

ORDINANCE NO. 2133

BILL NO. 16 (1992)

A BILL FOR AN ORDINANCE TO ESTABLISH
ZONING IN PD-L/1 (MANELE) PROJECT DISTRICT
(CONDITIONAL ZONING) FOR PROPERTY SITUATE
AT MANELE, LANAI, HAWAII

BE IT ORDAINED BY THE PEOPLE OF THE COUNTY OF MAUI:

SECTION 1. Pursuant to Chapter 19.510 of the Maui County Code, PD-L/1 (Manele) Project District Zoning (conditional zoning) is hereby established, subject to Section 2 of this ordinance, for that certain parcel of land located at Manele, Lanai, Hawaii, identified for real property tax purposes by Tax Map Key Number 4-9-02:01 (portion), comprised of approximately 138.577 acres, more particularly described in Exhibit "1", which is attached hereto and made a part hereof, and in Land Zoning Map No. 2607, which is on file in the Office of the County Clerk of the County of Maui and which is by reference made a part hereof.

SECTION 2. Pursuant to Section 19.510.050 of the Maui County Code, the zoning established by this ordinance is subject to the conditions set forth in Exhibit "2", which is attached hereto and made a part hereof, and the Unilateral Agreement and Declaration for Conditional Zoning, which is attached hereto and made a part hereof as Exhibit "3".

SECTION 3. This ordinance shall take effect upon its approval.

APPROVED AS TO FORM
AND LEGALITY:


GARY W. SARIAN

Deputy Corporation Counsel
County of Maui

Exhibit 22

EXHIBIT "1"

All of those certain parcels of land being portions of Lot 10 (map pending) of Land Court Consolidation 170, situate at Manele, Island of Lanai, State of Hawaii, described as follows:

FIRST: Parcel "A", more particularly described in Exhibit A attached hereto and by reference made a part hereof.

SECOND: Parcel "B", more particularly described in Exhibit B attached hereto and by reference made a part hereof.

THIRD: Parcel "C", more particularly described in Exhibit C attached hereto and by reference made a part hereof.

FOURTH: Parcel "D", more particularly described in Exhibit D attached hereto and by reference made a part hereof.

DESCRIPTION

Parcel "A"
From Rural to Urban

Being a portion of Lot 10 (map pending) of Land Court Consolidation 170

Situated at Manele, Lanai, Hawaii

Beginning at the North corner of this parcel of land, on the Westerly boundary of Lot 4 as shown on Map 1 of Land Court Consolidation 170, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU PEH" being 3,008.02 feet North and 4,010.14 feet West, thence running by azimuths measured clockwise from True South:

1. Along Lot 4 as shown on Map 1 of Land Court Consolidation 170, on a curve to the left with a radius of 820.00 feet, the chord azimuth and distance being:
316° 17' 08" 392.65 feet.
2. 302° 26' 244.00 feet along Lot 4 as shown on Map 1 of Land Court Consolidation 170;
3. 345° 40' 504.82 feet along Lot 4 as shown on Map 1 of Land Court Consolidation 170;
4. 48° 28' 541.53 feet along the remainder of Lot 10 of Land Court Consolidation 170 (map pending);
5. 80° 16' 95.00 feet along same;
6. 113° 43' 108.00 feet along same;
7. 136° 41' 282.00 feet along same;
8. 42° 19' 599.00 feet along same;
9. 56° 34' 629.00 feet along same;
10. 57° 50' 713.00 feet along same;
11. 105° 39' 75.00 feet along same.

EXHIBIT A

12.	56°	39'	107.00 feet along same;
13.	323°	10'	353.00 feet along same;
14.	345°	47'	66.00 feet along same.
15.	10°	12'	91.00 feet along same;
16.	51°	09'	96.00 feet along same;

Thence along shoreline for the next five (5) courses, the direct azimuths and distances between points on said shoreline being:

17.	94°	48'	20"	1,252.55 feet;
18.	100°	44'	05"	657.33 feet;
19.	104°	15'	23"	1,142.38 feet;
20.	99°	41'	51"	389.55 feet;
21.	99°	51'	07"	60.53 feet;
22.	195°	06'		157.00 feet along the remainder of Lot 10 of Land Court Consolidation 170 (map pending);
23.	239°	04'		98.00 feet along same;
24.	182°	23'		265.00 feet along same;
25.	193°	47'		270.00 feet along same;
26.	164°	10'		85.00 feet along same.
27.	218°	18'		66.00 feet along same.
28.	254°	40'		321.00 feet along same.
29.	239°	60'		85.00 feet along same;
30.	227°	54'		742.61 feet along same;

31.	Thence along same, on a curve to the left with a radius of 1,700.00 feet, the chord azimuth and distance being,		239° 04' 36" 1,177.70 feet;
32.	25° 45'	28.88 feet along same;	
33.	70° 30'	116.70 feet along same;	
34.	356° 42'	173.35 feet along same;	
35.	256° 26'	19.64 feet along same;	
36.	327° 26'	69.00 feet along same;	
37.	20° 24'	74.00 feet along same;	
38.	43° 55'	788.00 feet along same;	
39.	23° 47'	96.00 feet along same;	
40.	336° 31'	43.00 feet along same;	
41.	273° 30'	55.00 feet along same;	
42.	245° 47'	548.00 feet along same;	
43.	270° 04'	817.00 feet along same;	
44.	187° 43'	58.00 feet along same;	
45.	112° 13'	79.00 feet along same;	
46.	154° 43'	108.00 feet along same;	
47.	169° 33'	83.00 feet along same;	
48.	221° 57'	378.00 feet along same;	
49.	251° 10'	81.00 feet along same;	
50.	271° 21'	811.00 feet along same;	

51.	299°	33'	71.00 feet along same;
52.	353°	14'	38.00 feet along same;
53.	271°	02'	118.00 feet along same;
54.	213°	02'	185.00 feet along same;
55.	225°	38'	326.06 feet along same to the point of beginning and containing a Gross Area of 149.059 Acres and a Net Area of 94.590 Acres after excluding and deducting Exclusions 1 and 2 described as follows:

Exclusion 1

Beginning at the Northeast corner of this parcel of land, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU PEHE" being 2,205.00 feet North and 7,024.73 feet West, thence running by azimuths measured clockwise from True South:

1.	356°	42'	149.91 feet along the remainder of Lot 10 of Land Court Consolidation 170 (map pending);
2.	54°	49'	350.00 feet along same;
3.	21°	27'	352.00 feet along same;
4.	61°	04'	83.00 feet along same;
5.	108°	34'	636.00 feet along same;
6.	50°	42'	68.02 feet along same;
7.	71°	41'	351.51 feet along same;
8.	183°	02'	259.00 feet along same;
9.	133°	40'	246.00 feet along same;
10.	287°	13'	690.00 feet along same;
11.	234°	59'	81.00 feet along same;

12.	200°	57'	81.00 feet along same;
13.	169°	02'	121.00 feet along same;
14.	198°	43'	104.00 feet along same;
15.	240°	06'	470.00 feet along same;
16.	233°	08'	729.94 feet along same to the point of beginning and containing an Area of 24.146 Acres.

Exclusion 2

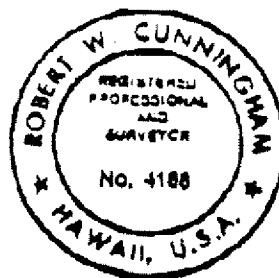
Beginning at the Northeast corner of this parcel of land, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU PEHE" being 2,011.98 feet North and 5,017.59 feet West, thence running by azimuths measured clockwise from True South:

1.	350°	43'	417.00 feet along the remainder of Lot 10 of Land Court Consolidation 170 (map pending).
2.	56°	52'	264.00 feet along same;
3.	47°	32'	668.00 feet along same;
4.	3°	21'	79.00 feet along same;
5.	57°	28'	97.00 feet along same;
6.	143°	49'	77.00 feet along same;
7.	113°	28'	81.00 feet along same;
8.	83°	15'	567.00 feet along same;
9.	64°	01'	407.00 feet along same;
10.	89°	31'	78.00 feet along same;
11.	104°	53'	440.00 feet along same;
12.	147°	15'	48.00 feet along same;

10.	194°	52'	41.00 feet along same;
14.	229°	47'	206.00 feet along same;
15.	246°	58'	553.00 feet along same;
16.	256°	18'	758.00 feet along same;
17.	215°	26'	63.00 feet along same;
18.	171°	25'	74.00 feet along same;
19.	111°	44'	86.00 feet along same;
20.	181°	43'	51.72 feet along same;
21.	234°	27'	119.00 feet along same;
22.	221°	46'	416.00 feet along same;
23.	242°	50'	93.00 feet along same;
24.	260°	52'	508.00 feet along same to the point of beginning and containing an Area of 30.323 Acres.

