

91-153553

NOV 8 1991

S. FURUKAWA, REGISTRAR

LAND COURT SYSTEM

REGULAR SYSTEM

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

UNILATERAL AGREEMENT AND DECLARATION FOR CONDITIONAL ZONING

THIS INDENTURE, made this 18th day of
October, 1991, by HORITA-MAUI, INC., a Hawaii
corporation, whose principal place of business and mailing
address is 2145 Wells Street, Suite 102B, Wailuku, Maui, Hawaii
96793, hereinafter referred to as "Declarant", and who is also
the recorded owner of that certain parcel located at Kihei,
Maui, Hawaii, comprised of approximately 14.963 acres, and
identified for real property tax purpose by Tax Map Key No.
3-9-01:Portion of 149, 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 the



establishment of R-1 Residential District zoning for a portion of the Parcel, hereinafter referred to as "Portion 1", comprised of approximately 9.527 acres and which is more particularly identified in Exhibit "1", which is attached hereto and made a part hereof, and A-1 Apartment District zoning for a portion of the Parcel, hereinafter referred to as "Portion 2", comprised of approximately 5.436 acres and which is more particularly identified in Exhibit "2", which is attached hereto and made a part hereof, and which Portions 1 and 2 are also more particularly identified in Land Zoning Map No. L-543, 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. 91-286, 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, whosoever, 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 R-1 Residential District Zoning for Portion 1 and A-1 Apartment District Zoning for Portion 2 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 "3", 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 the 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:

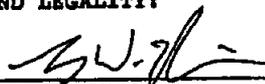
HORITA-MAUI, INC.

By 
RONZA K. WATASE
Its Vice President/Treasurer.

APPROVED AS TO FORM:


B. MARTIN LUNA
Attorney for Applicant

APPROVED AS TO FORM
AND LEGALITY:


GARY W. ZAKTAN
Deputy Corporation Counsel
County of Maui

STATE OF HAWAII)
CITY AND COUNTY OF HONOLULU) SS.

On this 18th day of October, 1991,
before me appeared RONALD K. WATASE, to me personally known,
who, being by me duly sworn, did say that he is the Vice
President/Treasurer of HORITA-MAUI, INC., a Hawaii corporation,
that the seal affixed to the foregoing instrument is the
corporate seal of said corporation, that said instrument was
signed and sealed on behalf of said corporation by authority of
its Board of Directors, and said RONALD K. WATASE acknowledged
said instrument to be the free act and deed of said
corporation.

Elizabeth Urutau
Notary Public, State of Hawaii
My commission expires: 9/27/93

032

Description of a Portion of TMK 3-9-01:149
Proposed Land Zoning Change
from County Agricultural District to R-1 Residential

Land situated on the westerly side of Piilani Highway, F.A.P. No. RF-031-1(5), at Waiohuli-Keokea, Kula (Kihei), Maui, Hawaii

Being a portion of Royal Patent 7447, Land Commission Award 3237, Part 2 to H. Hewahewa, Certificate of Boundaries Number 56

Beginning at a point at the northerly corner of this parcel, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU-O-KALI" being 14,712.51 feet North and 22,590.51 feet West and running by azimuths measured clockwise from True South:

1.	346°	48'		144.94 feet along the westerly side of Piilani Highway, F.A.P. No. RF-031-1(5) to a point;
2.	256°	48'		20.00 feet along same to a point;
3.	346°	48'		250.00 feet along same to a point;
4.	76°	48'		15.00 feet along same to a point;
5.	346°	48'		200.00 feet along same to a point;
6.	256°	48'		10.00 feet along same to a point;
7.	346°	48'		238.92 feet along same to a point;
8.	354°	40'	35"	473.43 feet along remainder of Royal Patent 7447, Land Commission Award 3237, Part 2 to H. Hewahewa, Certificate of Boundaries No. 56 to a point;
9.	346°	53'	50"	162.79 feet along same to a point;
10.	339°	28'	48"	409.74 feet along same to a point;
11.	74°	45'	20"	380.18 feet along same to a point;
12.	175°	42'	55"	1700.57 feet along same to a point;
13.	175°	40'		206.34 feet along same to a point;

EXHIBIT "1"

- | | |
|------------------|---|
| 14. 240° 23' 20" | 41.57 feet along the southerly end of Kaiola Place to a point; |
| 15. 270° 04' 30" | 43.81 feet along Grant 11400 to Ernest K. Naeola to the point of beginning and containing an Area of 9.527 Acres. |

SUBJECT, HOWEVER, to the following:

1. A portion of an existing Central Maui Water Transmission System Easement Number 2 (25 feet wide) in favor of the County of Maui, Department of Water Supply.
2. An existing Utility Easement in favor of Maui Electric Company.
3. An existing Roadway and Utility Easement in favor of T.M.K.: 3-9-39:47.

