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IN REPLY REFER TO:

20:DEV/0103

July 2, 2020

To: Daniel E. Orodener, Executive Officer
Land Use Commission

From: Janice Takahashi 
Interim Executive Assistant

Subject: Docket No. A89-652 – Annual Report for 2020
Villages of Leiali'i
Lahaina, Maui, Hawaii

Pursuant to the Land Use Commission's (LUC) Decision and Order in Docket No. A89-652, transmitted herewith is an original and one copy of an annual report on the status of the Villages of Leiali'i (VOL) development and our progress in complying with conditions imposed by the LUC. See attached Exhibits A and A-1. In accordance with the LUC's letter to the Hawaii Housing Finance and Development Corporation (HHFDC) dated October 1, 2007, an electronic pdf version of the annual report is being concurrently emailed to the LUC at LUC@dbedt.hawaii.gov.

Land Use Commission Action

Reclassification of approximately 1,097.765 acres from Agricultural District into Urban District, situate at Wahikuli, Lahaina, Island of Maui, State of Hawaii, identified as Maui Tax Map Keys: 4-5-021: 009; portion of 003; portion of 004; portion of 005; and 4-5-014: 058, for the development of the VOL project was approved by the LUC on May 18, 1990.

Project Status

In accordance with Act 350, Session Laws of Hawaii (SLH) 1997, as of July 1, 1998, the Housing Finance and Development Corporation (HFDC) was combined with the Hawaii Housing Authority into one successor agency, the Housing and Community Development Corporation of Hawaii (HCDCH). In accordance with Act 196 SLH 2005,

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and Act 180 SLH 2006, as of July 1, 2006, HCDCH was split into two successor agencies, the Hawaii Public Housing Authority and HHFDC.

On December 8, 1993, the State of Hawaii on behalf of HFDC, filed a condemnation action against Amfac Property Investment, et al, for a gravity line sewer system between VOL and the Lahaina Wastewater Reclamation Facility. A settlement agreement was executed on September 22, 1995 but its terms were never effectuated because development at VOL was suspended due to the ceded lands litigation. A stipulation to dismiss the condemnation action was filed at the Second Circuit Court on May 17, 2013 and HHFDC received the deposit check of \$13,000 for the sewer easement from the Second Circuit Court dated August 12, 2013.

The Department of Land and Natural Resources (DLNR) and HHFDC are the landowners and HHFDC is the master developer of the VOL project in Lahaina, Maui, Hawaii. HHFDC acquired title to approximately 544 acres of the VOL project from DLNR by Land Patent Grant No. S-15,792 dated November 4, 1994.

On November 4, 1994 and November 7, 1994, OHA and Aluli, et al., filed lawsuits against DLNR and HFDC, aimed at: 1) stopping the alienation of lands from the public land trust to private third parties, and 2) ordering a reappraisal of the subject lands.

On July 14, 1995, the plaintiffs consolidated and amended their lawsuits to name only HFDC as defendant and to stop alienation of public trust lands.

On July 17, 1995, the Attorney General issued a legal opinion affirming the State's right to alienate or dispose of ceded lands provided that the public land trust was compensated.

On August 10, 1995, the Governor requested that HFDC proceed with the projects which were held in abeyance due to the ceded lands issue. However, a cloud remained on the title due to the unresolved lawsuits.

A trial on the alienation issue was held in November 2001. On December 5, 2002, State Circuit Judge Sabrina McKenna ruled that the State could sell ceded lands.

On January 31, 2008, the Hawaii Supreme Court overturned the trial court's decision and held that the State of Hawaii was barred from selling, exchanging, or transferring ceded lands to any third party. On April 29, 2008, the Attorney General announced that a Petition for a Writ of Certiorari was filed with the U.S. Supreme Court seeking to overturn the Hawaii Supreme Court decision. On June 4, 2008, the Circuit Court of the State of Hawaii implemented the decision of the Hawaii Supreme Court and entered an injunction order barring the State of Hawaii from selling or transferring ceded lands to third parties, "except that the State of Hawaii, and its departments, agencies, agents,

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officers, and employees may continue its practice of transferring remnants, and issuing licenses, permits, easements and leases concerning ceded lands.”

In October 2008, the U.S. Supreme Court decided to hear the State’s appeal of the Hawaii Supreme Court decision. Arguments were heard by the U.S. Supreme Court on February 25, 2009 and on March 31, 2009, the U.S. Supreme Court unanimously reversed the decision of the Hawaii Supreme Court on the grounds that the U.S. Apology Resolution did not prevent the alienation of ceded lands, and remanded the case back to the Hawaii Supreme Court for further action. On May 6, 2009, The Honolulu Advertiser reported that the ceded lands litigation had been settled for all plaintiffs, except one (Jonathan Osorio). On October 28, 2009, the Honolulu Advertiser reported that the ceded lands litigation by the remaining plaintiff, Osorio, was ordered dismissed by the Hawaii Supreme Court.

On July 13, 2009, the Governor signed SB1677 SD1 HD2 CD1 into law as Act 176 SLH 2009. This Act requires a community informational meeting, appraisal and two-thirds vote approval of both houses of the legislature for conveyance of State land to third parties in fee simple. Act 176 was amended by Act 169 SLH 2011 and is now codified as Section 171-64.7, Hawaii Revised Statutes (HRS).

The subdivision improvements for Village 1A, consisting of 104 single family lots on 24.617 gross acres, were completed and accepted from the contractor, Goodfellow Bros., Inc., on December 15, 1993, however not dedicated because the County refused dedication because of the ceded lands litigation. The County of Maui granted final subdivision approval of Village 1A on September 8, 1994. See attached Exhibit A-2.

On August 21, 2000, HCDCH filed a motion with the LUC to amend Condition No. 9 of the Decision and Order for this project. The motion sought to amend the affordable housing requirement of 60% of the units to families up to 120% of the HUD median income for the County of Maui to a requirement established by agreement with the County. This matter came up for hearing before the LUC on October 18, 2000 but was continued.

Meanwhile, Act 100, SLH 2001 was enacted which waived, for undeveloped lands at VOL, the affordable housing requirement of 60% of the units to families up to 120% of the HUD median income for the County of Maui imposed by Act 15 SLH 1988, to a requirement established by agreement between HCDCH and the County of Maui.

On November 23, 2003, the Department of Hawaiian Home Lands (DHHL) expressed an interest in acquiring certain HCDCH lands including Village 8 of the Villages of Kapolei and Village 1A of the VOL. On May 13, 2004, the HCDCH Board approved the negotiations with DHHL to sell HCDCH’s interest in Village 8 of the Villages of Kapolei, Villages 1A and 1B of the VOL, and the undeveloped lands at the Villages of La’i’opua.

On June 17, 2004, the HCDCH Board approved the execution of a transfer agreement to sell the following properties to DHHL at a price of \$33 million in equal annual payments over a 15 year period:

- Village 8 of the Villages of Kapolei;
- Villages 1A (24.617 acres; TMK 4-5-36: 1-111) and 1B (50.858 acres; TMK 4-5-21: 20) of the VOL;
- HCDCH's interest in the undeveloped lands at the Villages of La'i'opua, except Villages 9 and 10; and
- Waiahole Valley Agricultural Park Subdivision and Residential Subdivision.