650 Ala Moana Blvd., Suite 200
Honolulu, Hawaii 96813

January 9, 1991



BELT COLLINS & ASSOCIATES

Robert W. Cunningham
 Registered Professional Surveyor
 Certificate Number 4188

DESCRIPTION

Parcel "B"
From Rural to Urban

Being a portion of Lot 10 (map pending) of Land Court Consolidation 170

Situated at Manele, Lanai, Hawaii

Beginning at the East corner of this parcel of land, on the Westerly boundary of Lot 4 as shown on Map 1 of Land Court Consolidation 170, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU PEHE" being 3,054.93 feet North and 4,035.09 feet West, thence running by azimuths measured clockwise from True South:

1.	72°	05'	447.91 feet along the remainder of Lot 10 of Land Court Consolidation 170 (map pending).
2.	52°	28'	82.96 feet along same;
3.	41°	39'	548.00 feet along same;
4.	74°	30'	96.00 feet along same;
5.	112°	38'	74.00 feet along same;
6.	140°	28'	120.00 feet along same;
7.	95°	50'	54.00 feet along same;
8.	63°	10'	651.00 feet along same;
9.	100°	39'	99.00 feet along same;
10.	146°	13'	88.00 feet along same;
11.	171°	08'	82.00 feet along same;
12.	200°	58'	40.00 feet along same;
13.	134°	42'	249.53 feet along same;

14.	51°	22'	300.15 feet along same;
15.	76°	33'	55.00 feet along same;
16.	112°	53'	60.00 feet along same;
17.	156°	48'	49.51 feet along same;
18.	Thence along same, on a curve to the left with a radius of 1,700.00 feet, the chord azimuth and distance being: 233° 26' 73.18 feet;		
19.	232°	12'	717.18 feet along same;
20.	Thence along same, on a curve to the right with a radius of 1,050.00 feet, the chord azimuth and distance being: 248° 08' 575.31 feet;		
21.	264°	00'	20.89 feet along same;
22.	30°	28'	306.23 feet along same;
23.	57°	16'	220.00 feet along same;
24.	51°	22'	389.21 feet along same;
25.	314°	42'	221.71 feet along same;
26.	200°	58'	38.51 feet along same;
27.	257°	41'	717.20 feet along same;
28.	275°	43'	85.00 feet along same;
29.	239°	59'	48.00 feet along same;
30.	220°	29'	531.00 feet along same;
31.	243°	48'	108.00 feet along same;
32.	265°	31'	459.21 feet along same;

33. 333' 51"

105.17 feet along Lot 4 as shown on Map 1 of Land Court
Consolidation 170 to the point of beginning and
containing an Area of 15.653 Acres.

880 Ala Moana Blvd., Suite 200
Honolulu, Hawaii 96813

January 9, 1991



BELT COLLINS & ASSOCIATES

Robert W. Cunningham

Registered Professional Surveyor
Certificate Number 4188

DESCRIPTION

Parcel "C"
From Agricultural to Urban

Being a portion of Lot 10 (map pending) of Land Court Consolidation 170

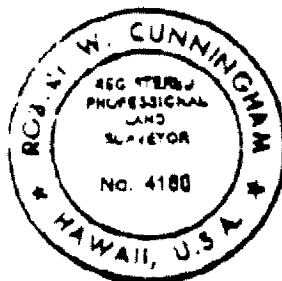
Situated at Manele, Lanai, Hawaii

Beginning at the West corner of this parcel of land, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU PEHE" being 2,287.36 feet North and 6,031.39 feet West, thence running by azimuths measured clockwise from True South:

1. 227° 54' 133.39 feet along the remainder of Lot 10 of Land Court Consolidation 170 (map pending).
2. 253° 47' 92.00 feet along same;
3. 283° 42' 827.00 feet along same;
4. 316° 29' 115.00 feet along same;
5. 350° 43' 103.00 feet along same;
6. 25° 45' 44.32 feet along same;
7. Thence along same, on a curve to the right with a radius of 1,700.00 feet, the chord azimuth and distance being:
89° 34' 36" 1,177.73 feet
to the point of beginning and containing an Area of
6.942 Acres.

680 Ala Moana Blvd. Suite 200
Honolulu, Hawaii 96813

January 3, 1991



BELT COLLINS & ASSOCIATES

Robert W. Cunningham
Registered Professional Surveyor
Certificate Number 4188

EXHIBIT C

DESCRIPTION

Parcel "D" From Agricultural to Urban

Being a portion of Lot 10 (map pending) of Land Court Consolidation 170

Situated at Manale, Lanai, Hawaii

Beginning at the East corner of this parcel of land, on the Northwestern boundary of Lot 4 as shown on Map 1 of Land Court Consolidation 170, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU PEHE" being 3,700.94 feet North and 3,109.04 feet West, thence running by azimuths measured clockwise from True South:

1.	01°	52'	301.19 feet along Lot 4 as shown on Map 1 of Land Court Consolidation 170;
2.	69°	08'	425.68 feet along Lot 4 as shown on Map 1 of Land Court Consolidation 170;
3.	118°	00'	564.65 feet along the remainder of Lot 10 of Land Court Consolidation 170 (map pending);
4.	145°	36'	80.00 feet along same;
5.	97°	25'	209.77 feet along same;
6.	78°	24'	799.60 feet along same;
7.	350°	09'	119.33 feet along same;
8.	240°	23'	110.41 feet along same;
9.	290°	57'	121.00 feet along same;
10.	328°	32'	101.00 feet along same;
11.	10°	34'	124.00 feet along same;
12.	60°	20'	280.83 feet along same;

EXHIBIT D

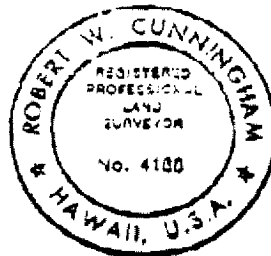
13.	84°	00'	20.89 feet along same;
14.	Thence along same, on a curve to the left with a radius of 1,000.00 feet, the chord azimuth and distance being:		
	68°	08'	575.31 feet;
15.	52°	12'	717.18 feet along same;
16.	Thence along same, on a curve to the right with a radius of 1,700.00 feet, the chord azimuth and distance being:		
	53°	28'	73.18 feet;
17.	198°	11'	64.20 feet along same;
18.	221°	06'	822.99 feet along same;
19.	240°	23'	655.00 feet along same;
20.	170°	09'	135.77 feet along same;
21.	120°	52'	67.27 feet along same;
22.	162°	51'	58.00 feet along same;
23.	181°	17'	75.00 feet along same;
24.	227°	46'	149.00 feet along same;
25.	252°	50'	379.00 feet along same;
26.	257°	18'	375.00 feet along same;
27.	276°	15'	593.00 feet along same;
28.	301°	19'	110.00 feet along same;
29.	347°	59'	124.00 feet along same;
30.	280°	23'	490.11 feet along same;

31 270° 59'

299.57 feet along same to the point of beginning and
containing an Area of 21.992 Acres.

680 Ala Moana Blvd Suite 200
Honolulu, Hawaii 96813

January 9, 1991



BELT COLLINS & ASSOCIATES

Robert W. Cunningham
Registered Professional Surveyor
Certificate Number 4188

EXHIBIT "2" (MANELE)

Conditions

Pursuant to Section 19.510.050 of the Maui County Code, the zoning established for the parcels of land shall be subject to the following conditions:

*1. The Declarant will establish a loan fund of \$1,000,000.00 to be administered and managed by the Bank of Hawaii, in consultation with Lanai Resort Partners for the purpose of assisting current Lanai City merchants with improvements of their commercial facilities. Loans will be made available to the merchants from the date of the Unilateral Agreement and for a minimum of 10 years thereafter, at an annual rate of 2% per annum below the Bank of Hawaii's prevailing commercial loan rate for similar type loans. Also, the loan qualifications and pay back methods shall not exceed those required by the Bank of Hawaii for their commercial loans. Written notice that the loan fund of \$1,000,000.00 is available for disbursement to qualified Lanai City merchants shall be given by Bank of Hawaii to said merchants, the Mayor of the County of Maui and the Chairperson of the County Council and the Chairperson of the Planning and Economic Development Committee. Written notice of the expiration of the loan fund shall be given to the above-named persons one (1) year prior to such expiration.