NOTE: This description has been prepared solely for use by the Owners and shall not be construed as a description of a parcel of land separate from TMK: 3-9-01:149. Only after required approvals from governmental agencies have been granted, can it be considered as a parcel of land separate from TMK: 3-9-01:149.



Reed M. Ariyoshi
 Registered Land Surveyor
 Certificate No. 6597

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Description of a Portion of TMK 3-9-01:149
 Proposed Land Zoning Change
 from County Agricultural District to A-1 Apartment

Land situated on the westerly side of Piilani Highway, F.A.P. No. RF-031-1(5), at Waiohuli-Keokea, Kula (Kihei), Maui, Hawaii

Being a portion of Royal Patent 7447, Land Commission Award 3237, Part 2 to H. Hewahewa, Certificate of Boundaries Number 56

Beginning at a point at the southeasterly corner of this parcel, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU-O-KALI" being 12,330.37 feet North and 22,031.78 feet West and running by azimuths measured clockwise from True South:

1. 66° 20' 54.19 feet along remainder of Royal Patent 7447, Land Commission Award 3237, Part 2 to H. Hewahewa, Certificate of Boundaries No. 56 to a point;
2. Thence along same on a curve to the right having a radius of 1,225.00 feet, the chord azimuth and distance being: 75° 09' 1.5" 375.54 feet to a point;
3. 175° 42' 55" 440.10 feet along same to a point;
4. 85° 42' 55" 40.00 feet along same to a point;
5. 175° 42' 55" 142.60 feet along same to a point;
6. 254° 45' 20" 380.18 feet along same to a point;
7. 339° 28' 48" 62.37 feet along same to a point;
8. 346° 48' 441.06 feet along the westerly side of Piilani Highway, F.A.P. No. RF-031-1(5) to a point;
9. 76° 48' 10.00 feet along same to a point;
10. 346° 48' 71.85 feet along same to the point of beginning and containing an Area of 5.436 Acres.

EXHIBIT "2"

SUBJECT, HOWEVER, to the following:

1. A portion of an existing Central Maui Water Transmission System Easement Number 2 (25 feet wide) in favor of the County of Maui, Department of Water Supply.
2. An existing Utility Easement in favor of Maui Electric Company.

NOTE: This description has been prepared solely for use by the Owners and shall not be construed as a description of a parcel of land separate from TMK: 3-9-01:149. Only after required approvals from governmental agencies have been granted, can it be considered as a parcel of land separate from TMK: 3-9-01:149.



Reed M. Ariyoshi
Registered Land Surveyor
Certificate No. 6597

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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 shall pay to the County of Maui a fee assessed to cover costs to expand or improve the Kihai Wastewater Treatment Plant to accommodate the additional sewage flows generated by the project to be developed upon completion of this zoning change;
2. The Declarant shall contribute its pro-rata share to traffic improvements to be determined by the County and traffic master plans;
3. The Declarant shall bear the sole expense of the installation of the traffic signals at the intersection of Pilihi Highway and Ka'ono'ulu Street which shall be installed when 25% of the project is occupied;
4. The Declarant shall install street lighting at the Pilihi Highway/Ka'ono'ulu Street intersection and along auxiliary lanes to the satisfaction of the State Department of Transportation, Highways Division;
5. The Declarant shall make provisions to prevent illegal access and nuisance parking along the Pilihi Highway shoulder to the satisfaction of the State Department of Transportation, Highways Division; and
6. The Declarant shall provide affordable housing by the construction of 102 multi-family units at Declarant's sole expense. Pricing of the units and qualifying of potential purchasers shall be to the satisfaction of the Director of Human Concerns of the County of Maui.

EXHIBIT "3"

RECORDER'S MEMO: Legibility of Writing, Typing or Printing UNSATISFACTORY
in this Document when received.