On July 20, 2004, the Hawaiian Homes Commission approved the transfer of the above properties to DHHL. A transfer agreement identifying all terms and conditions of the sale was executed by DHHL, DLNR and HCDCH on December 30, 2004 (Transfer Agreement). In the Transfer Agreement, DHHL is required to comply with all conditions of the LUC Decision and Order in Docket No. A89-652 and continue with the annual reporting requirements to the LUC for Villages 1A and 1B of the VOL development, and comply with all conditions of the LUC Decision and Order in Docket No. A90-660 and continue with the annual reporting requirements to the LUC for the Villages of La'i'opua development.

In accordance with the Transfer Agreement, Villages 1A and 1B of VOL were conveyed to DHHL by quitclaim deed dated April 8, 2005.

On May 2, 2006, HCDCH and DHHL executed the First Amendment of Transfer Agreement which essentially modifies the Transfer Agreement as follows:

- Excludes the Waiahole Valley Agricultural Park Subdivision and Residential Subdivision from the sale to DHHL;
- Excludes the non-ceded lands at the Villages of La'i'opua from the sale to DHHL; and
- Includes Village 10 at the Villages of La'i'opua in the sale to DHHL.

HHFDC received a copy of DHHL's 2005 Annual Report of Villages 1A and 1B of the Villages of Leialii to the LUC dated May 26, 2006. In 2007, DHHL completed the construction of homes on 104 houselots in Village 1A and the conveyance of these homes to their native Hawaiian beneficiaries.

On July 11, 2013, the HHFDC Board of Directors approved DHHL's request to reduce its annual payment of \$2.2 million to HHFDC on the remaining balance of \$13.2 million (out of a total of \$33 million pursuant to the Transfer Agreement) to \$1.7 million per year over 8 years with a final payment of \$1.3 million in year 2021.

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At the request of the Department of Transportation (DOT), on September 16, 2004, the HCDCH Board approved the sale of the following remnant areas to the DOT for Phase 1A of the Lahaina By-Pass Highway:

- Parcel 2 0.159 Acre TMK (2) 4-5-21: por. 003
- Slope Easement 2 0.055 Acre TMK (2) 4-5-21: por. 003
- Slope Easement 3 0.174 Acre TMK (2) 4-5-21: por. 003

Conveyance documents for Parcel 2 and Slope Easement 3 to DOT were recorded at the Bureau of Conveyances on December 8, 2006. Slope Easement 2 was not needed by DOT.

By easement dated September 12, 2006, HHFDC granted easements to Hawaiian Telcom, Inc. and Maui Electric Company, Limited, for telecommunications equipment on approximately 1,125 square feet mauka and adjacent to Village 1A to service the neighborhood of the Villages of Leialii.

In November 2006, the DOT selected Hawaiian Dredging Construction Co. for Phase 1A of the Lahaina By-Pass Highway at a cost of \$48 million. Phase 1A is a two-lane highway connecting Lahainaluna Road to the County's Keawe Street Extension project. Due to the discovery of archaeologically significant agricultural terraces in the alignment of the By-Pass Highway within the Villages of Leialii project by Kahoma Stream, DOT re-aligned the By-Pass Highway within the Villages of Leialii project to curve farther makai into a T-intersection with the County's Keawe Street Extension, and allowed the Villages of Leialii a second access to its mauka lands at a location between its intersections with Keawe Street and Leialii Parkway. An Environmental Assessment for this realignment was completed by DOT in 2009.

On January 11, 2007, the HHFDC Board of Directors approved the conveyance of land and drainage easements to the County of Maui for their Keawe Street Extension project. This project is located at the southerly portion of the Villages of Leialii project and will extend the existing Keawe Street to provide a connection from Honoapiilani Highway to Phase 1A of the Lahaina By-Pass Highway. Because of the realignment of the By-Pass Highway, DOT has undertaken the completion of the Keawe Street Extension project as part of Phase 1A of the By-pass Highway project.

On December 19, 2008, the HHFDC Board of Directors approved the subdivision and dedication of the rights-of-way over the Villages of Leialii project to the DOT for the re-aligned Phase 1A of the Bypass Highway as well as the County's Keawe Street Extension Project. Construction of the Bypass Highway commenced in December 2008 from the south end of Phase 1A and was completed in 2013.

On November 5, 2007, HHFDC procured Belt Collins Hawaii Ltd. to complete an update of the master plan and an EIS for the Villages of Leialii project. Two draft land use plans were completed and distributed to government agencies and stakeholders for

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comments on July 9, 2008 and a community meeting on the draft land use plans was held on January 28, 2009 at the Lahaina Civic Center. Approximately 60 people were in attendance and 24 provided comments. The revised master plan for the Villages of Leiali'i was completed in December 2009 and HHFDC issued a Notice to Proceed to commence an EIS for the revised master plan on December 23, 2009. An EIS Preparation Notice was published in the OEQC Bulletin on March 8, 2010 and a notice of a Draft EIS was published in the OEQC Bulletin on December 23, 2010. Based on comments to the Draft EIS, HHFDC completed a Supplemental Cultural Impact Assessment in April 2012. On October 23, 2012, a notice of the Final EIS was published in the OEQC Bulletin. The Governor accepted the Final EIS on December 7, 2012 and the notice of Governor's acceptance was published in the OEQC bulletin on December 23, 2012.

HHFDC has had discussions with OHA and DHHL for the resumption of development of affordable housing at the Villages of Leiali'i under a mutually agreeable arrangement. In accordance with any agreement with OHA and DHHL, upon completion of the revised master plan and the EIS for the Villages of Leiali'i, HHFDC proposes to procure a developer through the issuance of a Request for Proposals (RFP) for development of the Villages of Leiali'i, on the lands makai of the By-Pass Highway (Phase A), in leasehold, or in compliance with Section 171-64.7, HRS. Because of the revision of the Villages of Leiali'i master plan, e.g., the elimination of a golf course, the RFP developer may be required to seek a re-approval of the Villages of Leiali'i project by the LUC.

On August 16, 2010, HHFDC retained Belt Collins Hawaii Ltd. to update the water master plan and to complete a Phase A Master Plan for the VOL. HHFDC received a final report on May 23, 2011.

At the request of the County of Maui Department of Water Supply (DWS), the HHFDC Board of Directors approved a 15' waterline easement on the makai (western) portion of the Villages of Leiali'i project at TMK (2) 4-5-021: 003, near the existing Easements A and B of EO No. 2189, TMK (2) 4-5-014: 058, for the County's waterline replacement project to service the existing Wahikuli Houselots Subdivision. The waterline replacement project was completed in summer of 2009 and a final Nonexclusive Waterline Easement executed by HHFDC was submitted to DWS on January 26, 2012 but DWS has not processed the easement. If the new 15' easement is finalized by DWS, the existing Easements A and B and EO No. 2189 will be cancelled.

