

CONDOMINIUM PUBLIC REPORT

Prepared &

Issued by: Developer Stephen W. Long  
Address P. O. Box 1428, Hanalei, HI 96714

Project Name(\*): PU'U LO'IHI  
Address: Lot 9, Anini Vista Subdivision  
Kalihiwai, Kauai, Hawaii

Registration No. 4032 Effective date: October 29, 1998  
Expiration date: November 29, 1999

Preparation of this Report:

This report has been prepared by the Developer pursuant to the Condominium Property Act, Chapter 514A, Hawaii Revised Statutes, as amended. This report is not valid unless the Hawaii Real Estate Commission has issued a registration number and effective date for the report.

This report has not been prepared or issued by the Real Estate Commission or any other government agency. Neither the Commission nor any other government agency has judged or approved the merits or value, if any, of the project or of purchasing an apartment in the project.

Buyers are encouraged to read this report carefully, and to seek professional advice before signing a sales contract for the purchase of an apartment in the project.

Expiration Date of Reports. Preliminary Public Reports and Final Public Reports automatically expire thirteen (13) months from the effective date unless a Supplementary Public Report is issued or unless the Commission issues an order, a copy of which is attached to this report, extending the effective date for the report.

Exception: The Real Estate Commission may issue an order, a copy of which shall be attached to this report, that the final public report for a two apartment condominium project shall have no expiration date.

Type of Report:

     PRELIMINARY:      The developer may not as yet have created the condominium but has filed with the Real  
(yellow)                      Estate Commission minimal information sufficient for a Preliminary Public Report. A  
Final Public Report will be issued by the developer when complete information is filed.

  X   FINAL:                The developer has legally created a condominium and has filed complete information  
(white)                      with the Commission.  
[ X ] No prior reports have been issued.  
[   ] This report supersedes all prior public reports.  
[   ] This report must be read together with \_\_\_\_\_

     SUPPLEMENTARY:    This report updates information contained in the:  
(pink)                      [   ] Preliminary Public Report dated: \_\_\_\_\_  
[   ] Final Public Report dated: \_\_\_\_\_  
[   ] Supplementary Public Report dated: \_\_\_\_\_

And [   ] Supersedes all prior public reports.  
[   ] Must be read together with \_\_\_\_\_  
[   ] This report reactivates the \_\_\_\_\_  
public report(s) which expired on \_\_\_\_\_

(\*) Exactly as named in the Declaration

Disclosure Abstract: Separate Disclosure Abstract on this condominium project:

Required and attached to this report as Exhibit G.  Not required - Disclosures covered in this report.

Summary of Changes from Earlier Public Reports:

This summary contains a general description of the changes, if any, made by the developer since the last public report was issued. It is not necessarily all conclusive. Prospective buyers should compare this public report with the earlier reports if they wish to know the specific changes that have been made.

No prior reports have been issued by the developer.

Changes made are as follows:

\* \* \* \* \*

\* SPECIAL NOTICE: \*

\* THERE ARE COUNTY RESTRICTIONS ON THE NUMBER OF DWELLING UNITS, OR \*

\* OTHER STRUCTURES, WHICH MAY BE BUILT UPON THE PROPERTY. THEREFORE, \*

\* UNLESS THE PURCHASER IS PURCHASING AN EXISTING DWELLING, THERE IS NO \*

\* ASSURANCE THAT THE PURCHASER WILL BE ABLE TO BUILD A DWELLING UNIT \*

\* ON THE PROPERTY. THERE ALSO IS NO ASSURANCE THAT THE PURCHASER WILL \*

\* BE ABLE TO CONVERT AN EXISTING NON-RESIDENTIAL STRUCTURE TO \*

\* RESIDENTIAL USE. THE PURCHASER SHOULD CONSULT WITH THE APPROPRIATE \*

\* COUNTY AGENCIES TO DETERMINE WHETHER THE PURCHASER MAY BUILD A \*

\* DWELLING UNIT, OR ANY OTHER TYPE OF STRUCTURE, UPON THE PROPERTY. \*

\* 1. Issuance of an effective date for this Public Report does not \*

\* constitute an approval of the project by the Real Estate \*

\* Commission, or any other governmental agency, nor does it imply \*

\* that all County codes, ordinances and subdivision requirements \*

\* have been complied with. \*

\* 2. This project does not involve the sale of individual subdivided \*

\* lots. The land area beneath and immediately adjacent to each \*

\* unit, as shown on the Condominium Map, is designated as a \*

\* limited common element for that unit and does not represent a \*

\* legally subdivided lot. The dotted lines on the Condominium Map \*

\* merely represent the location of the limited common element \*

\* assigned to each unit. \*

\* 3. Facilities and improvements normally associated with County \*

\* approved subdivisions, such as fire protection devices, County \*

\* street lighting, electricity, upgraded water facilities, \*

\* improved access for owner and emergency traffic, drainage \*

\* facilities, etc., may not necessarily be provided for and \*

\* services such as County street maintenance and trash collection \*

\* will not be available for interior roads and driveways. \*

\* THE PROSPECTIVE PURCHASER IS CAUTIONED TO CAREFULLY REVIEW THE \*

\* CONDOMINIUM DOCUMENTS REFERENCED IN THIS PUBLIC REPORT FOR FURTHER \*

\* INFORMATION WITH REGARD TO THE FOREGOING. \*

\* \* \* \* \*

TABLE OF CONTENTS

	page
Preparation of this Report	1
Expiration Date of Reports	1
Type of Report	1
Disclosure Abstract	2
Summary of Changes from Earlier Public Reports	2
Table of Contents	3
General Information on Condominiums	4
Operation of the Condominium Project	4
I. PERSONS CONNECTED WITH THE PROJECT	5
Developer                      Attorney for Developer      General Contractor	
Real Estate Broker          Escrow Company              Condominium Managing Agent	
II. CREATION OF THE CONDOMINIUM; CONDOMINIUM DOCUMENTS	
A. Declaration	6
B. Condominium Map (File Plan)	6
C. Bylaws	6
D. House Rules	7
E. Changes to Condominium Documents	7
III. THE CONDOMINIUM PROJECT	
A. Interest to be Conveyed to Buyer	8
B. Underlying Land	9
C. Buildings and Other Improvements	10
D. Common Elements, Limited Common Elements, Common Interest	13
E. Encumbrances Against Title	14
F. Construction Warranties	15
G. Status of Construction	16
H. Project Phases	16
IV. CONDOMINIUM MANAGEMENT	
A. Management of the Common Elements	17
B. Estimate of Initial Maintenance Fees	17
C. Utility Charges for Apartments	17
V. MISCELLANEOUS	
A. Sales Documents Filed with the Real Estate Commission	18
B. Buyer's Right to Cancel Sales Contract	18
C. Additional Information Not Covered Above	20
D. Signature of Developer	21
EXHIBIT A: Condominium Map and Limited Common Element Locations	
EXHIBIT B: Summary of Sales Contract	
EXHIBIT C: Schedule of Apartments and Common Interests	
EXHIBIT D: Summary of Portions of Escrow Agreement	
EXHIBIT E: Common Elements and Limited Common Elements of the Project	
EXHIBIT F: Encumbrances Against Title	
EXHIBIT G: Disclosure Abstract	
EXHIBIT H: Estimate of Initial Maintenance Fees and Disbursements	
EXHIBIT I: Summary of Declaration of Restrictive Covenants for Anini Vista Estates Subdivision	
EXHIBIT J: Shoreline Management Permit for Anini Vista Subdivision	

## General Information On Condominiums

A condominium is a special form of real property. To create a condominium in Hawaii, the requirements of the Condominium Property Act, Chapter 514A, Hawaii Revised Statutes, must be complied with. In addition, certain requirements and approvals of the County in which the project is located must be satisfied and obtained.