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SEP 13 AM 9 35

S. FURUKAWA, REGISTRAR

LAND COURT SYSTEM

REGULAR SYSTEM

Return by Mail () Pickup () To:
Division of Land Use & Codes
County of Maui
250 South High Street
Wailuku, Hawaii 96793

ACKNOWLEDGEMENT

This acknowledgement is made this 5th day of October, 1990 by HORITA-MAUI, INC., the owner of those certain parcels of real property situated at Tax Map Key Nos. 3-9-01:148 & 149; Kihei, Maui, Hawaii, which are the subject of an application for subdivision approval pending with the County of Maui, Department of Public Works (LUCA File No. 3.1471), for the Ka Ono Ulu Estates - Phase I Subdivision ("Project"). Pursuant to requirement no. 13(b) of the preliminary subdivision approval granted by the Department of Public Works on September 25, 1989, Horita-Maui, Inc. ("Subdivider") hereby acknowledges that:

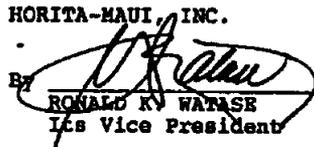
- 1) Horita-Maui, Inc. is the owner/developer of the project for which this subdivision approval is being obtained.
- 2) Developer is aware that the Waste Management Division of the County of Maui, Department of Public Works cannot insure that the sewerage system capacity at the Kihei Wastewater Treatment Plant facility will be available for the Project.
- 3) The County is not guaranteeing that sewer capacity will be available at the time of building permit issuance.
- 4) Connection to the County system will not be allowed if the plant expansion is not completed or if the plant capacity is otherwise at its maximum.
- 5) Developer agrees to indemnify and hold harmless the County of Maui from any damages, inconvenience, etc. resulting from the County's decision not to allow sewer connection to the County sewerage system.

This acknowledgement shall be binding upon and shall inure to the benefit the undersigned, its heirs, successors and assigns.

IN WITNESS WHEREOF, the HORITA-MAUI, INC. has caused
this instrument to be duly executed the day and year first
above written.

HORITA-MAUI, INC.

By


RONALD K. WATASE
Its Vice President

Approved as to Form
CARLSMITH, BALL, WICHMAN,
MURRAY, CASE, NUKAI AND ICHIKI

By



APPROVED AS TO FORM AND LEGALITY:



Deputy Corporation Counsel
County of Maui

STATE OF HAWAII)
CITY AND COUNTY OF HONOLULU) SS.

On this 5th day of October, 1990, before me appeared RONALD K. WATASE, to me personally known, who, being by me duly sworn, did say that he is the Vice President of HORITA-MAUI, INC., a Hawaii corporation, that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and said RONALD K. WATASE acknowledged said instrument to be the free act and deed of said corporation.

Elizabeth Umetsu
Notary Public, State of Hawaii
My commission expires: 9/27/93

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in this Document when received.

attached hereto and incorporated herein by reference (the "Property");

WHEREAS, the Owner desires to subdivide the above-referenced Property in an undertaking known as the Ka Ono Ulu Estates - Phase I, hereinafter sometimes called the "subdivision"; and

WHEREAS, said Subdivision will contain 169 lots of the following: See Exhibit "C", attached hereto.

WHEREAS, the zoning and/or State Land Use Commission classification applicable to the Subdivision is R-2 (Residential), A-1 (Apartment), Agricultural; and

WHEREAS, one or more of the lots within the Subdivision is resubdividable into four or more lots within the requirements of the zoning ordinance of the County of Maui; and

WHEREAS, the County of Maui (the "County") is a body politic and corporate and a political subdivision of the State of Hawaii, which has adopted and is responsible for the enforcement of the ordinance which regulates subdivisions within the County of Maui (the "Subdivision Ordinance"); and

18.18.270 Large Lots. A. A large lot shall be defined as a parcel of land that is resubdividable into four or more lots within the requirements of Title 19.

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B. In subdividing tracts into large lots which at some future time are likely to be resubdivided, the director may require that the blocks be of such size and shape, be so divided into lots and contain such building site restrictions as will provide for extension and opening of streets at intervals which will permit a subsequent subdivision of any large lot.

C. For large lots, improvements may be deferred with the approval of the director; provided, that the subdivider or owner, his heirs and assigns agree to provide all deferred improvements upon actual development or future resubdivision of the large lots, and observe the following building restrictions:

1. For residential, rural or agricultural zoned areas, no more than one dwelling per lot; and

2. For business, industrial, hotel and apartment zoned areas, no structures will be built.

These restrictions would terminate upon installation of all improvements required by this title.