*2. The Declarant shall on a fee simple basis, donate at no cost and free and clear of all mortgage and lien encumbrances, 115 acres of land adjacent to the Lower Waialua Single Family site to the County as shown in Exhibit "A" (shaded area) attached hereto and by reference made a part hereof, for an affordable housing project. The project shall be similar in design quality and density to the recent affordable housing developments on Lanai.

*3. The Declarant shall on a fee simple basis, donate at no cost and free and clear of all mortgage and lien encumbrances, a minimum of one acre of land on Lanai to the County for use as a veteran's cemetery.

*4. The Declarant shall consummate a land exchange with the County for a new police station upon terms and conditions acceptable to Declarant and the County.

5. The Declarant will use only non-potable water, as defined in Ordinance No. 2066 enacted by the County on December 17, 1991, for the irrigation of the Golf Course in the Manele Project District.

6. The Declarant shall make the Manele golf course available for play to Lanai residents at a kamaaina rate of 50% of the standard rate, and for Hawaii residents at 60% of the standard rate.

7. The Declarant shall take appropriate preventive measures so that its development, construction, operation, and maintenance activities in the Manele Project District do not cause any deterioration in the Class AA water quality standards currently in existence at Hulopoe Bay and the coastal waters adjacent to the Manele Bay Hotel and the Manele golf course as determined by present studies, or any comparable standards as they may be established by law in the future, taking into account temporary perturbations from natural occurrences. Quarterly monitoring of Hulopoe Bay and aforesaid coastal waters shall be conducted by Declarant, with copies of the report being sent to the County Council and the Department of Health for review. The monitoring of Hulopoe Bay shall begin upon approval of the zoning of the golf course area within the Manele Project District, and shall continue for at least 2 years after completion of the construction of the Manele golf course, with the monitoring to be done semi-annually during the final year of monitoring. Declarant shall provide notice to all persons receiving the reports of the termination of the monitoring of Hulopoe Bay when it submits the first report of the final year of monitoring. If the report indicates that the conditions of Hulopoe Bay exceeds the standards of the Class AA water and Declarant's activities are the cause of such conditions, then the Declarant shall be responsible for all costs to mitigate the source of deterioration and make its best efforts to restore the conditions to the standards of Class AA waters within one year of the date of the report.

8. The Declarant shall provide such additional non-potable sources of water as may be needed for Manele golf course irrigation after consultation with the State Commission on Water Resource Management and Department of Health.

9. The Declarant shall comply with the environmental health concerns addressed in Exhibit "B" attached hereto and incorporated herein by reference, entitled "Twelve (12) Conditions Applicable to All New Golf Course Development," dated January 1992, issued by the State Department of Health. Copies of all reports that are sent to the Department of Health by Declarant shall also be sent to the Chairperson of the Planning, Economic and Development Committee of the County

Council, the directors of the Department of Planning and the Department of Public Works.

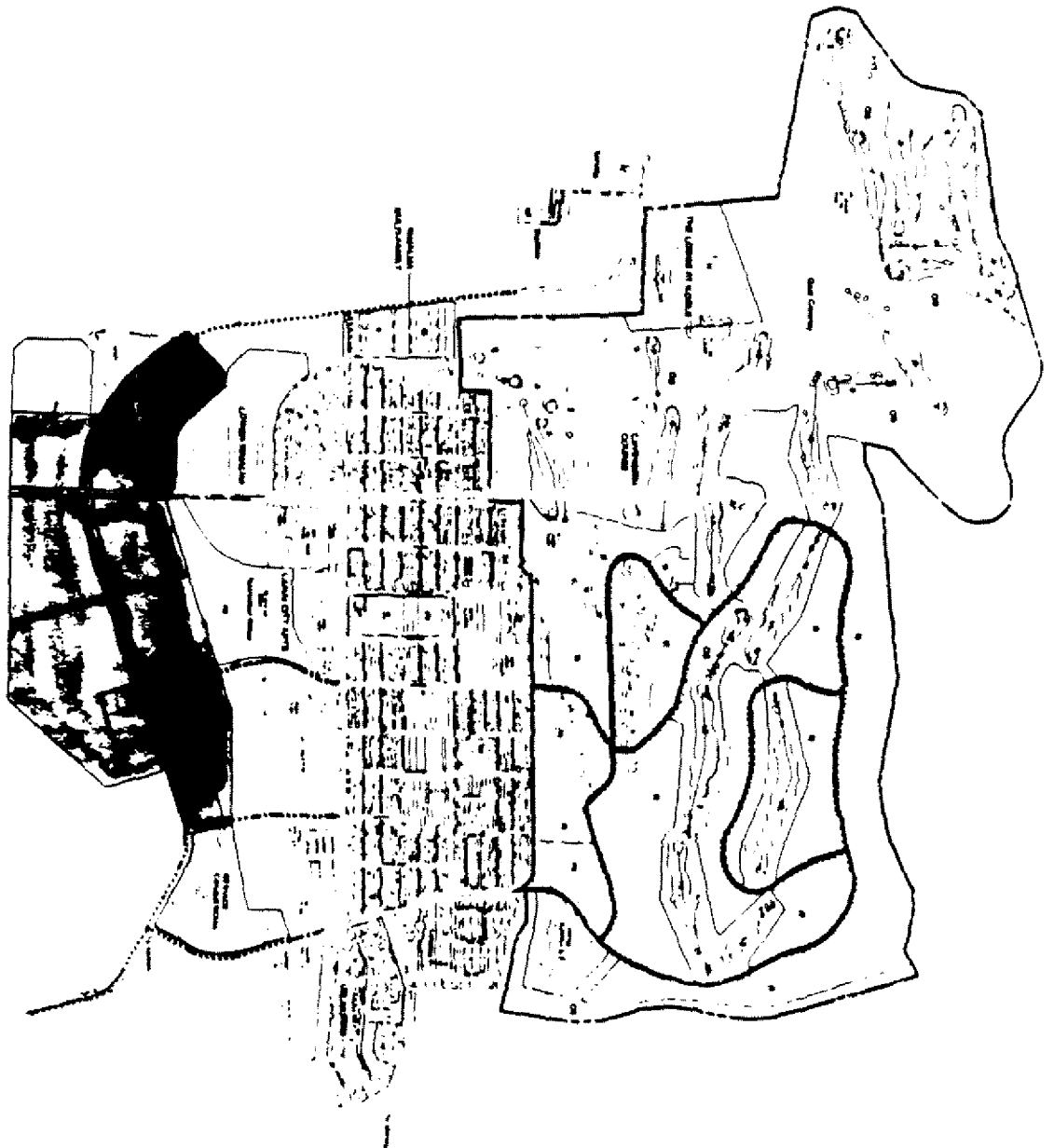
*Asterisked conditions are contained in the Unilateral Agreement for the Koele rezoning application as well. Fulfillment of these conditions shall satisfy the requirements in both the Koele rezoning application and this Manele rezoning application.

4388/2M

LAND USE

H	HOTEL
R	RESIDENTIAL
PK	PARK
OS	OPEN SPACE
P	PUBLIC
COMM	COMMERCIAL

2



4-20-51
LANAI CITY AND
KOELE PROJECT DISTRICT
LAND USE PLAN
Prepared by Lanai Co.
Reviewed by State & Federal Agencies

EXHIBIT "A"



STATE OF HAWAII DEPARTMENT OF HEALTH

January, 1992 (Version 4)

TWELVE (12) CONDITIONS APPLICABLE TO ALL NEW GOLF COURSE DEVELOPMENT

The following conditions are recommended for all new golf course development in Hawaii to assure that environmental quality is preserved and enhanced as it relates to human health and the protection of sensitive ecosystems. Additional conditions may be imposed based on site-specific considerations.