Some condominium projects are leasehold. This means that the land or the building(s) and other improvements are leased to the buyer. The lease for the land usually requires that at the end of the lease term, the lessees (apartment owners/tenants) deliver their interest in the land to the lessor (fee property owner). The lease also usually requires that the lessees either (1) convey to the lessor the building(s) and other improvements, including any improvements paid for by the lessees; or (2) remove or dispose of the improvements at the lessee's expense. Leases for individual apartments often require that at the end of the lease term, the lessee deliver to the lessor the apartment, including any improvements placed in the apartment by the lessee.

If you are a typical condominium apartment owner, you will have two kinds of ownership: (1) ownership in your individual apartment; and (2) an undivided interest in the common elements.

"Common elements" are the areas of the condominium project other than the individual apartments. They are owned jointly by all apartment owners and include the land, either in fee simple or leasehold, and those parts of the building or buildings intended for common use such as foundations, columns, roofs, halls, elevators, and the like. Your undivided interest in the common elements cannot be separated from ownership of your apartment.

In some condominium projects, some common elements are reserved for the exclusive use of the owners of certain apartments. These common elements are called "limited common elements" and may include parking stalls, patios, lanais, trash chutes, and the like.

You will be entitled to exclusive ownership and possession of your apartment. Condominium apartments may be individually bought, sold, rented, mortgaged or encumbered, and may be disposed of by will, gift, or operation of law.

Your apartment will, however, be part of the group of apartments that comprise the condominium project. Study the project's Declaration, Bylaws, and House Rules. These documents contain important information on the use and occupancy of apartments and the common elements as well as the rules of conduct for owners, tenants, and guests.

### Operation of the Condominium Project

The Association of Apartment Owners is the entity through which apartment owners may take action with regard to the administration, management, and operation of the condominium project. Each apartment owner is automatically a member of the Association.

The Board of Directors is the governing body of the Association. Unless you serve as a board member or an officer, or are on a committee appointed by the board, your participation in the administration and operation of the condominium project will in most cases be limited to your right to vote as an apartment owner. The Board of Directors and officers can take certain actions without the vote of the owners. For example, the board may hire and fire employees, increase or decrease maintenance fees, borrow money for repair and improvements and set a budget. Some of these actions may significantly impact the apartment owners.

Until there is a sufficient number of purchasers of apartments to elect a majority of the Board of Directors, it is likely that the developer will effectively control the affairs of the Association. It is frequently necessary for the developer to do so during the early stages of development and the developer may reserve certain special rights to do so in the Declaration and Bylaws. Prospective buyers should understand that it is important to all apartment owners that the transition of control from the developer to the apartment owners be accomplished in an orderly manner and in a spirit of cooperation.

I. PERSONS CONNECTED WITH THE PROJECT

Developer: STEPHEN W. LONG Phone: (808) 826-4550  
Name (Business)  
P. O. Box 1428  
Business Address  
Hanalei, HI 96714

Names of officers or general partners of developers who are corporations or partnerships:

n/a  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Real Estate Broker: Sale by Owners. See Page 20. Phone: \_\_\_\_\_  
Name (Business)  
Business Address  
\_\_\_\_\_

Escrow: Title Guaranty Escrow Services, Inc. Phone: (808) 245-3381  
Name (Business)  
4414 Kukui Grove St. #204  
Business Address  
Lihue, HI 96766

General Contractor: Richard T. Costello Phone: (808) 742-8961  
Name dba Costello Construction Company (Business)  
P. O. Box 705  
Business Address  
Anahola, HI 96703

Condominium Managing Agent: Self-managed by the Association of Apartment Owners. Phone: n/a  
Name (Business)  
Business Address  
\_\_\_\_\_

Attorney for Developer: STEVEN R. LEE, ESQ. Phone: (808) 246-1101  
Name (Business)  
4473 Pahe'e Street, Suite L  
Business Address  
Lihue, Hawaii 96766

**II. CREATION OF THE CONDOMINIUM;  
CONDOMINIUM DOCUMENTS**

A condominium is created by recording in the Bureau of Conveyances and/or filing with the Land Court a Declaration of Condominium Property Regime, a Condominium Map (File Plan), and the Bylaws of the Association of Apartment Owners. The Condominium Property Act (Chapter 514A, HRS), the Declaration, Bylaws, and House Rules control the rights and obligations of the apartment owners with respect to the project and the common elements, to each other, and to their respective apartments. The provisions of these documents are intended to be, and in most cases are, enforceable in a court of law.