D. Utilities such as water, sewer and electricity will be required for all lots. However, for large lots, the size of utilities may be based on the minimum requirement of one dwelling per lot. Park and other assessments shall be based on the number of newly created lots only and not the ultimate development.

E. The requirements of this title shall apply to all lots not defined as large lots in the subdivision."

and

WHEREAS, the Subdivision Ordinance provides for certain requirements which must be met prior to approval of the Subdivision; and

WHEREAS, the Director of the Department of Public Works has determined that the Subdivision is a large lots subdivision and improvements for the subdivision will be deferred if Owner agrees to certain conditions:

NOW, THEREFORE, in consideration of the mutual covenants contained herein, it is hereby agreed by and between the Owner, for himself and his heirs, devisees, executors,

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administrators, personal representatives, successors and assigns, and the County, as follows:

1. That in accordance with Section 16.16.270 "Large Lots", of the Maui County Code, the Owner shall provide all deferred roadway, drainage and sewer improvements upon actual development or future subdivision of any of the lots as required by the Director of Public Works, County of Maui, and as stated in the preliminary approval letter from the Director of the Department of Public Works to the Owner dated the 25th day of September, 1989, which is attached hereto as Exhibit "B" and by reference is incorporated herein and, in addition, observe the following building restrictions:

- a. For residential, rural or agricultural zoned areas, no more than one dwelling per lot; and
- b. For business, industrial, hotel and apartment zoned areas, no structures will be built.

2. The County shall permit the subdivision process to proceed with respect to the Subdivision.

3. Where there is more than one Owner, all obligations of the Owner set forth herein shall be joint and several obligations of each Owner.

4. The Owner does hereby declare that the Property, and all parts thereof, is and shall be held subject to the foregoing covenants, conditions and restrictions and that all of such covenants, conditions and restrictions shall be effective as to and shall run with the land as to the Property from and after the recording of this instrument (the "Agreement") with the Bureau of Conveyances or Land Court of

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in this Document when received.

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 Owner, the County of Maui, or any heir, devisee, executor, administrator, personal representative, successor, or 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 Property by any person or persons, entity or entities, whosoever, shall be deemed to constitute the acceptance of all of the covenants, conditions and restrictions of this Agreement 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 Property 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 Agreement.

5. This Agreement 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 Property or any part thereof by the County.

6. The term "Owner" 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 Owner, his heirs,

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devises, executors, administrators, personal representatives,
successors, and assigns.

IN WITNESS WHEREOF, the parties hereto have executed
this Agreement on the 15th day of November, 1991.

COUNTY OF MAUI:

DEPARTMENT OF PUBLIC WORKS

By *George N. Kaya*
~~ALVIN K. FUKUNAGA~~ GEORGE N. KAYA
Director of Public Works

OWNER:

HORITA-MAUI, INC.
(print name above)

By *Ronald K. Watabe*
name: RONALD K. WATABE
(its Vice President)

By _____
name:
its

APPROVED AS TO FORM AND LEGALITY:

Howard M. Fukushima
HOWARD M. FUKUSHIMA

Deputy Corporation Counsel
County of Maui

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RECORDER'S MEMO: Legibility of Writing, Typing or Printing UNSATISFACTORY
in this Document when received.

STATE OF HAWAII)
) SS.
COUNTY OF MAUI)

On this 15th day of November, 1991, before me personally appeared GEORGE N. KAYA, to me personally known, who being by me duly sworn, did say that he is the Director of Public Works of the County of Maui, a political subdivision of the State of Hawaii, and that the seal affixed to the foregoing instrument is the lawful seal of the said County of Maui, and that the said instrument was signed and sealed on behalf of said County of Maui pursuant to Title 18 of the Maui County Code, the Subdivision Ordinance, and the said GEORGE N. KAYA acknowledged the said instrument to be the free act and deed of the said County of Maui.

IN WITNESS WHEREOF, I have herunto set my hand and official seal.

Deoni Miller
Notary Public, State of Hawaii.

My commission expires: 7/21/93

RECORDER'S MEMO: Legibility of Writing, Typing or Printing UNSATISFACTORY
in this Document when received.