1. Baseline groundwater/vadose zone and/or, if appropriate, coastal water quality shall be established. Once the sampling plan has been determined and approved by the State Department of Health, the owner/developer shall establish the baseline groundwater/vadose zone water quality, and, if appropriate, nearshore water quality, and report the findings to the State Department of Health. Analyses shall be done by a laboratory approved by the Department of Health.
2. The owner/developer and all subsequent owners shall establish a groundwater monitoring plan and system which shall be presented to the State Department of Health for its approval. The groundwater monitoring plan and system shall minimally describe the following components:
 - a. A monitoring system tailored to fit site conditions and circumstances. The system shall include, and not be limited to, the use of monitoring wells, lysimeters, and vadose zone monitoring technologies. If monitoring wells are used, the monitoring wells shall generally extend 10 to 15 feet below the water table.
 - b. A routine groundwater monitoring schedule of at least once every six (6) months, or more frequently, if required by the State Department of Health in the event that the monitoring data indicates a need for more frequent monitoring.
 - c. A list of compounds which shall be tested for as agreed to by the State Department of Health. This list shall include, but not be limited to the following: total dissolved solids; chlorides; PH; nitrogen; phosphorus; and other compounds associated with fertilizers, biocides, or effluent irrigation.

EXHIBIT "B"

3. If the data from the monitoring system indicate increased levels of a contaminate that poses, or may pose, a threat to public health and the environment, the State Department of Health shall require the owner to take immediate action to stop the source of contamination. Subsequently, the owner shall mitigate any adverse effects caused by the contamination.
4. Owner/developer shall provide sewage disposal for the clubhouse and other facilities by connecting to the public sewer system or by means of a treatment individual wastewater system approved by the Department of Health in conformance with Administrative Rules, Title 11, Chapter 62, Wastewater Treatment Systems. The use of wastewater for irrigation will be generally encouraged, with appropriate controls (see Condition 5).
5. If a wastewater treatment works with effluent reuse becomes the choice of wastewater disposal, then the owner/developer, and all subsequent owners, shall develop and adhere to a Wastewater Reuse Plan which shall incorporate the provisions of the Department of Health's Guidelines for the Use of Reclaimed Water which includes:
 - a. An Irrigation Plan encompassing buffer distances, pipe and appurtenance placement, and labeling.
 - b. An Engineering Report encompassing treatment options and treatment levels.
 - c. Hydro-geologic and hydrologic surveys to determine application rates, sizing and storage needs.
 - d. A monitoring plan.
 - e. A management plan.
 - f. Public and employee education plans.
6. Underground storage tanks (USTs) used to store petroleum products for fueling golf carts, maintenance vehicles, and emergency power generators that pose potential risk to groundwater shall be discouraged. Use of electric golf carts and above-ground storage tanks for emergency power generators shall be encouraged.

Should the owner/developer/operator plan to install USTs that contain or other regulated substances, the owner/developer/operator must comply with the federal UST technical and financial responsibility requirements set forth in Title 40 of the Code of Federal Regulations Part 280. These federal rules require, among other things, owners and operators of USTs to meet specific requirements in release detection and response, and subsequent corrective action. Also, the owner/developer/operator must comply with all State UST rules and regulations pursuant to the Hawaii Revised Statutes, Chapter 342-L, Underground Storage Tanks.

7. Buildings designed to house the fertilizer and biocides shall be bermed to a height sufficient to contain a catastrophic leak of all fluid containers. It is also recommended that the floor of this room be made waterproof so that all leaks can be contained within the structure for cleanup.
8. A golf course maintenance plan and program will be established based on "Best Management Practices (BMP)" in regards to utilization of fertilizers and biocides as well as the irrigation schedule. BMP's will be reviewed by the State Department of Health prior to implementation.
9. Every effort shall be made to minimize the amount of noise from golf course maintenance activities. Essential maintenance activities (e.g., mowing of greens and fairways) shall be conducted at times that do not disturb nearby residents.
10. Solid waste shall be managed in a manner that does not create a nuisance. Whenever possible, composting of green wastes for subsequent use as a soil conditioner or mulching material is encouraged. The composting and reuse should be confined to the golf course property to eliminate the necessity for offsite transport of the raw or processed material.
In addition, during construction, the developer should utilize locally-produced compost and soil amendments whenever available.
11. Fugitive dust shall be controlled during construction in accordance with Hawaii Administrative Rules, Title 11, Chapter 60, Air Pollution Control. Pesticides and other agricultural chemicals should be applied in a manner that precludes the offsite drift of spray material. The State Department of Agriculture should be consulted in this regard.
12. To avoid soil runoff during construction, the developer should consult with the U.S. Department of Agriculture, Soil Conservation Service to assure that best management practices are utilized. If the total project area is five (5) acres or more and the development activities include clearing, grading, and excavation, a National Pollutant Discharge Elimination System (NPDES) stormwater permit application shall be submitted to the Department of Health in accordance with the Federal Clean Water Act requirements.

If there are any questions regarding the twelve (12) conditions mentioned here, please contact the Environmental Planning Office at 586-4337. We appreciate your cooperation in preserving and protecting environmental quality in Hawaii.

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

BUREAU OF CONVEYANCES
MAR 8 1992

DATE _____ TIME 1244
DOCUMENT NO. 92-045080

LAND COURT SYSTEM

REGULAR SYSTEM

Return by Mail (X) Pickup () To:
Office of the County Clerk
County of Maui
200 South High Street
Wailuku, Hawaii 96793

UNILATERAL AGREEMENT AND DECLARATION FOR CONDITIONAL ZONING

THIS INDENTURE, made this 13th day of
February, 1992, by LANAI RESORT PARTNERS, a
California general partnership, whose business and mailing
address is 650 Iwilei Street, Honolulu, Hawaii 96803,
hereinafter referred to as "Declarant", and who is the
developer of that certain parcel located at Manele, Lanai,
Hawaii, comprised of approximately 138.577 acres, and
identified for real property tax purposes by Tax Map Key No.
4-9-02:01 (portion), hereinafter referred to as the "Parcel".

W I T N E S S E T H:

WHEREAS, the Council of the County of Maui, State of
Hawaii, hereinafter referred to as "Council", is considering

EXHIBIT "3"

the establishment of PD-L/1 (Manele) Project District zoning for the Parcel, comprised of approximately 138.577 acres and which is more particularly described in Exhibit "1", which is attached hereto and made a part hereof, and which is more particularly identified in Land Zoning Map No. 2607, which is on file in the Office of the County Clerk of the County of Maui; and

WHEREAS, the Council recommends through its Planning and Economic Development Committee, Committee Report No.

92-38, that said establishment of zoning be approved for passage on first reading subject to certain conditions pursuant to Section 19.510.050, Maui County Code; and

WHEREAS, Declarant has agreed to execute this instrument pursuant to the conditional zoning provisions of Section 19.510.050, Maui County Code.

NOW, THEREFORE, the Declarant hereby makes the following Declaration:

1. That this Declaration is made pursuant to the provisions of Section 19.510.050, Maui County Code, relating to conditional zoning.

2. That the Parcel, and all parts thereof, is and shall be held subject to the covenants, conditions and restrictions contained herein and that all of such covenants, conditions and restrictions shall be effective as to and shall run with the land as to the Parcel from and after the

recording of this Declaration with the Bureau of Conveyances or the Land Court of the State of Hawaii, as the case may be, without the execution, delivery or recordation of any further deed, instrument, document, agreement, declaration, covenant or the like with respect thereto by the Declarant, the County of Maui, or any heir, devisee, executor, administrator, personal representative, successor, and assign, as the case may be, of any of them, that the acquisition of any right, title or interest in or with respect to the Parcel by any person or persons, entity or entities, whomsoever, shall be deemed to constitute the acceptance of all of the covenants, conditions and restrictions of this Declaration by such person or persons, entity or entities, and that upon any transfer of any right, title or interest in or with respect to the Parcel the same shall be subject to, and the transferee shall assume and be bound and obligated to observe and perform, all of the covenants, conditions and restrictions of this Declaration;

3. This Declaration and all of the covenants, conditions and restrictions contained herein shall continue to be effective as to and run with the land in perpetuity, or until the same is released as to the Parcel or any part thereof by the County;

4. The term "Declarant" and any pronoun in reference thereto, wherever used herein, shall be construed to mean the singular or the plural, the masculine or the feminine

or the neuter, and vice versa, and shall include any corporation, and shall be held to mean and include the "Declarant", Declarant's heirs, devisees, executors, administrators, personal representatives, successors, and assigns;