- A. Declaration of Condominium Property Regime contains a description of the land, buildings, apartments, common elements, limited common elements, common interests, and other information relating to the condominium project.

The Declaration for this condominium is:

- Proposed  
 Recorded - Bureau of Conveyances: Document No. 98-129016  
Book \_\_\_\_\_ Page \_\_\_\_\_  
 Filed - Land Court: Document No. \_\_\_\_\_

The Declaration referred to above has been amended by the following instruments [state name of document, date and recording/filing information]:

- B. Condominium Map (File Plan) shows the floor plan, elevation and layout of the condominium project. It also shows the floor plan, location, apartment number, and dimensions of each apartment.

The Condominium Map for this condominium project is:

- Proposed  
 Recorded - Bureau of Conveyances Condo Map No. 2787  
 Filed - Land Court Condo Map No. \_\_\_\_\_

The Condominium Map has been amended by the following instruments [state name of document, date and recording/filing information]:

- C. Bylaws of the Association of Apartment Owners govern the operation of the condominium project. They provide for the manner in which the Board of Directors of the Association of Apartment Owners is elected, the powers and duties of the Board, the manner in which meetings will be conducted, whether pets are prohibited or allowed and other matters which affect how the condominium project will be governed.

The Bylaws for this condominium are:

- Proposed  
 Recorded - Bureau of Conveyances: Document No. 98-129017  
Book \_\_\_\_\_ Page \_\_\_\_\_  
 Filed - Land Court: Document No. \_\_\_\_\_

The Bylaws referred to above have been amended by the following instruments [state name of document, date and recording/filing information]:

D. House Rules. The Board of Directors may adopt House Rules to govern the use and operation of the common elements and limited common elements. House Rules may cover matters such as parking regulations, hours of operation for common facilities such as recreation areas, use of lanais and requirements for keeping pets. These rules must be followed by owners, tenants, and guests. They do not need to be recorded or filed to be effective. The initial House Rules are usually adopted by the developer.

The House Rules for this condominium are:

Proposed                       Adopted                       Developer does not plan to adopt House Rules

E. Changes to Condominium Documents

Changes to the Declaration, Condominium Map, and Bylaws are effective only if they are duly adopted and recorded and/or filed. Changes to House Rules do not need to be recorded or filed to be effective.

1. Apartment Owners: Minimum percentage of common interest which must vote for or give written consent to changes:

	<u>Minimum Set by Law</u>	<u>This Condominium</u>
Declaration (and Condo Map)	75%*	<u>75%</u>
Bylaws	65%	<u>75%</u>
House Rules	---	<u>n/a</u>

\* The percentages for individual condominium projects may be more than the minimum set by law for projects with five or fewer apartments.

2. Developer:

No rights have been reserved by the developer to change the Declaration, Condominium Map, Bylaws or House Rules.

Developer has reserved the following rights to change the Declaration, Condominium Map, Bylaws or House Rules:



Other:

**IMPORTANT INFORMATION ON LEASEHOLD CONDOMINIUM PROJECTS**

The information contained in this report is a summary of the terms of the lease. For more detailed information, you should secure a copy of the lease documents and read them thoroughly.

If you have any legal questions about leasehold property, the lease documents or the terms of the lease and the consequences of becoming a lessee, you should seek the advice of an attorney.

There are currently no statutory provisions for the mandatory conversion of leasehold condominiums and there are no assurances that such measures will be enacted in the future.