STATE OF HAWAII)
) SS.
CITY AND COUNTY OF HONOLULU)

On this 5th day of October, 1990, before me appeared RONALD K. WATASE, to me personally known, who, being by me duly sworn, did say that he is the Vice President of HORITA-MAUI, INC., a Hawaii corporation, that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and said RONALD K. WATASE acknowledged said instrument to be the free act and deed of said corporation.

Elizabeth Winstanley
Notary Public, State of Hawaii

My commission expires: 02-11-93

EXHIBIT A

KA'ONO'ULU ESTATES - PHASE I
Description of Project Boundary

Land situated on the westerly side of Piilani Highway, Federal Aid Project Number RF-031-1(5), and on the south side of Kenolio Subdivision (File Plan 1546) and on the north side of Haleakala Village Subdivision (File Plan 1938)

At Kaonoulu (Kihei), Wailuku and Makawao, Maui, Hawaii

Being a portion of Royal Patent 7447, Land Commission Award 3237, Part 2 to H. Hewahewa, Certificate of Boundaries No. 56

Beginning at a point at the southeasterly corner of this parcel of land, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU-O-KALI", being 11,709.34 feet North of 21,864.34 feet West and running by azimuths measured clockwise from True South:

1. 95° 48' 20" 590.00 feet along the Kaonoulu-Waiohuli Boundary, being also along Grant 9325, Apana 1 to Haleakala Ranch Company to a pipe;
2. 95° 59' 1,495.67 feet along the Kaonoulu-Waiohuli Boundary, being also along Lots 34, 33, 32, 31, 21, 20, 19, 9, 8, and 7 of Haleakala Village Subdivision (File Plan 1938), and Grant S-14200 to Edward and Angeline Kenolio to a pipe;
3. 101° 26' 180.91 feet along the remainder of Royal Patent 7447, Land Commission Award 3237, Part 2 to H. Hewahewa, Certificate of Boundaries No. 56 to a pipe;
4. 175° 22' 616.00 feet along the remainder of Royal Patent 7447, Land Commission Award 3237, Part 2 to H. Hewahewa, Certificate of Boundaries No. 56 to a pipe;
5. 85° 22' 163.42 feet along the remainder of Royal Patent 7447, Land Commission Award 3237, Part 2 to H. Hewahewa, Certificate of Boundaries No. 56 to a pipe;
6. 175° 22' 392.91 feet along the easterly side of Kihei Road to a pipe;

7. 281° 11' 30" 838.76 feet along the southerly side of Kaonoulu Street to a pipe;
8. 228° 03' 30" 133.20 feet along the easterly side of the former Kenolio Road to a pipe;
9. Thence along the easterly side of the former Kenolio Road on a curve to the left having a radius of 379.27 feet, the chord azimuth and distance being:
198° 43' 30" 371.60 feet to a pipe;
10. 169° 23' 30" 1,044.86 feet along the easterly side of the former Kenolio Road to a pipe;
11. 246° 37' 30" 1,016.14 feet along Grant 7107 to Loe Kahoa and Lots 19, 20, 21, and 22 of Kenolio Subdivision (File Plan 1546) to a pipe;
12. 355° 40' 206.34 feet along the remainder of Royal Patent 7447, Land Commission Award 3237, Part 2 to H. Hewahewa, Certificate of Boundaries No. 56 to a pipe;
13. 246° 36' 117.50 feet along the remainder of Royal Patent 7447, Land Commission Award 3237, Part 2 to H. Hewahewa, Certificate of Boundaries No. 56 to a pipe;
14. 175° 40' 206.34 feet along the remainder of Royal Patent 7447, Land Commission Award 3237, Part 2 to H. Hewahewa, Certificate of Boundaries No. 56 to a pipe;
15. 240° 23' 20" 41.57 feet along the southerly end of Kaiola Place to a pipe;
16. 270° 04' 30" 43.83 feet along a portion of Grant 11400 to Ernest K. Naeole to a pipe;
17. 346° 48' 144.94 feet along the westerly side of Piihoni Highway (F.A.P. No. RF-031-1 (5)) to a pipe;
18. 256° 48' 20.00 feet along the westerly side of Piihoni Highway (F.A.P. No. RF-031-1 (5)) to a pipe;