5. That the Declaration shall become fully effective on the effective date of the zoning ordinance approving the establishment of PD-L/1 (Manele) Project District Zoning and this Declaration shall be recorded in the Bureau of Conveyances or Land Court of the State of Hawaii, as the case may be;

6. That the Declarant agrees to develop said Parcel in conformance with the conditions set forth in Exhibit "2", which is attached hereto and made a part hereof and which shall be made a part of the zoning ordinance;

7. That the conditions imposed are reasonable and rationally relate to the objective of preserving the public health, safety and general welfare and such conditions fulfill the need for the public service demands created by the proposed use;

AND IT IS EXPRESSLY UNDERSTOOD AND AGREED that the conditions imposed in this Declaration shall run with the land identified hereinabove and shall bind and constitute notice to all subsequent lessees, grantees, assignees, mortgagees, lienors and any other persons who claim an interest in said

land, and the County of Maui shall have the right to enforce this Declaration by appropriate action at law or suit in equity against all such persons, provided that the Declarant or its successors and assigns may at any time file a petition for the removal of the conditions and terminate this Unilateral Agreement, such petition to be processed in the same manner as petitions for change in zoning.

IN WITNESS WHEREOF, the undersigned has executed this Declaration the day and year first above written.

DECLARANT:

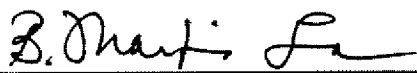
LANAI RESORT PARTNERS

By LANAI COMPANY, INC.
Its General Partner

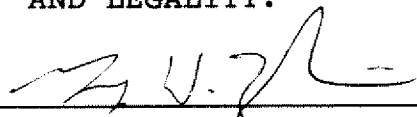
By

THOMAS C. DEPPERT
Its Senior Vice President

APPROVED AS TO FORM:


B. MARTIN LUNA
Attorney for Declarant

APPROVED AS TO FORM
AND LEGALITY:


GARY W. ZAKIAN
Deputy Corporation Counsel
County of Maui

STATE OF HAWAII

COUNTY OF MAUI

)
) SS.
)

On this 13th day of February, 1992, before me appeared THOMAS C. LEPPERT, to me personally known, who, being by me duly sworn, did say that he is the Senior Vice President of LANAI COMPANY, INC., a Hawaii corporation, the general partner of LANAI RESORT PARTNERS, a California general partnership, that the seal affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed in behalf of said corporation by authority of its Board of Directors, and said officer acknowledged said instrument to be the free act and deed of said corporation, as general partner of said partnership.

Mary E. Ah Sam
Notary Public, State of Hawaii

My commission expires: 4-24-95

035/4388M

EXHIBIT "1"

All of those certain parcels of land being portions of Lot 10 (map pending) of Land Court Consolidation 170, situate at Manele, Island of Lanai, State of Hawaii, described as follows:

FIRST: Parcel "A", more particularly described in Exhibit A attached hereto and by reference made a part hereof.

SECOND: Parcel "B", more particularly described in Exhibit B attached hereto and by reference made a part hereof.

THIRD: Parcel "C", more particularly described in Exhibit C attached hereto and by reference made a part hereof.

FOURTH: Parcel "D", more particularly described in Exhibit D attached hereto and by reference made a part hereof.

DESCRIPTION

Parcel "A" From Rural to Urban

Being a portion of Lot 10 (map pending) of Land Court Consolidation 170

Situated at Manele, Lanai, Hawaii

Beginning at the North corner of this parcel of land, on the Westerly boundary of Lot 4 as shown on Map 1 of Land Court Consolidation 170, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU PEHE" being 3,008.02 feet North and 4,010.14 feet West, thence running by azimuths measured clockwise from True South:

1. Along Lot 4 as shown on Map 1 of Land Court Consolidation 170, on a curve to the left with a radius of 820.00 feet, the chord azimuth and distance being:
316° 17' 08" 392.65 feet;
2. 302° 26' 244.00 feet along Lot 4 as shown on Map 1 of Land Court Consolidation 170;
3. 345° 40' 504.82 feet along Lot 4 as shown on Map 1 of Land Court Consolidation 170;
4. 48° 28' 541.53 feet along the remainder of Lot 10 of Land Court Consolidation 170 (map pending);
5. 80° 16' 95.00 feet along same;
6. 113° 43' 108.00 feet along same;
7. 136° 41' 282.00 feet along same;
8. 42° 19' 599.00 feet along same;
9. 56° 34' 628.00 feet along same;
10. 57° 50' 713.00 feet along same;
11. 105° 39' 75.00 feet along same;

EXHIBIT A

12.	56°	38'	107.00 feet along same;
13.	323°	10'	356.00 feet along same;
14.	345°	47'	66.00 feet along same;
15.	10°	12'	91.00 feet along same;
16.	51°	09'	96.00 feet along same;

Thence along shoreline for the next five (5) courses, the direct azimuths and distances between points on said shoreline being:

17.	94°	48'	20"	1,252.55 feet;
18.	100°	44'	05"	657.33 feet;
19.	104°	15'	23"	1,142.36 feet;
20.	99°	41'	51"	389.55 feet;
21.	99°	51'	07"	60.53 feet;
22.	195°	06'		157.00 feet along the remainder of Lot 10 of Land Court Consolidation 170 (map pending);
23.	239°	04'		98.00 feet along same;
24.	182°	29'		265.00 feet along same;
25.	193°	47'		270.00 feet along same;
26.	164°	10'		86.00 feet along same;
27.	218°	18'		66.00 feet along same;
28.	254°	40'		321.00 feet along same;
29.	239°	50'		85.00 feet along same;
30.	227°	54'		742.61 feet along same;

31.	Thence along same, on a curve to the left with a radius of 1,700.00 feet, the chord azimuth		
	and distance being:		
	269°	34' 36"	1,177.73 feet;
32.	26°	45'	29.68 feet along same;
33.	70°	30'	116.70 feet along same;
34.	356°	42'	173.35 feet along same;
35.	286°	26'	19.64 feet along same;
36.	327°	28'	69.00 feet along same;
37.	20°	24'	74.00 feet along same;
38.	43°	55'	788.00 feet along same;
39.	23°	47'	96.00 feet along same;
40.	336°	31'	43.00 feet along same;
41.	273°	30'	65.00 feet along same;
42.	245°	47'	848.00 feet along same;
43.	270°	04'	817.00 feet along same;
44.	187°	43'	58.00 feet along same;
45.	112°	13'	79.00 feet along same;
46.	154°	43'	108.00 feet along same;
47.	169°	33'	83.00 feet along same;
48.	221°	57'	578.00 feet along same;
49.	251°	13'	81.00 feet along same;
50.	271°	21'	811.00 feet along same;

51.	299°	33'	71.00 feet along same;
52.	353°	14'	38.00 feet along same;
53.	271°	02'	118.00 feet along same;
54.	213°	02'	785.00 feet along same;
55.	225°	38'	326.06 feet along same to the point of beginning and containing a Gross Area of 149.059 Acres and a Net Area of 94.590 Acres after excluding and deducting Exclusions 1 and 2 described as follows:

Exclusion 1

Beginning at the Northeast corner of this parcel of land, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU PEHE" being 2,205.00 feet North and 7,024.73 feet West, thence running by azimuths measured clockwise from True South:

1.	356°	42'	149.91 feet along the remainder of Lot 10 of Land Court Consolidation 170 (map pending);
2.	54°	49'	850.00 feet along same;
3.	21°	27'	852.00 feet along same;
4.	61°	04'	83.00 feet along same;
5.	108°	34'	636.00 feet along same;
6.	90°	42'	68.02 feet along same;
7.	71°	41'	351.51 feet along same;
8.	183°	02'	259.00 feet along same;
9.	193°	40'	246.00 feet along same;
10.	267°	13'	690.00 feet along same;
11.	234°	59'	81.00 feet along same;

12.	200°	57'	81.00 feet along same;
13.	169°	02'	121.00 feet along same;
14.	198°	48'	104.00 feet along same;
15.	240°	06'	470.00 feet along same;
16.	263°	08'	728.94 feet along same to the point of beginning and containing an Area of 24.146 Acres.