In leasehold condominium projects, the buyer of an apartment will acquire the right to occupy and use the apartment for the time stated in the lease agreement. The buyer will not acquire outright or absolute fee simple ownership of the land. The land is owned by the lessor or the leased fee owner. The apartment owner or lessee must make lease rent payments and comply with the terms of the lease or be subject to the lessor's enforcement actions. The lease rent payments are usually fixed at specific amounts for fixed periods of time, and are then subject to renegotiation. Renegotiation may be based on a formula, by arbitration set in the lease agreement, by law or by agreement between the lessor and lessee. The renegotiated lease rents may increase significantly. At the end of the lease, the apartment owners may have to surrender the apartments, the improvements and the land back to the lessor without any compensation (surrender clause).

When leasehold property is sold, title is normally conveyed by means of an assignment of lease, the purpose of which is similar to that of a deed. The legal and practical effect is different because the assignment conveys only the rights and obligations created by the lease, not the property itself.

The developer of this condominium project may have entered into a master ground lease with the fee simple owner of the land in order to develop the project. The developer may have then entered into a sublease or a new lease of the land with the lessee (apartment owner). The developer may lease the improvements to the apartment owner by way of an apartment lease or sublease, or sell the improvements to the apartment owners by way of a condominium conveyance or apartment deed.

**B. Underlying Land:**

Address: Lot 9, Anini Vista Subdivision Tax Map Key (TMK): (4) 5-3-009-009  
Kalihiwai, Kauai, Hawaii

Address  TMK is expected to change because each unit may obtain a street  
address from the Department of Public works, County of Kauai

Land Area: 9.860  square feet  acre(s) Zoning: Agriculture

Fee Owner: STEPHEN W. LONG +  
 Name  
P. O. Box 1428  
 Address  
Hanalei, HI 96714

+ See Page 10A for names of additional owners.

Lessor: n/a  
 Name  
 \_\_\_\_\_  
 Address  
 \_\_\_\_\_

C. Buildings and Other Improvements:

1.  New Building(s)  Conversion of Existing Building(s)  Both New Building(s) and Conversion  
 2. Number of Buildings: 3 Floors Per Building 1  
 Exhibit \_\_\_\_\_ contains further explanations.

3. Principal Construction Material:  
 Concrete  Hollow Tile  Wood  
 Other Shade cloth and PVC Pipe

4. Uses Permitted by Zoning:

	No. of Apts.	Use Permitted By Zoning		No. of Apts.	Use Permitted By Zoning
<input type="checkbox"/> Residential	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Ohana	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Commercial	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Industrial	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Mix Res/Comm	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Agricultural	_____	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Hotel	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Recreational	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Timeshare	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Other: <u>Shade Structure</u>	<u>3</u>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

Is/Are this/these use(s) specifically permitted by the project's Declaration or Bylaws?  
 Yes  No

ADDITIONAL OWNER

Mark A. Werner\*      for Unit B  
P. O. Box 1733  
Hanalei, HI 96714

Michal F. Stover\*      for Unit A  
1535 Rockmont Circle  
Boulder, CO 80303

\* Purchaser under Agreement of Sale

5. Special Use Restrictions:

The Declaration and Bylaws may contain restrictions on the use and occupancy of the apartments. Restrictions for this condominium project include but are not limited to:

[X] Household pets may be kept consistent with any applicable law  
 [X] Pets: or restrictive covenants applicable to the project so long as they do not become a nuisance to the other owners.

[ ] Number of Occupants: \_\_\_\_\_  
Declaration of Restrictive Covenants for Anini Vista Subdivision,  
 [X] Other: a summary of which is attached hereto as Exhibit "I". See also terms of SMA Permit (Exh. J)

[ ] There are no special use restrictions.

6. Interior (fill in appropriate numbers):

Elevators: 0 Stairways: 0 Trash Chutes: 0

Apt. Type	Quantity	BR/Bath	Net Living Area (sf)*	Net Other Area (sf)	(Identify)
A-C	3	0/0	0	20	Shade structure
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____

Total Number of Apartments: 3

\*Net Living Area is the floor area of the apartment measured from the interior surface of the apartment perimeter walls.