19. 346° 48'	250.00 feet	along the westerly side of Piilani Highway (F.A.P. No. RF-031-1 (5)) to a pipe;
20. 76° 48'	15.00 feet	along the westerly side of Piilani Highway (F.A.P. No. RF-031-1 (5)) to a pipe;
21. 346° 48'	200.00 feet	along the westerly side of Piilani Highway (F.A.P. No. RF-031-1 (5)) to a pipe;
22. 256° 48'	10.00 feet	along the westerly side of Piilani Highway (F.A.P. No. RF-031-1 (5)) to a pipe;
23. 346° 48'	900.00 feet	along the westerly side of Piilani Highway (F.A.P. No. RF-031-1 (5)) to a pipe;
24. 76° 48'	30.00 feet	along the westerly side of Piilani Highway (F.A.P. No. RF-031-1 (5)) to a pipe;
25. 346° 48'	95.00 feet	along the westerly side of Piilani Highway (F.A.P. No. RF-031-1 (5)) to a pipe;
26. 256° 48'	25.00 feet	along the westerly side of Piilani Highway (F.A.P. No. RF-031-1 (5)) to a pipe;
27. 346° 48'	785.00 feet	along the westerly side of Piilani Highway (F.A.P. No. RF-031-1 (5)) to a pipe;
28. 76° 48'	10.00 feet	along the westerly side of Piilani Highway (F.A.P. No. RF-031-1 (5)) to a pipe;
29. 346° 48'	220.00 feet	along the westerly side of Piilani Highway (F.A.P. No. RF-031-1 (5)) to a pipe;
30. 256° 48'	20.00 feet	along the westerly side of Piilani Highway (F.A.P. No. RF-031-1 (5)) to a pipe;
31. 346° 48'	364.26 feet	along the westerly side of Piilani Highway (F.A.P. No. RF-031-1 (5)) to a pipe;

12. Thence along the westerly side of Piilani Highway (F.A.P. No. RF-031-1(5)) on a curve to the left having a radius of 7,060.19 feet, the chord azimuth and distance being:
346° 16' 14.4" 130.45 feet to the point of beginning and containing an Area of 100.065 acres or 4,358,811 square feet.

SUBJECT, HOWEVER, to the following easements:

1. A existing Sanitary Sewer Easement in favor of the County of Maui.
2. A existing Roadway and Utility Easement "A" in favor of Norio, Sakae, Sharon Ai and Melvin Ken Terao.
3. A portion of Existing Easement No. 2 Central Maui Water Transmission System in favor of the County of Maui.



By: Warren S. Unemori

Registered Land Surveyor
Certificate No. 1569, ES

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MANNIBAL LAVARES
Mayor
ALVIN K. FUKUNAGA
Director
RALPH M. NAGAMINE
Deputy Director
GEORGE KAYA
Highways Division
FRED ARAKI, P.E.
Engineering Division
EASSIE MILLER, P.E.
Waste Management Division
AARON SHIMMOIO, P.E.
Land Use and Codes Administration



COUNTY OF MAUI
DEPARTMENT OF PUBLIC WORKS

300 SOUTH HIGH STREET
WAILUKU, MAUI, HAWAII 96793

September 25, 1989

IN REPLY, REFER TO:
3.1471

RECEIVED

SEP 26 1989

WARREN S. UNEMORI
ENGINEERING, INC.

Warren S. Unemori Engineering, Inc.
2145 Wells Street, Suite 403
Wailuku, Hawaii 96793

Dear Mr. Unemori:

Re: Kao-No-Ulu Estates - Phase I, TMK: 3-9-01:148 & 149

Preliminary approval is hereby granted to the above plat. Final approval shall be contingent upon compliance with the following conditions:

1. Requirements of the Department of Water Supply:

- a. Construct the improvements as shown on the preliminary plat with the following modifications:
 - 1) the fire hydrants should be spaced 350 feet apart; and
 - 2) relocate the existing 12-inch pipeline or construct a 12-inch pipeline along Kenolio Street in the vicinity of Lot 109.
- b. Pay a storage assessment of \$71,700.00.

2. Requirements of the State Highways Division:

- a. Any future development of Lots 145-147 will be subject to State Highways review and approval to ensure that all access, drainage, and potential traffic impact concerns to Pili Highway are addressed.
- b. Include access symbol on legend.
- c. Provide a drainage report to ensure drainage adequacy.