On August 14, 2009, the Board of Land and Natural Resources (BLNR) approved the set aside of TMK (2) 4-5-021: 004 to the Department of Fish and Wildlife for an off-highway vehicle park, subject to withdrawal of lands south of Hahakea Gulch for the Villages of Leiali'i project, and a management right of entry to HHFDC over TMK (2) 4-5-021: 004 for lands south of Hahakea Gulch as well as over TMK (2) 4-5-021: 022. In accordance with this BLNR approval, a Management Right of Entry dated September 3,

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2009 was issued by DLNR to HHFDC for the VOL lands mauka of the By-Pass Highway (Mauka Lands), TMK (2) 4-5-021: 004 (por.) and 022 (por.).

On December 22, 2009, HHFDC published a Request for Interest for solar renewable energy projects on approximately 23 acres of the proposed light industrial area at the southern portion of the Villages of Leiali'i project, TMK (2) 4-5-021: 003 (por.). On January 22, 2010, HHFDC received two proposals and on March 10, 2010, HHFDC issued a conditional selection letter to HEA Hawaii Solar, LLC. On August 5, 2010, a right-of-entry was issued to HEA for planning studies at the proposed site. On April 4, 2013, HHFDC sent HEA Solar a letter withdrawing HHFDC's conditional selection of HEA Solar's proposal. The letter was returned undeliverable so HHFDC emailed a copy to D. Goode, V.P., on April 10, 2013.

On October 8, 2010, Kahoma Land LLC published notice of a Finding of No Significant Impact of a Final Environmental Assessment for Proposed Kahoma Access Easements over VOL in the OEQC Bulletin. HHFDC sent Kahoma Land a draft MOU for access easements over VOL in exchange for easements for water system improvements over Kahoma Land lands for VOL on June 16, 2011 and received Kahoma Lands' comments on November 14, 2011. On December 9, 2011, BLNR approved access and utility easements over the VOL Mauka Lands to Kahoma Land.

On October 11, 2012, the HHFDC Board of Directors approved the conveyance of remnant Lots 8 (0.15 acre) and 9 (1.86 acres) of File Plan 2132, TMK (2) 4-5-021: 003 (portion of), to the County of Maui for existing Kahoma Stream Flood Control improvements and the DOT for Phase 1A of the Bypass Highway, pending finalization of the Right-of-Way maps and subdivision of the parcels by DOT.

In 2008, the Maui County Council began creating a Draft Maui Island Plan (MIP) that established new Urban Growth boundaries (UGB) to direct future growth on Maui. The draft version of the MIP, dated December 2010, included 181 acres and 800 residential units in VOL Phase A in the UGB. On August 2, 2012, the Council General Plan Committee voted to include all of Leiali'i makai of the Bypass Highway in the plan. The Council then reversed itself and on October 22, 2012 deleted the project in its entirety, but on October 24, 2012, reinstated a portion of the makai portion of the project by including 245 acres and 1,200 units. The planning horizon for the MIP is until 2030. The VOL master plan includes between 2,923 and 4,105 residential units in Phases A and B (mauka of the Bypass Highway). (The VOL project lies within the project area reclassified by the State Land Use Commission in 1990 and is recognized by the Maui County in the West Maui Community Plan in 1996.) The bill passed on December 21, 2012. The Mayor signed the bill into law on December 28, 2012. In January and February 2020, HHFDC attended community meetings held by the County for amending the West Maui Community Plan.

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On January 10, 2013, the HHFDC Board of Directors approved the set aside of lands from DLNR to HHFDC for the balance of the Villages of Leiali'i and its offsite water system.

On February 28, 2014, HHFDC met with DHHL to discuss options for proceeding at the Villages of Leiali'i. Follow-up meetings were held on July 11, 2014, August 26, 2014, February 9, 2015, June 12, 2015, and August 28, 2015.

On October 3, 2014, HHFDC met with the Mayor of the County of Maui to discuss options for proceeding at Leiali'i. A follow-up meeting with the County Department of Public Works was held on October 16, 2014.

On February 20, 2015, HHFDC met with DLNR to discuss options for proceeding at the Villages of Leiali'i.

On December 17, 2015, HHFDC met with the Maui Council to discuss HHFDC's plans for proceeding at Leiali'i. On April 26, 2016, HHFDC met with the Managing Director, Director of Housing and Human Concerns and Director of Public Works to discuss options for proceeding at Leiali'i. On August 31, 2016, HHFDC met with the Mayor to discuss the issuance of a 65-year ground lease at \$1/year to the County of Maui for the vacant parcels adjacent to the Lahaina Civic Center, TMK (2) 4-5-021: 018 & 019, for any purpose permitted by law, including but not limited to public parking, base yard purposes, and expansion of County facilities for the purpose of carrying out the responsibilities of County departments and agencies.

On October 13, 2016, the HHFDC Board of Directors approved the issuance of a ground lease for the vacant Civic Center parcels and dedication of Leiali'i Parkway and Leiali'i Parkway entrance to the County of Maui. On November 17, 2016, HHFDC sent an executed ground lease to the County of Maui for the vacant Civic Center parcels for approval and recordation. The ground lease was executed by the County of Maui on February 21, 2018 and recorded at the State of Hawaii Bureau of Conveyances as Document No. A-66330557.

On December 8, 2016 and March 9, 2017, the HHFDC Board of Directors approved a memorandum of understanding (MOU) with DHHL for HHFDC to finance the first \$10 million of the cost to develop the Honokowai Well for a sharing of well capacity for HHFDC and DHHL projects at VOL. On March 31, 2017, the MOU was executed by HHFDC and DHHL.

On August 4, 2017, HHFDC completed an appraisal, and on August 24, 2017, HHFDC and DHHL conducted an informational briefing on the proposed dedication of Leiali'i Parkway, TMK (2) 4-5-036: 112, to the County of Maui. Legislative approval of the

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dedication of Leialii Parkway to the County pursuant to Section 171-64.7, HRS, was obtained in 2018.

On June 14, 2018, the HHFDC Board of Directors approved the issuance of a request for proposals (RFP) for the development, ownership and operation of a 200-unit family rental project named Keawe Street Apartments affordable to families at 60% or below the HUD area median income under a 75-year ground lease from HHFDC at \$1/year north of the Keawe Street Extension at VOL and a \$5 million predevelopment/interim loan from the Dwelling Unit Revolving Fund (DURF) for the development of the project. A public access road from Keawe Street Extension to serve the project will be subdivided and dedicated to the County. HHFDC issued the RFP on August 29, 2018, held a pre-proposal conference on September 19, 2018, and received proposals on October 31, 2018. On January 10, 2019, the HHFDC Board approved Ikaika Ohana's proposal for the proposed Keawe Street Apartments project. See attached Exhibit A-3, project location within the Villages of Leialii, and Exhibit A-4, draft site plan of the project (7/9/19). The developer held meetings with the community on April 11, 2019, May 8, 2019 and December 12, 2019 and with the Mayor of the County of Maui and department heads on May 9, 2019.

In 2018, Act 150 SLH 2018 appropriated up to \$30 million from the Rental Housing Revolving Fund (RHRF) to expedite and complete the construction of the Leialii affordable housing project by 2021. In 2019, Act 98 SLH 2019 appropriated up to \$37 million from the RHRF to expedite and complete the construction of the Leialii affordable housing project by 2022, but if the project does not obtain necessary land use entitlements by April 30, 2020, the funds shall be returned to the RHRF.