Other documents and maps may give floor area figures which differ from those above because a different method of determining the floor area may have been used.

Boundaries of Each Apartment: Per Article II of the Declaration of Condominium Property Regime, the boundaries of each apartment shall be the outer surface of the entire building. Wires or conduits, pipes or any utility lines running over, under or through any apartment which are utilized for or serve more than one unit shall not be deemed a part of the apartment, the same being deemed common elements.

Permitted Alterations to Apartments: Permitted alterations to apartments are as allowed by County of Kauai zoning ordinances and recorded restrictions on the project, if any. Upon construction of each permanent improvement, an amendment to the Declaration of Condominium Property Regime will be required to disclose actual improvements as a matter of public record.

7. Parking Stalls:

Total Parking Stalls: 3

	<u>Regular</u>		<u>Compact</u>		<u>Tandem</u>		<u>TOTAL</u>
	<u>Covered</u>	<u>Open</u>	<u>Covered</u>	<u>Open</u>	<u>Covered</u>	<u>Open</u>	
Assigned (for each unit)	<u>      </u>	<u>1</u>	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>	<u>3</u>
Guest Unassigned	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>
Extra for Purchase	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>
Other: * Units A, B, & C have ample space for parking within their limited common elements' land area							
Total Covered & Open:	<u>3</u>		<u>0</u>		<u>0</u>		<u>3</u>

~~Each~~ <sup>residential</sup> apartment will have the exclusive use of at least 1\* parking stall(s).  
Buyers are encouraged to find out which stall(s) will be available for their use.

- Commercial parking garage permitted in condominium project.
- Exhibit \_\_\_\_\_ contains additional information on parking stalls for this condominium project.

8. Recreational and Other Common Facilities:

- There are no recreational or common facilities.
- Swimming pool       Storage Area       Recreation Area
- Laundry Area       Tennis Court       Trash Chute/Enclosure(s)
- Other: \_\_\_\_\_

9. Compliance With Building Code and Municipal Regulations: Cost to Cure Violations

- There are no violations.       Violations will not be cured.
- Violations and cost to cure are listed below:       Violations will be cured by \_\_\_\_\_  
(Date)

10. Condition and Expected Useful Life of Structural Components, Mechanical, and Electrical Installations  
(For conversions of residential apartments in existence for at least five years):

n/a

11. Conformance to Present Zoning Code

a.  No variances to zoning code have been granted.

Variance(s) to zoning code was/were granted as follows:

b. Conforming/Non-Conforming Uses, Structures, Lot

In general, a non-conforming use, structure, or lot is a use, structure, or lot which was lawful at one time but which does not now conform to present zoning requirements.

	<u>Conforming</u>	<u>Non-Conforming</u>	<u>Illegal</u>
Uses	<u>    X    </u>	<u>          </u>	<u>          </u>
Structures	<u>    X    </u>	<u>          </u>	<u>          </u>
Lot	<u>    X    </u>	<u>          </u>	<u>          </u>

If a variance has been granted or if uses, improvements or lot are either non-conforming or illegal, buyer should consult with county zoning authorities as to possible limitations which may apply.

Limitations may include restrictions on extending, enlarging, or continuing the non-conformity, and restrictions on altering and repairing structures. In some cases, a non-conforming structure that is destroyed or damaged cannot be reconstructed.

The buyer may not be able to obtain financing or insurance if the condominium project has a non-conforming or illegal use, structure, or lot.

D. Common Elements, Limited Common Elements, Common Interest:

1. Common Elements: Common Elements are those parts of the condominium project other than the individual apartments. Although the common elements are owned jointly by all apartment owners, those portions of the common elements which are designated as limited common elements (see paragraph 2 below) may be used only by those apartments to which they are assigned. The common elements for this project, as described in the Declaration, are:

described in Exhibit   E  .

as follows:

2. Limited Common Elements: Limited Common Elements are those common elements which are reserved for the exclusive use of the owners of certain apartments.