EXHIBIT "B"

Mr. Warren S. Unemori
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September 25, 1989

- d. Construction plans for the access improvements to the subdivision entrance must be submitted to our office for review and approval. Include sight distance study in plans.
 - e. Provide a traffic impact assessment report which identifies specific improvements that will be required to adequately serve the project traffic and the projected traffic volumes (year project completed and a ten (10) year projection).
 - f. Provide street lighting for the proposed intersection of Piilani Highway and Kaonoulu Street as determined by lighting calculations.
 - g. An access relocation request has to be processed with our office for proper revision of the Piilani R/W map abutting land deed.
3. Requirements from Maui Electric Company;
- a. Electricity is available from nearby existing facilities (overhead and/or underground).
 - b. Requires line extension (overhead and/or underground) within existing County or State road right-of-way.
 - c. Requires line extension (overhead and/or underground) within private road or property.
 - d. Requires easement(s) from owner/subdivider/developer within subdivision for new or existing MECO facilities.
4. Dedicate the road widening strips along Kaonoulu Street and S. Kihei Road to the County. Submit the original and five (5) copies of an executed deed to the County with a completed State conveyance tax exemption certificate. Please contact our Engineering Division for right-of-way requirements along S. Kihei Road.

Mr. Warren S. Unemori
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September 25, 1989

5. Improve the adjoining halves of Kaonoulu Street and S. Kihei Road and their road widening strips to the provisions of the subdivision ordinance for roads within the urban district.
6. Submit a Subdivision Agreement (for Large Lots) from the owner to provide all deferred roadway, drainage and sewer improvements upon actual development or future resubdivision of the large lots. The agreement should include the provisions of Section 18.16.270 - Large Lot Subdivisions.
7. Improve the proposed subdivision roads including the realignment of Kenolio Road and Kaonoulu Street, to the provisions of the subdivision ordinance for roads within the urban district.
8. Design and construct the drainage facilities to the requirements of the Department of Public Works. Provide a drainage easement for Kulanihakoi Gulch. Kulanihakoi Gulch crossing with S. Kihei Road may need to be improved and/or payment of pro-rata share for drainage improvements may be required.
9. Provide a park with at least 35,525 sq. ft. of land area.
10. Obtain a Special Management Area (SMA) permit and fulfill all conditional requirements of the permit.
11. Requirements of the Public Works Engineering Division:
 - a. No access permitted restriction shall be imposed as shown on the plat. Discuss the permitted access for Lot 147 with the Engineering Division.
 - b. Provide a traffic study to address the project's potential impact on the neighboring roadways, improvements to S. Kihei Road to provide for left-turn storage lanes may be required.
 - c. Obtain street name approvals from the Street Naming Commission and show street names on map.

Mr. Warren S. Unemori
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September 25, 1989

12. Provide a minimum lot width of 65' (R-2 residential district) for all lots. Please note that per Section 19.04.710 of the Maui County Code, lot width means the frontage of a lot or is measured at a point midway between the front and rear lot lines, whichever is the least.
13. Requirements of the Public Works Waste Management Division:
 - a. Provide a sewer system to the proposed lots for connection to the existing County sewer system.
 - b. The developer should be informed that Waste Management cannot insure that sewerage system capacity will be available for the project. Submit a recorded agreement executed by the owners and extended to their heirs and executors or assigns to indemnify and hold harmless the County for any damages, inconvenience, etc. resulting from the County's decision not to allow sewer connection to the County sewerage system. In addition, the document shall state that the County is not guaranteeing that sewer capacity will be available at the time of building permit issuance.
 - c. Sewage contribution calculations are required.
 - d. Developer may be assessed impact fees for treatment plant expansion costs.
 - e. Developer required to fund any necessary off-site improvements to collection system and sewerage pump stations.
 - f. Sewer easements through private property will not be accepted by the County.
14. Submit ten (10) copies of the construction plans for review and approval for the water, roadway, drainage and sewer improvements. The engineer is requested to discuss with the Division of Land Use and Codes Administration his preliminary road grades and drainage schemes and sewer schematic before proceeding with the finalization of the construction plans for submittal.

