainage other than the comment that some retention basins will be utilized and a drainage report will be provided in the DEIS. The specific strategies that are being considered to minimize drainage impacts to the adjoining coral reefs should be presented for public and agency review and discussion at the earliest practicable opportunity to be in compliance with CH 343. That opportunity would be the EA/EISPN.

It is stated that drainage improvements will meet or exceed County standards, but there is no indication of how that will be achieved, or whether County drainage standards are actually effective at preventing degradation of reefs. Agencies will have limited opportunity to comment on effectiveness of the Olowalu drainage plan and proposed Best Management Practices (BMP) because so little information has been provided in this EA/EISPN document. We ask for this information in the DEIS.

The EISPN states that Olowalu's marine life, reefs and nearshore waters have had "limited" impact from human activities, therefore a water quality report will be prepared to address impacts. This report should consider the possibility that low-lying areas of the project site have functioned in the past as run-off filtration areas during storm events. These areas are now being proposed for high density residential development. Will detention and retention basins placed elsewhere on the property provide the same capacity to protect the reefs? Who will maintain the basins? Will homeowners be able to afford the upkeep? Could the project be designed to avoid development in natural retention areas?

Flood and Tsunami Hazards and Sea Level Rise

Fig 12 Flood Insurance Map in the EISPN seems to indicate, if one reads the accompanying text, that the majority of the proposed project district lies in an area at some risk to flooding during large storm events. Lands makai of Honoapiilani Highway and along Olowalu stream are subject to greater flooding, storm wash, tsunami impacts and sea level rise. The EISPN appears to downplay the risks they may be offering future homebuyers and residents of Olowalu. The DEIS should state whether a Flood Hazard Development permit will mitigate these risks and, if so, how? What alternative project designs are possible to minimize risk?

A map should be provided in the DEIS of the Special Flood Hazard Areas as well as the County Planning Department's Sea Level Rise Maps overlaid with proposed housing unit locations, parks, open space etc.

Shoreline Access

This development has an entire master plan with colored maps and plans; surely, specific plans for shoreline access could be discussed in the EISPN.

There is reference to a 150 ft set back along the shore, but no mention that this likely includes a 100 ft-wide state beach reserve along much of the oceanfront portion of the Olowalu of property.

Coastal Zone Impacts

The EISPN shows the SMA zone in a map, as affecting very little of the proposed project. The DEIS should note that while the SMA/Coastal Management Zone only extends to the Honoapiilani Hwy, impacts to the coastal zone can begin on the slopes of the Olowalu hills.

While the EISPN promises the project will have "minimal grading" no specific amount is given to qualify that statement as accurate.

Project Need

The EISPN cites 2003 housing demand numbers for Lahaina and then refers to numbers from 2005. It is not clear how much of that alleged "demand" is still expected given current and projected economic conditions. It is also not clear what proportion of the demand is already anticipated to be met by projects that are entitled, but not built out, or undergoing the approval process.

It is not discussed that the County Planning Department projected a surplus of almost 2500 units in West Maui after the General Plan Advisory Committee (GPAC) approved a West Maui map that included 1500 units at Olowalu. The Planning Commission's version of the West Maui Plan, including Olowalu, states a surplus of almost 3000 units.

Figures were cited in the EISPN for the median price of single and multifamily housing units in West Maui, but no figures were given for home prices in the Olowalu project. This information should be provided.

Police and Fire Protection

The Olowalu area has had 5 fires in the last 10 years. Currently fire safety personnel are responsible for the safety of fewer than 40 homes (approximately 100 residents). Pre-consultation comments from the Maui fire and police departments should have been included in the EA/EISPN to insure full compliance with Chapter 343 policies.

Educational Facilities

The chart on page 49 clearly indicates that every Lahaina area public school is at, or over, capacity at present time. The EISPN does not give an estimate of the

number of students the project will generate. There is no firm discussion of what "educational facilities" the project intends to provide. More information is needed for the Department of Education to evaluate impacts and mitigations.

Recreational Facilities

This section lists 220 acres of the project as open space, parks, greenways, etc. It does not indicate what portion of that amount is in the unbuildable lands of State Conservation Zone that overlays the steep slopes at the inland portion of the project area. What portion is the 100 ft State Beach Reserve or lands with burials or other protected archeological sites which must be set aside? This information is needed in order for LUC members to evaluate the project design and the adequacy of the EIS in addressing impacts.

Agricultural Lands

Large portions of Olowalu are classified as "prime" agricultural lands yet the current plan appears to leave no more than 50 acres open for agricultural activity. Exposed rocks described in the EISPN likely mark a former riverbed indicating natural forces that may again flow in the area.

A map should be included in the DEIS comparing Important Agricultural Land (IAL) areas in Olowalu shown on state and county maps with future farming areas set aside in the Olowalu Master Plan.

Flora and Fauna

The EISPN does not have enough current information to comment on the native flora and fauna in the proposed project area. The survey discussed (Hobdy, 2005) was not done for the entire 660 acres but only a 14-acre oceanfront parcel (TMK 4-8-03:124). The EISPN does not describe what acreage was covered in the 1999 study by Char and whether the majority of land proposed in the two development area was at Olowalu.

The DEIS summary, based upon limited and possibly outdated information, concluded that 16 native species documented during Char's survey were dismissed as being common in "other dryland forest areas." It fails to state that native nehe is rare. The EISPN does not disclose that 95% of Maui's dryland forests have been destroyed, making protection of every native dryland forest worthwhile.