Exclusion 2

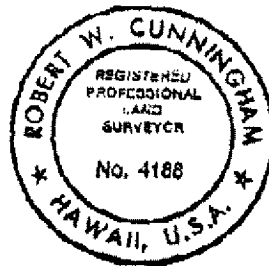
Beginning at the Northeast corner of this parcel of land, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU PEHE" being 2,011.98 feet North and 5,017.59 feet West, thence running by azimuths measured clockwise from True South:

1.	350°	43'	417.00 feet along the remainder of Lot 10 of Land Court Consolidation 170 (map pending);
2.	58°	52'	264.00 feet along same;
3.	47°	32'	668.00 feet along same;
4.	3°	21'	79.00 feet along same;
5.	57°	28'	97.00 feet along same;
6.	143°	49'	77.00 feet along same;
7.	113°	28'	81.00 feet along same;
8.	85°	15'	567.00 feet along same;
9.	64°	01'	407.00 feet along same;
10.	89°	01'	76.00 feet along same;
11.	104°	53'	440.00 feet along same;
12.	147°	15'	48.00 feet along same;

13.	194° 52'	41.00 feet along same;
14.	229° 47'	206.00 feet along same;
15.	246° 58'	555.00 feet along same;
16.	259° 18'	738.00 feet along same;
17.	218° 26'	63.00 feet along same;
18.	171° 25'	74.00 feet along same;
19.	111° 44'	66.00 feet along same;
20.	181° 43'	51.72 feet along same;
21.	254° 27'	119.00 feet along same;
22.	221° 46'	416.00 feet along same;
23.	242° 50'	93.00 feet along same;
24.	260° 52'	508.00 feet along same to the point of beginning and containing an Area of 30.323 Acres.

680 Ala Moana Blvd., Suite 200
Honolulu, Hawaii 96813

January 9, 1991



RELT COLLINS & ASSOCIATES

Robert W. Cunningham
 Registered Professional Surveyor
 Certificate Number 4188

DESCRIPTION

Parcel "B" From Rural to Urban

Being a portion of Lot 10 (map pending) of Land Court Consolidation 170

Situated at Manele, Lanai, Hawaii

Beginning at the East corner of this parcel of land, on the Westerly boundary of Lot 4 as shown on Map 1 of Land Court Consolidation 170, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU PEHE" being 3,054.93 feet North and 4,035.09 feet West, thence running by azimuths measured clockwise from True South:

1.	72°	05'	447.91 feet along the remainder of Lot 10 of Land Court Consolidation 170 (map pending);
2.	52°	28'	82.96 feet along same;
3.	41°	39'	548.00 feet along same;
4.	74°	30'	96.00 feet along same;
5.	112°	38'	74.00 feet along same;
6.	140°	28'	120.00 feet along same;
7.	95°	50'	54.00 feet along same;
8.	63°	10'	651.00 feet along same;
9.	100°	39'	99.00 feet along same;
10.	146°	13'	88.00 feet along same;
11.	171°	08'	62.00 feet along same;
12.	200°	58'	40.00 feet along same;
13.	134°	42'	249.53 feet along same;

EXHIBIT B

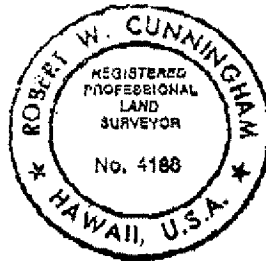
14.	51° 22'	330.15 feet along same;
15.	76° 39'	55.00 feet along same;
16.	112° 59'	60.00 feet along same;
17.	156° 48'	49.51 feet along same;
18.	Thence along same, on a curve to the left with a radius of 1,700.00 feet, the chord azimuth and distance being: 233° 26' 73.18 feet.	
19.	232° 12'	717.18 feet along same;
20.	Thence along same, on a curve to the right with a radius of 1,050.00 feet, the chord azimuth and distance being: 246° 06' 575.31 feet;	
21.	264° 00'	20.69 feet along same;
22.	59° 28'	306.23 feet along same;
23.	57° 16'	220.00 feet along same;
24.	51° 22'	389.21 feet along same;
25.	314° 42'	221.71 feet along same;
26.	200° 58'	39.51 feet along same;
27.	257° 41'	717.20 feet along same;
28.	275° 43'	85.00 feet along same;
29.	239° 59'	48.00 feet along same;
30.	220° 29'	531.00 feet along same;
31.	243° 48'	138.00 feet along same;
32.	265° 31'	459.21 feet along same;

33. 333° 51'

195.17 feet along Lot 4 as shown on Map 1 of Land Court
Consolidation 170 to the point of beginning and
containing an Area of 15.653 Acres.

680 Ala Moana Blvd., Suite 200
Honolulu, Hawaii 96813

January 9, 1991



BELT COLLINS & ASSOCIATES

Robert W. Cunningham
Registered Professional Surveyor
Certificate Number 4188

DESCRIPTION

Parcel "C"
From Agricultural to Urban

Being a portion of Lot 10 (map pending) of Land Court Consolidation 170

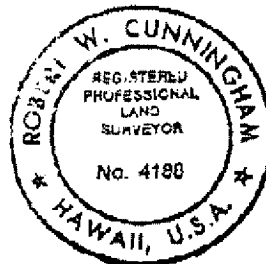
Situated at Manele, Lanai, Hawaii

Beginning at the West corner of this parcel of land, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PIU PEHE" being 2,287.36 feet North and 8,031.39 feet West, thence running by azimuths measured clockwise from True South:

1. 227° 54' 163.39 feet along the remainder of Lot 10 of Land Court Consolidation 170 (map pending);
2. 253° 47' 92.00 feet along same;
3. 283° 42' 897.00 feet along same;
4. 316° 29' 115.00 feet along same;
5. 350° 43' 103.00 feet along same;
6. 25° 45' 44.32 feet along same;
7. Thence along same, on a curve to the right with a radius of 1,700.00 feet, the chord azimuth and distance being:
89° 34' 36" 1,177.73 feet;
to the point of beginning and containing an Area of 6.842 Acres.

680 Ala Moana Blvd., Suite 200
Honolulu, Hawaii 96813

January 9, 1991



BELT COLLINS & ASSOCIATES

Robert W. Cunningham
Registered Professional Surveyor
Certificate Number 4188

EXHIBIT C

DESCRIPTION

Parcel "D"

From Agricultural to Urban

Being a portion of Lot 10 (map pending) of Land Court Consolidation 170

Situated at Manele, Lanai, Hawaii

Beginning at the East corner of this parcel of land, on the Northwestern boundary of Lot 4 as shown on Map 1 of Land Court Consolidation 170, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU PEHE" being 3,700.94 foot North and 3,109.04 feet West, thence running by azimuths measured clockwise from True South:

- | | | |
|-----|----------|--|
| 1. | 01° 52' | 301.19 feet along Lot 4 as shown on Map 1 of Land Court Consolidation 170; |
| 2. | 69° 08' | 425.68 feet along Lot 4 as shown on Map 1 of Land Court Consolidation 170; |
| 3. | 118° 00' | 564.65 feet along the remainder of Lot 10 of Land Court Consolidation 170 (map pending); |
| 4. | 145° 39' | 80.00 feet along same; |
| 5. | 97° 25' | 209.77 feet along same; |
| 6. | 78° 24' | 798.60 feet along same; |
| 7. | 350° 09' | 119.33 feet along same; |
| 8. | 240° 23' | 119.41 feet along same; |
| 9. | 290° 57' | 121.00 feet along same; |
| 10. | 328° 32' | 101.00 feet along same; |
| 11. | 10° 34' | 124.00 feet along same; |
| 12. | 60° 20' | 280.83 feet along same; |

EXHIBIT D

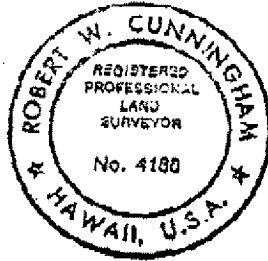
13.	84° 00'	20.89 feet along same;
14.	Thence along same, on a curve to the left with a radius of 1,050.00 feet, the chord azimuth and distance being: 68° 08' 575.31 feet;	
15.	52° 12'	717.18 feet along same;
16.	Thence along same, on a curve to the right with a radius of 1,700.00 feet, the chord azimuth and distance being: 53° 28' 73.18 feet;	
17.	198° 11'	64.20 feet along same;
18.	221° 06'	822.99 feet along same;
19.	240° 23'	655.00 feet along same;
20.	170° 09'	135.77 feet along same;
21.	120° 52'	67.27 feet along same;
22.	162° 51'	58.00 feet along same;
23.	181° 17'	75.00 feet along same;
24.	227° 46'	149.00 feet along same;
25.	252° 50'	379.00 feet along same;
26.	257° 18'	376.00 feet along same;
27.	276° 15'	583.00 feet along same;
28.	301° 19'	110.00 feet along same;
29.	347° 59'	124.00 feet along same;
30.	290° 23'	498.11 feet along same;

31. 270° 59'

299.57 feet along same to the point of beginning and
containing an Area of 21,992 Acres.