In fiscal year 2020, HHFDC and Ikaika Ohana obtained Maui County Council approval of 201H exemptions for Keawe Street Apartments, now known as Kaiaulu O Kūku'ia project, executed a Residential Workforce Housing Agreement with the County, obtained final subdivision approval of the project site, executed a Memorandum of Understanding with the County for the connection of the project to the County sewer system, executed a Development Agreement for the development, leasehold ownership and operation of the project, and continued with the planning and design of the project. HHFDC also advanced the water reservation deposit for the Kaiaulu O Kūku'ia project, and executed the Quitclaim Deed dedicating the Keawe Street Extension and a portion of the Bypass Highway over VOL to the State of Hawaii Department of Transportation which was recorded at the State of Hawaii Bureau of Conveyances as Document No. A-74430518.

Land Use Conditions

The following is a progress report on conditions imposed by the LUC for the VOL development:

Condition No. 1:

The survey of the Property to identify structures relating to the sugar cane plantation and the significance of any identified structures shall be evaluated. Findings shall be submitted in report format to the State's Historic Preservation Program. If significant, acceptable mitigation measures for their treatment shall be worked out in consultation with the State Historical Preservation Program and shall be included in a detailed mitigational plan.

In addition, sites 2478, 2479, 2481, 2482 and 2484 shall undergo data recovery. Sites 2480, 2483, 2485, 2488, 1203 and 2486 shall be preserved. A detailed mitigation plan, with preservation and data recovery components shall be submitted to the State Historic Preservation Program for approval prior to the implementation of such plan.

Petitioner shall also cause work to stop immediately and shall contact the State Historic Preservation Office should archaeological resources such as artifacts, shell, bone, or charcoal deposits, human burial, rock or coral alignments, pavings or walls be encountered during the project development.

Status: On October 2, 1997, a final report on the inventory of Pioneer Mill Co.'s sugarcane plantation structures was submitted to the State Historic Preservation Division (SHPD). In October 1997, a HABS and HAER Level 2 recording of the irrigation features in the project site, identified as State Site 50-50-03-4420, Wahikuli Ahupua'a, Lahaina District, Island of Maui, TMK: 4-5-21: 3, 18-20, 22 (SHPD Doc. No. 9709BD12) was completed and a report filed with SHPD. By letters dated November 25, 1997 and December 17, 1998, SHPD accepted the report and its mitigation.

On June 17, 2020, HHFDC submitted an Addendum Archaeological Inventory Survey to SHPD for the Kaiaulu O Kūku'ia affordable rental project site and is awaiting SHPD comments. The developer of the Kaiaulu O Kūku'ia affordable rental project is required to comply with the requirements of the LUC.

Condition No. 2:

Petitioner shall cause all prospective occupants to be informed of (a) possible odor, noise, and dust pollution resulting from surrounding agricultural operations, and (b) the Hawaii Right-to-Farm Act, Chapter 165, HRS which limits the circumstances under which pre-existing farming activities may be deemed a nuisance.

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Status: HHFDC plans to procure developer(s) for the VOL project through a Request For Proposals process. The developer(s) shall be required to comply with the requirements of the LUC.

The developer of the Kaiaulu O Kūku'ia affordable rental project will notify all prospective occupants of the project of possible odor, noise, and dust pollution resulting from surrounding agricultural operations and the Hawaii Right-to-Farm Act.

Condition No. 3:

Petitioner shall develop the golf course in compliance with the provisions of the document entitled "Eight (8) Conditions Applicable to New Golf Course Development" dated April 7, 1989.

Status: HHFDC plans to procure developer(s) for the VOL project through a Request For Proposals process. The Kaiaulu O Kūku'ia project is limited to the construction of 200 affordable rental units and related improvements and does not include development of a new golf course. A golf course may be developed within the Villages of Leiali'i in the future. If a golf course is not developed, HHFDC will take appropriate action with the LUC to address compliance with conditions relating to the golf course.

Condition No. 4:

Petitioner shall submit a revised traffic report that addresses the secondary impacts on County roadways and pedestrian traffic to the Maui Department of Public Works for review and approval prior to submittal of the Project's traffic master plan.

Status: This condition was satisfied in May 1992.

A Traffic Impact Analysis Report (TIAR) for the Kaiaulu O Kūku'ia was prepared in September 2019 by Fehr & Peers and included in the Draft 201H Application for the project, which was distributed to agencies, including the County of Maui, Department of Public Works and State Department of Transportation.

Condition No. 5:

Petitioner shall coordinate with the Maui Department of Water Supply, adjoining land owners, and/or other Federal, State or County agencies regarding measures designed to obtain the required water for the Project. Petitioner shall fund on an equitable basis, necessary water sources, storage, transmission facilities, and filtration system development.

Status: HHFDC has entered into a Memorandum of Agreement (MOA) with DHHL for the development of the proposed Honokowai Well. The well will connect to the DWS system and provide an additional source which will be allocated to DHHL and HHFDC projects at the Villages of Leialii. Planning and design for the Honokowai Well is in progress. Inasmuch as the new Honokowai Well has not yet been completed, HHFDC and Ikaika Ohana have coordinated with DWS regarding water source for the project. Ikaika Ohana will seek a water meter reservation for the Kaiaulu O Kūku'ia project for 100% affordable projects pursuant to DWS' Section 16-202-09, Rules Relating to Water Meter Reservations, as amended.

Condition No. 6:

Petitioner shall participate pro-rata in the funding, development, and construction of improvements to the Lahaina Wastewater Treatment Plant. Occupancy of the housing units shall be phased with the increased capacity of the treatment plant.

Status: HFDC participated with the County of Maui in the expansion of the Lahaina Wastewater Treatment Plant in accordance with an agreement dated September 13, 1991. The expansion was completed in 1994 and provided for 1.8 mgd of sewer capacity for the VOL project, however, in accordance with HFDC's agreement with the County, any capacity not used before September 13, 2006 may be used by the County. By letter dated November 10, 2005, the County of Maui refused HCDCH's request for an extension, and therefore HCDCH's sewer capacity agreement with the County for the VOL project lapsed on September 13, 2006.

On April 15, 2020, HHFDC and the County of Maui executed a Memorandum of Understanding to allow the connection of the Kaiaulu O Kūku'ia project to the County sewer system and Lahaina Wastewater Treatment Plant.

Condition No. 7:

Petitioner shall fund and construct all necessary drainage improvements which are within the property. The drainage plans shall be submitted to DOT and the County of Maui, Department of Public Works.

Status: HHFDC plans to procure developer(s) for the VOL project through a Request For Proposals process. The developer(s) shall be required to comply with the requirements of the LUC.

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The Kaiaulu O Kūku'ia project will be constructed with all necessary drainage improvements. Drainage plans will be submitted to DOT and the County of Maui Department of Public Works.

Condition No. 8:

Petitioner shall make land, with infrastructure up to the lots, available to the State Department of Education (DOE) for the development of school facilities.