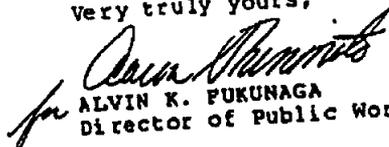
Mr. Warren S. Unemori
Page 5 (3.1471)
September 25, 1989

15. Submit fifteen (15) copies of the final plat in accordance with the procedures of Section 18.12.070 Technical Review, Action on Final Plat and Filing of Plat and prepared in accordance with the subdivision ordinance. The plat should include all revisions as per the attached map. The improvements and requirements should be completed or bonded and appropriate documentation filed with the Division of Land Use and Codes Administration before the technical review can be initiated.

Within one (1) year from the date of preliminary approval of the subdivision, fifteen (15) copies of the final map should be filed with the Division of Land Use and Codes Administration, unless an extension of time is granted by the division. Applications for extension of the filing period should be made in writing to the division at least fifteen (15) days before the expiration date.

Please call Mr. Francis Cerizo of our Land Use and Codes Administration at 243-7373, if you have any questions or need further assistance.

Very truly yours,


ALVIN K. FUKUNAGA
Director of Public Works

AS:jm

enclosure

cc: Engineering Division
Water Supply SD 89-110
Maui Electric Company
State Department of Transportation
State Department of Health
Waste Management Division
Land Use/Building Plans Examiners

EXHIBIT "C"

SUBDIVISION AGREEMENT
(For Large Lots)

Ka Ono Ulu Estates - Phase I

<u>LOT NUMBER</u>	<u>SQUARE FOOT</u>
1	8,342
2	8,096
3	8,249
4	8,051
5	7,930
6	8,463
7	7,769
8	7,658
9	7,665
10	8,044
11	8,909
12	10,178
13	9,097
14	9,384
15	8,665
16	7,972
17	8,322
18	8,535
19	7,900
20	7,634
21	7,630

<u>LOT NUMBER</u>	<u>SQUARE FOOT</u>
22	7,626
23	7,623
24	7,619
25	7,615
26	7,676
27	7,836
28	7,992
29	7,991
30	8,174
31	8,286
32	8,329
33	7,996
34	9,011
35	8,619
36	8,906
37	9,022
38	8,830
39	8,385
40	8,106
41	7,899
42	7,899
43	8,151
44	7,836
45	7,655
46	7,807

<u>LOT NUMBER</u>	<u>SQUARE FOOT</u>
47	7,642
48	7,690
49	7,634
50	7,889
51	7,891
52	8,522
53	8,054
54	8,783
55	9,985
56	7,521
57	7,840
58	7,543
59	8,994
60	7,560
61	7,501
62	7,610
63	8,040
64	8,089
65	7,870
66	7,858
67	7,936
68	7,936
69	7,984
70	8,094
71	8,619

<u>LOT NUMBER</u>	<u>SQUARE FOOT</u>
72	8,925
73	10,092
74	8,010
75	8,073
76	8,671
77	9,768
78	8,678
79	7,622
80	7,584
81	7,659
82	7,609
83	7,527
84	7,512
85	7,541
86	8,004
87	8,776
88	8,293
89	9,200
90	7,849
91	7,840
92	7,641
93	7,822
94	8,187
95	8,283
96	8,517

<u>LOT NUMBER</u>	<u>SQUARE FOOT</u>
97	8,124
98	8,007
99	8,150
100	8,669
101	8,055
102	7,838
103	8,528
104	7,548
105	7,958
106	7,558
107	8,087
108	9,149
109	12,609
110	8,634
111	8,049
112	7,973
113	8,045
114	7,768
115	7,904
116	8,047
117	8,041
118	8,040
119	8,049
120	8,176
121	8,107

<u>LOT NUMBER</u>	<u>SQUARE FOOT</u>
122	7,991
123	8,059
124	8,051
125	8,021
126	8,025
127	8,200
128	7,898
129	8,021
130	7,964
131	8,012
132	8,129
133	7,742
134	7,709
135	9,735
136	8,779
137	8,250
138	7,775
139	8,114
140	7,774
141	8,152
142	1,748
143	1,012
144	8,775
145	30,543
146	7,173

<u>LOT NUMBER</u>	<u>SQUARE FOOT</u>
147	26,504
148	8,748
149	9,891
150	59,478
151	32,992
152	46,505
153	22,426
154	14,650
155	32,867
156	12,652
157	91,877
158	16,476
159	139,132
160	17,732
161	2,256
162	33,442
163	3,470
164	3,609
165	185,149
166	1,570,014
167	762,861
168	48,712
169	14,453

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