680 Ala Moana Blvd., Suite 200
Honolulu, Hawaii 96813

January 9, 1991



BELT COLLINS & ASSOCIATES

Robert W. Cunningham
Registered Professional Surveyor
Certificate Number 4188

EXHIBIT "2" (MANELE)

Conditions

Pursuant to Section 19.510.050 of the Maui County Code, the zoning established for the parcels of land shall be subject to the following conditions:

*1. The Declarant will establish a loan fund of \$1,000,000.00 to be administered and managed by the Bank of Hawaii, in consultation with Lanai Resort Partners for the purpose of assisting current Lanai City merchants with improvements of their commercial facilities. Loans will be made available to the merchants from the date of the Unilateral Agreement and for a minimum of 10 years thereafter, at an annual rate of 2% per annum below the Bank of Hawaii's prevailing commercial loan rate for similar type loans. Also, the loan qualifications and pay back methods shall not exceed those required by the Bank of Hawaii for their commercial loans. Written notice that the loan fund of \$1,000,000.00 is available for disbursement to qualified Lanai City merchants shall be given by Bank of Hawaii to said merchants, the Mayor of the County of Maui and the Chairperson of the County Council and the Chairperson of the Planning and Economic Development Committee. Written notice of the expiration of the loan fund shall be given to the above-named persons one (1) year prior to such expiration.

*2. The Declarant shall on a fee simple basis, donate at no cost and free and clear of all mortgage and lien encumbrances, 115 acres of land adjacent to the Lower Waialua Single Family site to the County as shown in Exhibit "A" (shaded area) attached hereto and by reference made a part hereof, for an affordable housing project. The project shall be similar in design quality and density to the recent affordable housing developments on Lanai.

*3. The Declarant shall on a fee simple basis, donate at no cost and free and clear of all mortgage and lien encumbrances, a minimum of one acre of land on Lanai to the County for use as a veteran's cemetery.

*4. The Declarant shall consummate a land exchange with the County for a new police station upon terms and conditions acceptable to Declarant and the County.

5. The Declarant will use only non-potable water, as defined in Ordinance No. 2066 enacted by the County on December 17, 1991, for the irrigation of the Golf Course in the Manele Project District.

6. The Declarant shall make the Manele golf course available for play to Lanai residents at a kamaaina rate of 50% of the standard rate, and for Hawaii residents at 60% of the standard rate.

7. The Declarant shall take appropriate preventive measures so that its development, construction, operation, and maintenance activities in the Manele Project District do not cause any deterioration in the Class AA water quality standards currently in existence at Hulopoe Bay and the coastal waters adjacent to the Manele Bay Hotel and the Manele golf course as determined by present studies, or any comparable standards as they may be established by law in the future, taking into account temporary perturbations from natural occurrences. Quarterly monitoring of Hulopoe Bay and aforesaid coastal waters shall be conducted by Declarant, with copies of the report being sent to the County Council and the Department of Health for review. The monitoring of Hulopoe Bay shall begin upon approval of the zoning of the golf course area within the Manele Project District, and shall continue for at least 2 years after completion of the construction of the Manele golf course, with the monitoring to be done semi-annually during the final year of monitoring. Declarant shall provide notice to all persons receiving the reports of the termination of the monitoring of Hulopoe Bay when it submits the first report of the final year of monitoring. If the report indicates that the conditions of Hulopoe Bay exceeds the standards of the Class AA water and Declarant's activities are the cause of such conditions, then the Declarant shall be responsible for all costs to mitigate the source of deterioration and make its best efforts to restore the conditions to the standards of Class AA waters within one year of the date of the report.

8. The Declarant shall provide such additional non-potable sources of water as may be needed for Manele golf course irrigation after consultation with the State Commission on Water Resource Management and Department of Health.

9. The Declarant shall comply with the environmental health concerns addressed in Exhibit "B" attached hereto and incorporated herein by reference, entitled "Twelve (12) Conditions Applicable to All New Golf Course Development," dated January 1992, issued by the State Department of Health. Copies of all reports that are sent to the Department of Health by Declarant shall also be sent to the Chairperson of the Planning, Economic and Development Committee of the County

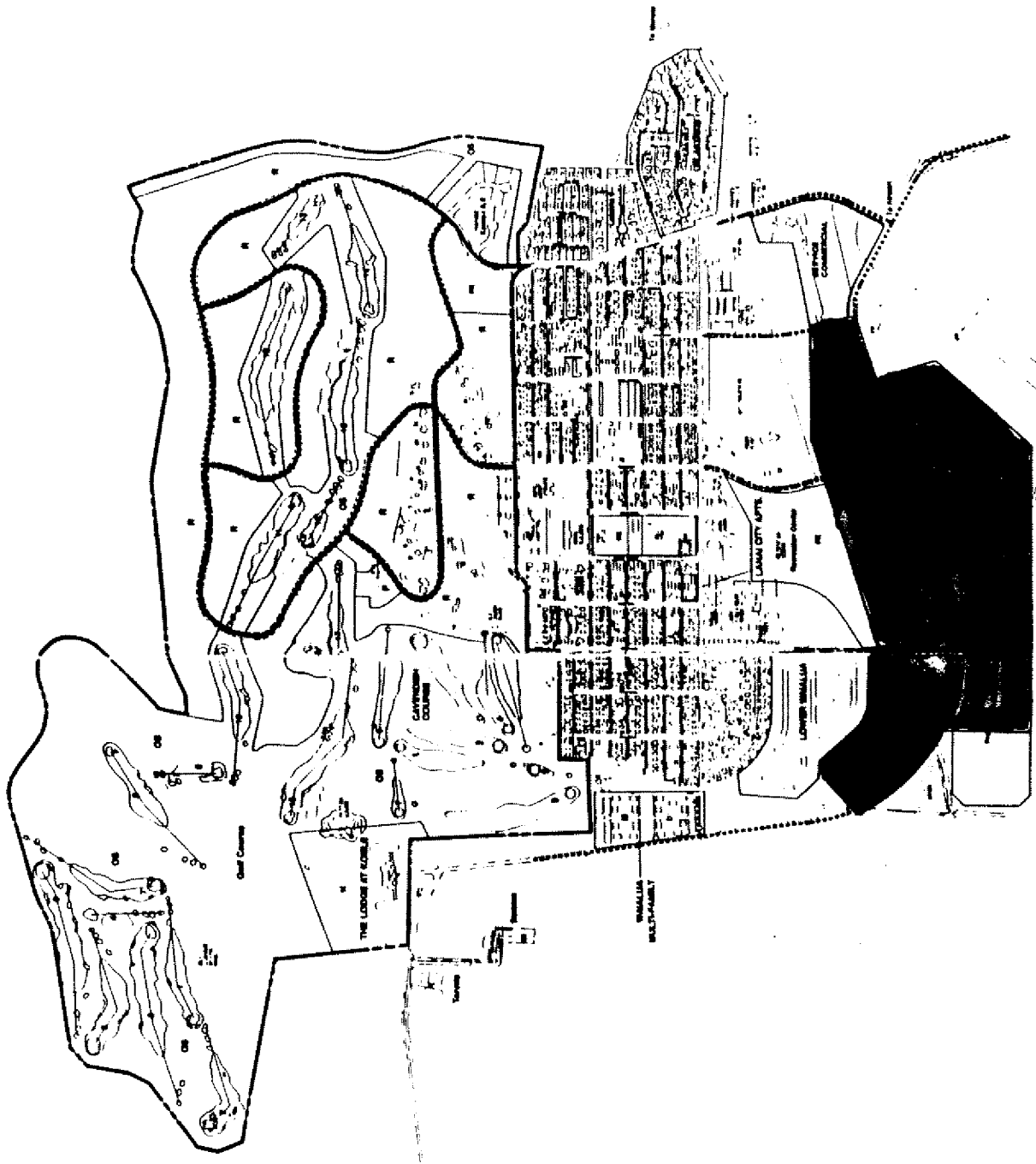
Council, the directors of the Department of Planning and the Department of Public Works.