Status: HHFDC has coordinated with the DOE regarding Condition No. 8. In a letter to the DOE dated November 13, 2019, the HHFDC noted that the HHFDC has no plans for the development of the Villages of Leiali'i beyond the Kaiaulu O Kūku'ia project at this time. As such, an Educational Contribution Agreement (ECA) is not currently being pursued. However, should the HHFDC decide to proceed with further development of the Villages of Leiali'i, HHFDC will coordinate with the DOE on an ECA, as required by Condition No. 8.

Condition No. 9:

Petitioner shall provide housing opportunities for low, low-moderate, and moderate income residents of the State of Hawaii by offering for sale or lease a number of units equal to 60% of the residential units in the Petition Area at prices which families with an income range of up to one hundred twenty percent (120%) of the County of Maui's median income can afford.

Status: In October 2000, the HCDCH requested the State Land Use Commission to amend the condition to allow the County of Maui to establish the affordable housing condition in consultation with the HCDCH. However, the Commission believed they did not have the authority to amend the Act 15 provision and deferred decision-making on HCDCH's request. Meanwhile, Act 100 SLH 2001 was enacted which waived, for undeveloped lands at VOL, the affordable housing requirement of 60% of the units to families up to 120% of the HUD median income for the County of Maui imposed by Act 15 SLH 1988, to a requirement established by agreement between HHFDC and the County of Maui.

Except for up to 3 managers' units, all of the units in the Kaiaulu O Kūku'ia affordable rental project will be affordable to families at 60% or below the HUD area median income.

Condition No. 10:

Petitioner shall coordinate with the County of Maui development of the Project in conjunction with the improvements to County services and facilities such as fire and police protection.

Status: HHFDC plans to procure developer(s) for the VOL project through a Request For Proposals process. The developer(s) shall be required to comply with the requirements of the LUC.

HHFDC and Ikaika Ohana have consulted with County agencies including the Police Department and Department of Fire and Public Safety through the Section 201H-38, Hawaii Revised Statutes, application process for the Kaiaulu O Kuku'ia project.

Condition No. 11:

All infrastructure improvements for the Project shall be developed in accordance with County of Maui standards.

Status: To date, all existing infrastructure improvements such as water, sewer, drainage, and roadway systems were constructed in accordance with County of Maui standards.

Infrastructure improvements such as water, wastewater, drainage, and roadway improvements will be developed in accordance with County of Maui standards by Ikaika Ohana for the Kaiaulu O Kūku'ia project.

Condition No. 12:

Petitioner shall submit to the County of Maui, Department of Public Works all master plans for drainage, water, roadways, utilities, and sewers for review and approval prior to submittal of the individual construction plans of the various villages.

Status: This condition was previously satisfied in 1992.

Condition No. 13:

The State of Hawaii shall maintain responsibility for the preservation area which includes the existing crater and reservoirs.

Status: The area including the existing crater and water reservoir will be preserved as open space. In late 2012 and August 2019, DLNR de-

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commissioned Wahikuli and Crater Reservoir, respectively. The preservation area is not located within the project area for the Kaiaulu O Kūku'ia project.

Condition No. 14:

Petitioners shall fund, design, and construct improvements to the various community/neighborhood parks including but not limited to grading, installation of landscaping and irrigation, construction of retaining walls and safety fences, and installation of service utilities.

Status: The proposed Kaiaulu O Kūku'ia project will include two (2) community centers, a playground, and community gardens for residents' use. Organized activities will be provided for residents onsite. One (1) of the community centers will be available for events that may be open to the public and one (1) will be for residents' use.

Condition No. 15:

Restrictive covenants for the golf course shall include conditions regarding preferential rates and tee times for the resident golfer. Rates shall not exceed 200% of the municipal course rates of the County of Maui and at least 50% of the prime tee times shall be reserved for the resident golfer.

Status: The Kaiaulu O Kūku'ia project does not include the development of a golf course. A golf course may be developed within the Villages of Leiali'i in the future. If a golf course is not developed, HHFDC will take appropriate action with the LUC to address compliance with conditions relating to the golf course.

Condition No. 16:

Petitioner shall incorporate noise attenuation measures or devices to reduce noise impacts along Honoapiilani Highway, by-pass highway and cane haul road.

Status: The Kaiaulu O Kūku'ia project is not adjacent to the Honoapiilani Highway or the future Lahaina Bypass. With the closing of operations of Pioneer Mill in 1999, the cane haul road is no longer used for the hauling of cane and is no longer an active road. Structures will be set back a minimum of 110' from the existing inactive cane haul road.

Condition No. 17:

Petitioner shall incorporate appropriate measures to mitigate impacts from wind, etc., along the existing and proposed highways and cane haul roads.

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Status: As previously noted, the Kaiaulu O Kūku'ia project is not adjacent to the Honoapiilani Highway or future Lahaina Bypass and will be set back a minimum of 110 feet from the existing inactive cane haul road.

Condition No. 18:

Petitioner shall not commence the construction of Villages 7 through 11 until the construction of the by-pass road through the Petition Area is substantially underway.

Status: Villages 6 (previously 7) through 14 (previously 11) will not be developed until the construction of the by-pass highway is substantially underway. HHFDC may request approval to install non-traffic-generating improvements such as water, sewer reclamation and drainage improvements, above the by-pass highway, as required by the residential development makai of the by-pass highway.

The proposed Kaiaulu O Kūku'ia affordable rental housing project is located below (west of) the by-pass highway, in compliance with this requirement.

Condition No. 19:

Conditions requiring County agency review, coordination, or approval are subject to the powers of the HFDC as expressed in Act 15, Session Laws of Hawaii, 1988.

Status: As of July 1, 2006, all requests for County approvals, exemptions, waivers, and variances will be processed through the County under Chapter 201H, HRS, pursuant to Act 180, SLH 2006.

Condition No. 20:

Petitioner shall develop the Property in substantial compliance with representations made to the Land Use Commission in obtaining reclassification of the Property.

Status: The proposed Kaiaulu O Kūku'ia is in substantial compliance with the representations made to the LUC in obtaining the District Boundary Amendment for VOL. The VOL, as reviewed by the LUC, was intended to carry out the State's overall goal of increasing housing opportunities in West Maui for persons and families of all income levels and called for the development of up to 4,800 single-family and multifamily residential units. The Kaiaulu O Kūku'ia project will provide 200 affordable, multifamily rental units, which represents just a fraction of the units contemplated for VOL.

Updated conceptual plans for VOL were disclosed in a Final EIS published in 2012. The State DBEDT, to which the LUC is administratively attached, was a consulted party for the EIS. VOL as described in the 2012 EIS continues to be planned as a master-planned residential community intended to provide affordable housing for West Maui residents. The total project acreage, number of residential units, and ancillary commercial and public facilities as described in the 2012 EIS are substantially similar to representations made to the LUC. With respect to the Kaiaulu O Kūku'ia project site, Land Use Concept 3 depicts "Multi-Family Residential—18 and 20 du/ac" as the conceptually proposed land use for this alternative.