The West Maui Community Plan contains language to protect habitat for rare, threatened or endangered species, including dryland forest remnants at Olowalu. The DEIS should include an updated Biological Survey with a draft preservation plan and a map of native species found, relative to proposed development and preserve areas.

Planting taro should not be considered appropriate as mitigation for loss of native plant habitat.

Nearshore Waters

A 2003 Baseline Study of Olowalu's marine environment (Appendix C) contains charts illustrating the results of the sediment testing. These charts were not readable in the pdf version of the EISPN and should be corrected for public and agency review.

It would appear that Puamana, a developed site with potential runoff and severely altered stream terminus, had more impacts to its reefs than Olowalu.

Maui Tomorrow is concerned that Olowalu's marine water quality report will be prepared by a consultant who has consistently found no impacts from development or human activities in other nearshore areas of Maui, despite evidence of decline in those waters. Marine studies consistently show Olowalu as West Maui's last healthy reef. This should not be downplayed in the environmental review process.

Cultural Resources

Some of the historical references in the EISPN's Cultural Resources section appear to be transposed. For instance, the report refers to the Chiefess Kalola as living in Olowalu at the beginning of 18th century and speaks of her marriage to Hawaii Island chief Kalaniopu'u and their daughter, Kekuiapoiwa Liliha, mother of Maui's Queen Keopuolani. Most historians have Kalola living on Hawaii Island with Kalaniopu'u during most of the 1700's until Kalaniopu'u's death in the 1780's. Then she married Kaopuiki and lived in Olowalu.

Historians such as Christian Klieger in his book: *Moku Ula Maui's Sacred Island* (p. 16) acknowledge Kalola and Kalaniopu'u to have had a son, Kiwalalo. Kalola had a daughter, Kekuiapoiwa Liliha, mother of Keopuolani, with the Hawaiian island chief, Keoua (father of Kamehameha I.)

The EISPN refers to Olowalu stream being realigned during plantation times, possibly to avoid flooding. Soil testing, such as the Kolb, et. al. study of the Waipuilani area, should determine the original boundaries of the stream and be included on a map in the DEIS.

The cultural section of the EISPN is considerably more detailed than other sections since a study was prepared in 1999/2000. **Other topics in the EA/EISPN would have been well served with an equal level of detail.**

The EISPN announces that the Olowalu Cultural Reserve has been expanded from 75 to 110 acres, but no explanation or map is provided. How are these reserve lands protected? Do they have a defensible conservation easement in perpetuity, held by a land trust; if not, what guarantees their future protection?

The EISPN refers to a 2007 archaeological field inspection of 500 of the 660 acres after a severe fire left Olowalu lands exposed. 16 of 30 previously documented sites were not relocated during this field inspection. The DEIS should clarify whether these sites have been impacted, or were located in an area of the parcel not surveyed in the 2007 field work. Olowalu residents are concerned that Kawaihoa heiau has been neglected and is becoming destabilized by plant growth. The 2007 field work indicated bulldozer pushpiles nearby the site.

The Kilea petroglyph cluster is still subject to defacement and the steps to Puu Kilea appear neglected. Does the Cultural Preserve receive adequate funding to care for the sites? The DEIS should discuss sources of funding and amounts needed.

Noise

The duration and impacts of noise from construction of the relocated highway may be significant; a study of those impacts should be provided.

Viewsheds

No discussion of viewsheds affected by the proposed development is included in the EISPN. Mauka-makai views are excellent over much of Olowalu in its undeveloped state. The DEIS should discuss which viewsheds will remain and whether there are alternative designs being considered to minimize viewshed impacts. Views of the night sky, exceptional at Olowalu, should also be considered.

Economics

The economic assumptions of the viability of Olowalu Town are not presented in the EISPN. The DEIS, under secondary impacts, should discuss the possibility of Olowalu never growing beyond the economic phase described in the EISPN as "Initially economic input will be from highway traffic and tourists."

Alternatives

Alternative project layouts to avoid sensitive areas are not discussed in the EISPN. There is only reference to future alternatives that may be discussed, but not what criteria will be used. In contrast, twenty-one pages of the EISPN are devoted to an advertising brochure describing the community planning process that preceded the proposed project.

The EISPN refers to greater analyses given to suggested alternatives which arose in the above-mentioned planning process. Sensitive environmental features are not listed as criteria in the "Formulation of Proposed Alternatives" section of the EISPN.

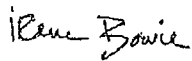
Suggestions were made to limit the size of the Olowalu project during both GPAC and Planning Commission Review of the Maui Island Plan.

The Urban Growth Boundary for the Olowalu region, adopted by the Maui Planning Commission, does not include any land makai of Honoapiilani Hwy. All the proposed Olowalu Master Plan site maps show urban and rural growth areas makai of Honoapiilani Hwy.

County Planning staff proposed no urban or rural growth boundaries for Olowalu. These planning maps should be included in the DEIS. It would be useful for agencies to see such maps as part of their review in order to consider what community input has been gathered concerning the project.

Thank you for the opportunity to comment; we look forward to being included as a consulted party.

Sincerely,

A handwritten signature in cursive script that reads "Irene Bowie".

Irene Bowie
Executive Director