*Asterisked conditions are contained in the Unilateral Agreement for the Koele rezoning application as well. Fulfillment of these conditions shall satisfy the requirements in both the Koele rezoning application and this Manele rezoning application.

4388/2M

EXHIBIT A

4 Nov 91
**LANAI CITY AND
 KOELE PROJECT DISTRICT
 LAND USE PLAN**
 Prepared for: Lanai Co.
 Prepared by: Bett Collins & Associates



- LAND USE**
- H HOTEL
 - R RESIDENTIAL
 - PK PARK
 - OS OPEN SPACE
 - P PUBLIC
 - COM COMMERCIAL





STATE OF HAWAII DEPARTMENT OF HEALTH

January, 1992 (Version 4)

TWELVE (12) CONDITIONS APPLICABLE TO ALL NEW GOLF COURSE DEVELOPMENT

The following conditions are recommended for all new golf course development in Hawaii to assure that environmental quality is preserved and enhanced as it relates to human health and the protection of sensitive ecosystems. Additional conditions may be imposed based on site-specific considerations.

1. Baseline groundwater/vadose zone and/or, if appropriate, coastal water quality shall be established. Once the sampling plan has been determined and approved by the State Department of Health, the owner/developer shall establish the baseline groundwater/vadose zone water quality, and, if appropriate, nearshore water quality, and report the findings to the State Department of Health. Analyses shall be done by a laboratory approved by the Department of Health.
2. The owner/developer and all subsequent owners shall establish a groundwater monitoring plan and system which shall be presented to the State Department of Health for its approval. The groundwater monitoring plan and system shall minimally describe the following components:
 - a. A monitoring system tailored to fit site conditions and circumstances. The system shall include, and not be limited to, the use of monitoring wells, lysimeters, and vadose zone monitoring technologies. If monitoring wells are used, the monitoring wells shall generally extend 10 to 15 feet below the water table.
 - b. A routine groundwater monitoring schedule of at least once every six (6) months, or more frequently, if required by the State Department of Health in the event that the monitoring data indicates a need for more frequent monitoring.
 - c. A list of compounds which shall be tested for as agreed to by the State Department of Health. This list shall include, but not be limited to the following: total dissolved solids; chlorides; PH; nitrogen; phosphorus; and other compounds associated with fertilizers, biocides, or effluent irrigation.

EXHIBIT B

3. If the data from the monitoring system indicate increased levels of a contaminate that poses, or may pose, a threat to public health and the environment, the State Department of Health shall require the owner to take immediate action to stop the source of contamination. Subsequently, the owner shall mitigate any adverse effects caused by the contamination.
4. Owner/developer shall provide sewage disposal for the clubhouse and other facilities by connecting to the public sewer system or by means of a treatment individual wastewater system approved by the Department of Health in conformance with Administrative Rules, Title 11, Chapter 62, Wastewater Treatment Systems. The use of wastewater for irrigation will be generally encouraged, with appropriate controls (see Condition 5).
5. If a wastewater treatment works with effluent reuse becomes the choice of wastewater disposal, then the owner/developer, and all subsequent owners, shall develop and adhere to a Wastewater Reuse Plan which shall incorporate the provisions of the Department of Health's Guidelines for the Use of Reclaimed Water which includes:
 - a. An Irrigation Plan encompassing buffer distances, pipe and appurtenance placement, and labeling.
 - b. An Engineering Report encompassing treatment options and treatment levels.
 - c. Hydro-geologic and hydrologic surveys to determine application rates, sizing and storage needs.
 - d. A monitoring plan.
 - e. A management plan.
 - f. Public and employee education plans.
6. Underground storage tanks (USTs) used to store petroleum products for fueling golf carts, maintenance vehicles, and emergency power generators that pose potential risk to groundwater shall be discouraged. Use of electric golf carts and above-ground storage tanks for emergency power generators shall be encouraged.

Should the owner/developer/operator plan to install USTs that contain or other regulated substances, the owner/developer/operator must comply with the federal UST technical and financial responsibility requirements set forth in Title 40 of the Code of Federal Regulations Part 280. These federal rules require, among other things, owners and operators of USTs to meet specific requirements in release detection and response, and subsequent corrective action. Also, the owner/developer/operator must comply with all State UST rules and regulations pursuant to the Hawaii Revised Statutes, Chapter 342-L, Underground Storage Tanks.

7. Buildings designed to house the fertilizer and biocides shall be bermed to a height sufficient to contain a catastrophic leak of all fluid containers. It is also recommended that the floor of this room be made waterproof so that all leaks can be contained within the structure for cleanup.
8. A golf course maintenance plan and program will be established based on "Best Management Practices (BMP)" in regards to utilization of fertilizers and biocides as well as the irrigation schedule. BMP's will be reviewed by the State Department of Health prior to implementation.
9. Every effort shall be made to minimize the amount of noise from golf course maintenance activities. Essential maintenance activities (e.g., mowing of greens and fairways) shall be conducted at times that do not disturb nearby residents.
10. Solid waste shall be managed in a manner that does not create a nuisance. Whenever possible, composting of green wastes for subsequent use as a soil conditioner or mulching material is encouraged. The composting and reuse should be confined to the golf course property to eliminate the necessity for offsite transport of the raw or processed material.
In addition, during construction, the developer should utilize locally-produced compost and soil amendments whenever available.
11. Fugitive dust shall be controlled during construction in accordance with Hawaii Administrative Rules, Title 11, Chapter 60, Air Pollution Control. Pesticides and other agricultural chemicals should be applied in a manner that precludes the offsite drift of spray material. The State Department of Agriculture should be consulted in this regard.
12. To avoid soil runoff during construction, the developer should consult with the U.S. Department of Agriculture, Soil Conservation Service to assure that best management practices are utilized. If the total project area is five (5) acres or more and the development activities include clearing, grading, and excavation, a National Pollutant Discharge Elimination System (NPDES) stormwater permit application shall be submitted to the Department of Health in accordance with the Federal Clean Water Act requirements.

If there are any questions regarding the twelve (12) conditions mentioned here, please contact the Environmental Planning Office at 586-4337. We appreciate your cooperation in preserving and protecting environmental quality in Hawaii.

WE HEREBY CERTIFY that the foregoing BILL NO. 16 (1992)

1. Passed FINAL READING at the meeting of the Council of the County of Maui, State of Hawaii, held on the 17th day of July, 1992, by the following votes:

Howard S. KIHUNE Chair	Patrick S. KAWANO Vice-Chair	Vince G. BAGOYO, Jr.	Goro HOKAMA	Alice L. LEE	Ricardo MEDINA	Wayne K. NISHIKI	Joe S. TANAKA	Leinaala TERUYA DRUMMOND
Aye	Aye	Aye	Excused	Aye	Aye	Aye	Aye	Excused

2. Was transmitted to the Mayor of the County of Maui, State of Hawaii, on the 17th day of July, 1992.

DATED AT WAILUKU, MAUI, HAWAII, this 17th day of July, 1992.


HOWARD S. KIHUNE, CHAIR
Council of the County of Maui


DARYL T. YAMAMOTO, COUNTY CLERK
County of Maui

THE FOREGOING BILL IS HEREBY APPROVED THIS 27 DAY OF July, 1992.


LINDA CROCKETT LINGLE, MAYOR
County of Maui

I HEREBY CERTIFY that upon approval of the foregoing BILL by the Mayor of the County of Maui, the said BILL was designated as ORDINANCE NO. 2133 of the County of Maui, State of Hawaii.


DARYL T. YAMAMOTO, COUNTY CLERK
County of Maui

Passed First Reading on February 21, 1992.
Effective date of Ordinance July 27, 1992.

I HEREBY CERTIFY that the foregoing is a true and correct copy of Ordinance No. 2133, the original of which is on file in the Office of the County Clerk, County of Maui, State of Hawaii.

Dated at Wailuku, Hawaii, on

County Clerk, County of Maui