A golf course was not included in the 2012 EIS because at the time it did not appear to be an economically viable land use. If a golf course is proposed in the future, HHFDC will consult with appropriate agencies to determine if a supplemental EA or EIS is necessary. Should plans for VOL substantially deviate from what was represented to the LUC, HHFDC will take appropriate action with the LUC to address compliance with this condition.

It is noted that access to the project has been modified from what was originally presented to the LUC due to adjustments that have been made to the Lahaina Bypass alignment. Due to the discovery of archaeologically significant agricultural terraces in the alignment of the Bypass Highway within VOL near Kahoma Stream, the State DOT realigned the Bypass Highway to curve farther makai into a T-intersection with the County's Keawe Street Extension. An Environmental Assessment for this realignment was completed by DOT in 2009. Construction of Phase 1A of the Bypass Highway and the Keawe Street Extension were completed in 2013. The Keawe Street Extension provides a mauka-makai thoroughfare, similar to what was previously proposed by extending Kapunakea Street. It is also noted that there is a private property and a County owned property between the current terminus of Kapunakea Street and the VOL that prevents direct connection to Kapunakea Street. Access to the Kaiaulu O Kūku'ia project will be provided via a new public road off of Keawe Street Extension. In addition, HHFDC and the developer of the Kaiaulu O Kūku'ia project entered into a Memorandum of Understanding dated March 4, 2020 agreeing to create a non-exclusive access easement for an approximately 35-foot setback along the west edge of the project site to allow future extension of Kapunakea Street northward, should such extension be necessary for future development at VOL.

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Condition No. 21:

Petitioner shall file annual reports to the Commission, the Office of State Planning, and the County of Maui Planning Department in connection with the status of the Project and petitioner's progress in complying with the conditions imposed.

Status: Annual reports regarding the status of this Project will continue to be filed with the County of Maui Planning Department, the Office of State Planning, and the State Land Use Commission.

Condition No. 22:

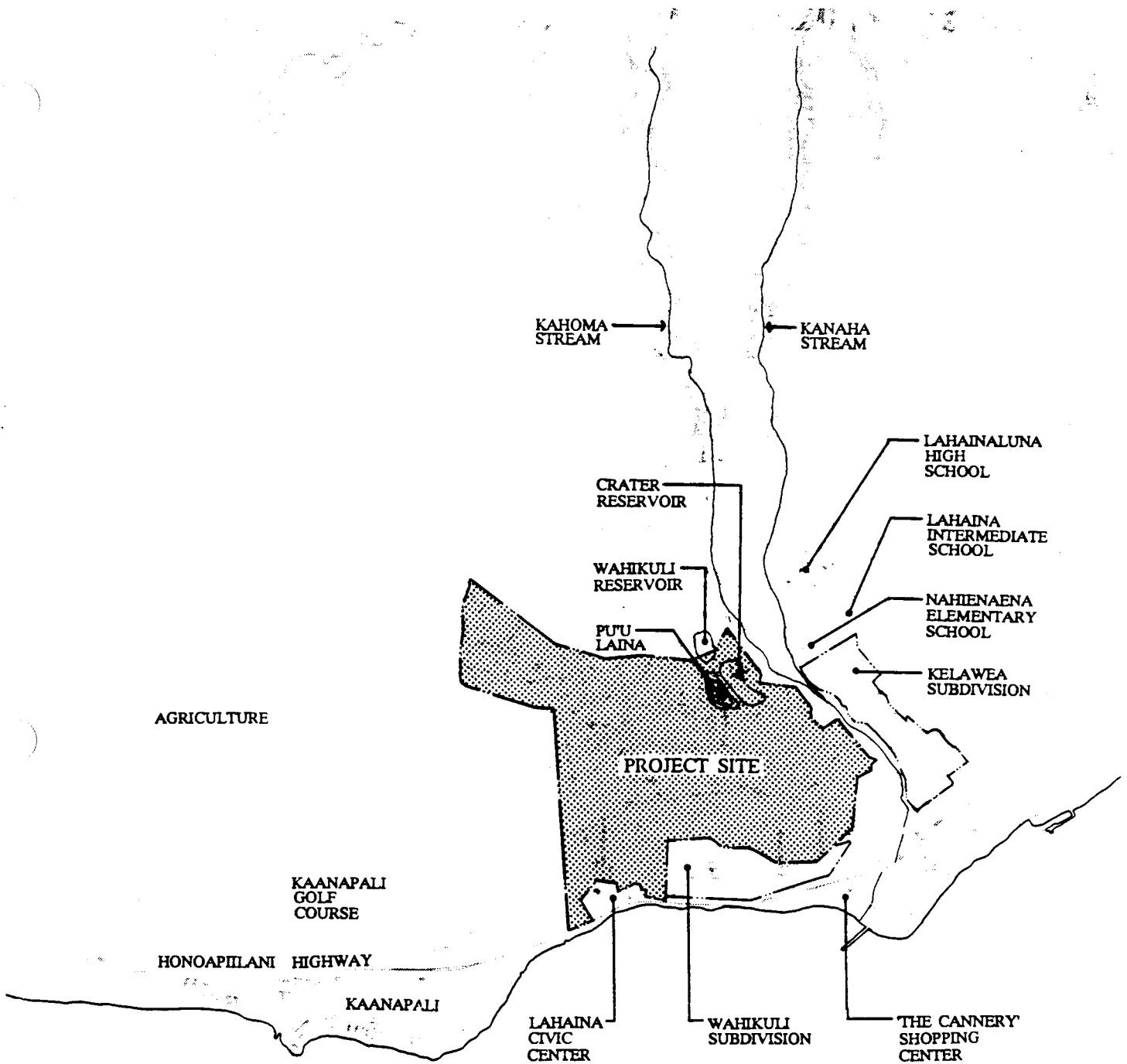
The Commission may fully or partially release these conditions as to all or any portion of the Property upon timely motion, and upon the provision of adequate assurance of satisfaction of these conditions by the Petitioner.

Status: HHFDC acknowledges this condition.

Should there be any questions or comments regarding this matter, please contact Stan S. Fujimoto, Project Manager, at 587-0541.

Attachments

- c: Office of Planning, w/attachments
- County of Maui Department of Planning, w/attachments



source: USGS 1983

Prepared for: Housing Finance and
Development Corporation
Prepared by: PBR HAWAII

FIGURE 5
REGIONAL LOCATION MAP w/surrounding land uses
LAHAINA MASTER PLANNED PROJECT
Master Plan



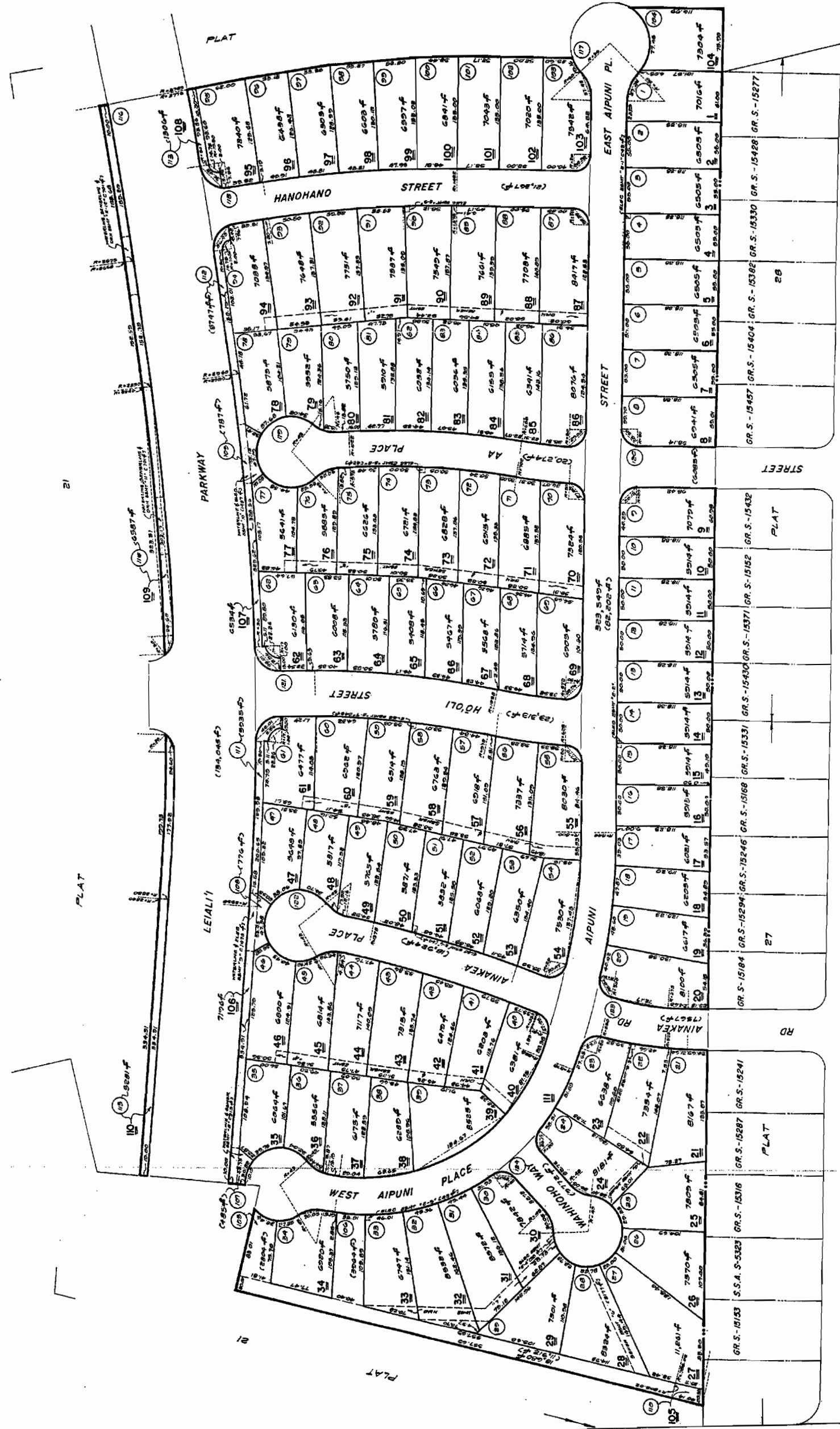


VILLAGES OF LEIALI'I

LAHAINA, MAUI
HOUSING AND COMMUNITY DEVELOPMENT CORPORATION OF HAWAII

EXHIBIT A-1

TRUE NORTH
Scale: 1 in = 60 ft.



DEPARTMENT OF FINANCE PROPERTY ASSESSMENT DIVISION STATE OF HAWAII STATE TAX MAP	
ZONE	4
SECTION	5
PLAT	36

GR. S. - 15212 Owners, lessees, & wireless names recorded on this tax map print may not be current. Please refer to computer and history sheets for current owners.	GR. S. - 15278	GR. S. - 15159
GR. S. - 14889 NOTE: All lots owned by State of Hawaii unless otherwise noted.	GR. S. - 15164	GR. S. - 15160
GR. S. - 14705	GR. S. - 14894	GR. S. - 14894
GR. S. - 14740	GR. S. - 14823	GR. S. - 14661
GR. S. - 14787	GR. S. - 14823	GR. S. - 14823
GR. S. - 15287	GR. S. - 15246	GR. S. - 15246
GR. S. - 15316	GR. S. - 15184	GR. S. - 15184
GR. S. - 15323	GR. S. - 15430	GR. S. - 15430
GR. S. - 15287	GR. S. - 15371	GR. S. - 15371
GR. S. - 15316	GR. S. - 15457	GR. S. - 15457
GR. S. - 15316	GR. S. - 15404	GR. S. - 15404
GR. S. - 15316	GR. S. - 15382	GR. S. - 15382
GR. S. - 15316	GR. S. - 15428	GR. S. - 15428
GR. S. - 15316	GR. S. - 15277	GR. S. - 15277

FOR PROPERTY ASSESSMENT PURPOSES - SUBJECT TO CHANGE

SCALE: 1 IN = 60 FT.

PRINTED:

VILLAGE 1A, VILLAGES OF LEIALI'I
EXHIBIT A-2

DATE: April 9, 1995 BY: M.A.N.L. SOURCE: P.P. 8155

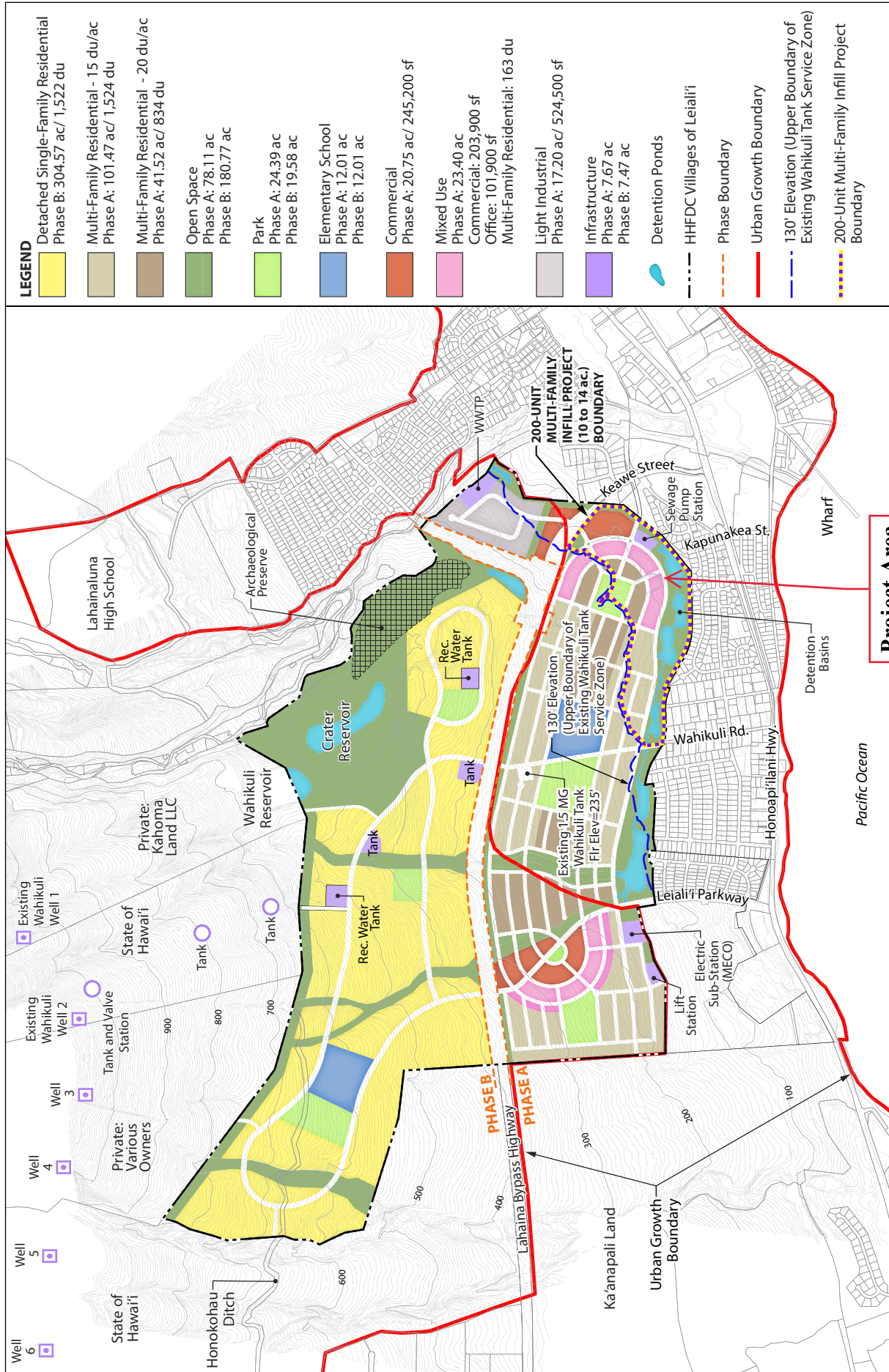
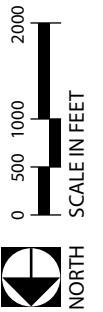


FIGURE 2
LAND USE PLAN CONCEPT TWO
 Villages of Leialii
 200-Unit Multi-Family Infill Project
 January 2017

Note: Lot lines shown are approximate and for illustrative purposes. Imagery is from Google Earth Pro and is approximately matched to lot lines.



APPROX. SITE AREA = 28.5 ACRES
UNIT MIX
2 BR UNITS = 100
3 BR UNITS = 75
4 BR UNITS = 25
TOTAL UNITS = 200

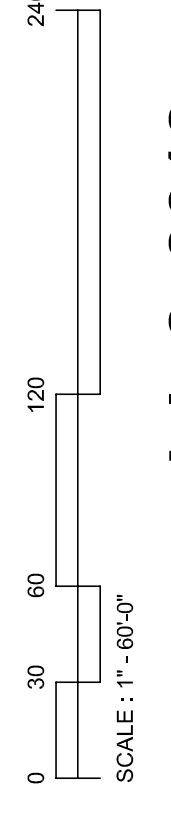
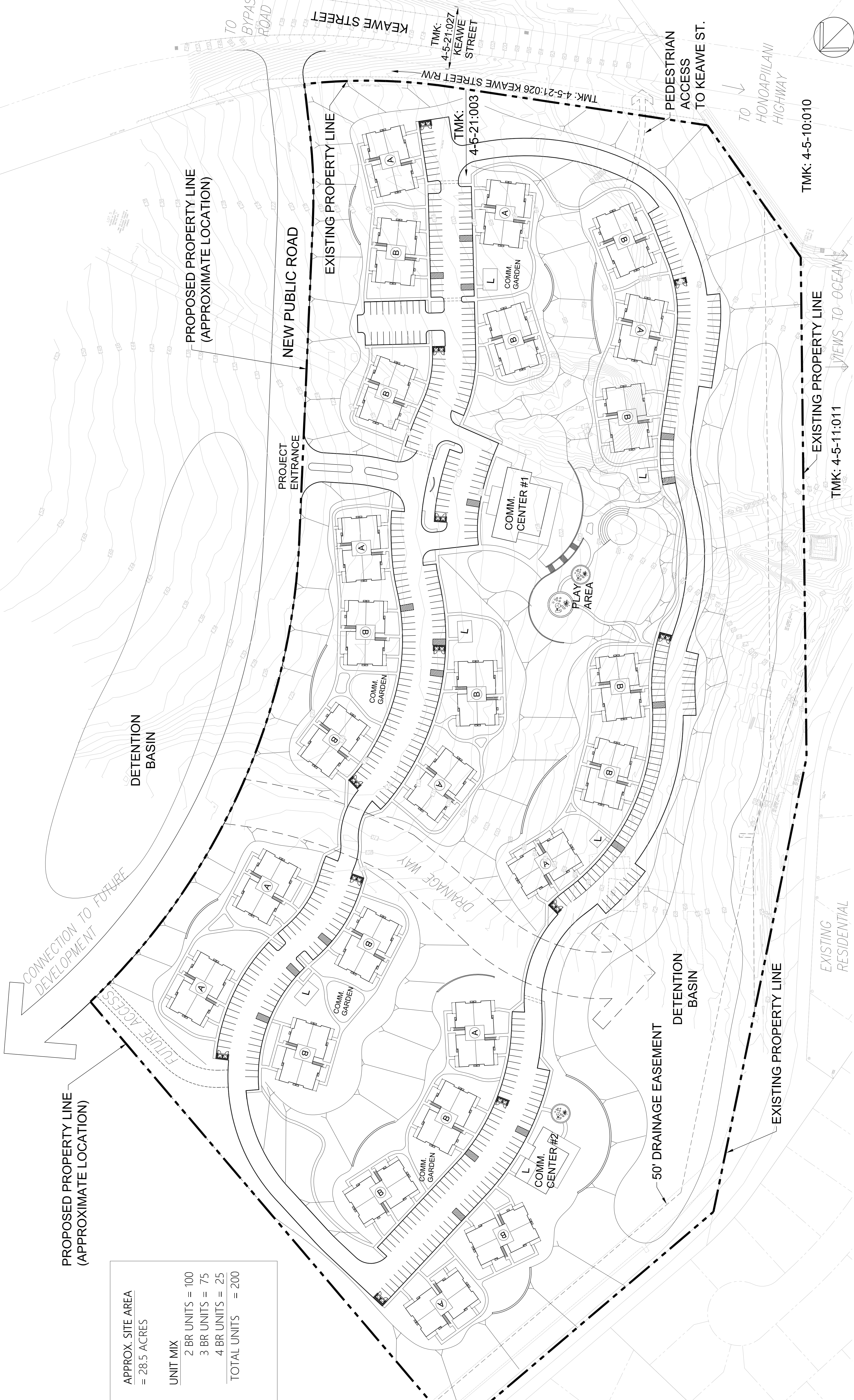



EXHIBIT A-4

Signature: *Stanley Fujimoto*
Email: stanley.s.fujimoto@hawaii.gov

Signature: *Dean Minakami*
Email: dean.minakami@hawaii.gov

Signature: 
Email: deepak.neupane@hawaii.gov