There are no limited common elements in this project.

The limited common elements and the apartments which use them, as described in the Declaration, are:

described in Exhibit E.

as follows:

3. Common Interest: Each apartment will have an undivided fractional interest in all of the common elements. This interest is called the "common interest." It is used to determine each apartment's share of the maintenance fees and other common profits and expenses of the condominium project. It may also be used for other purposes, including voting on matters requiring action by apartment owners. The common interests for the apartments in this project, as described in the Declaration, are:

described in Exhibit C.

as follows:

E. Encumbrances Against Title: An encumbrance is a claim against or a liability on the property or a document affecting the title or use of the property. Encumbrances may have an adverse effect on the property or your purchase and ownership of an apartment in the project.

Exhibit F describes the encumbrances against the title contained in the title report dated Sept. 16, 1998 and issued by Title Guaranty of Hawaii, Inc.

Blanket Liens:

A blanket lien is an encumbrance (such as a mortgage) on the entire condominium project that secures some type of monetary debt (such as a loan) or other obligation. A blanket lien is usually released on an apartment-by-apartment basis upon payment of specified sums so that individual apartments can be conveyed to buyers free and clear of the lien.

[ ] There are no blanket liens affecting title to the individual apartments.

[ X ] There are blanket liens which may affect title to the individual apartments.

Blanket liens (except for improvement district or utility assessments) must be released before the developer conveys the apartment to a buyer. The buyer's interest will be affected if the developer defaults and the lien is foreclosed prior to conveying the apartment to buyer.

<u>Type of Lien</u>	<u>Effect on Buyer's Interest and Deposit if Developer Defaults or Lien is Foreclosed Prior to Conveyance</u>
Mortgage Agreement of Sale Cotenancy Agreement	If foreclosed, Buyer's deposit shall be refunded (less any escrow cancellation fee) and the sales contract between Seller and Buyer shall be cancelled.

F. Construction Warranties:

Warranties for individual apartments and the common elements, including the beginning and ending dates for each warranty, are as follows:

1. Building and Other Improvements:       None

2. Appliances:                               None

G. Status of Construction and Estimated Completion Date:

Construction is complete. The shade structures, Units A, B and C, received final building approval on April 9, 1998.

H. Project Phases:

The developer [ ] has [X] has not reserved the right to add to, merge, or phase this condominium.

Summary of Developer's plans or right to perform for future development (such as additions, mergers or phasing):

#### IV. CONDOMINIUM MANAGEMENT

- A. **Management of the Common Elements:** The Association of Apartment Owners is responsible for the management of the common elements and the overall operation of the condominium project. The Association may be permitted, and in some cases may be required, to employ or retain a condominium managing agent to assist the Association in managing the condominium project.

**Initial Condominium Managing Agent:** When the developer or the developer's affiliate is the initial condominium managing agent, the management contract must have a term of one year or less and the parties must be able to terminate the contract on notice of 60 days or less.

The initial condominium managing agent for this project, named on page five (5) of this report, is:

- not affiliated with the Developer  the Developer or the Developer's affiliate.  
 self-managed by the Association of Apartment Owners  Other: \_\_\_\_\_

- B. **Estimate of Initial Maintenance Fees:**

The Association will make assessments against your apartment to provide funds for the operation and maintenance of the condominium project. If you are delinquent in paying the assessments, a lien may be placed on your apartment and the apartment may be sold through a foreclosure proceeding.

Initial maintenance fees are difficult to estimate and tend to increase as the condominium ages. Maintenance fees may vary depending on the services provided.

Exhibit H contains a schedule of estimated initial maintenance fees and maintenance fee disbursements (subject to change).

- C. **Utility Charges for Apartments:**

Each apartment will be billed separately for utilities except for the following checked utilities which are included in the maintenance fees:

- None  Electricity (\_\_\_\_\_ Common Elements only \_\_\_\_\_ Common Elements & Apartments)  
 Gas (\_\_\_\_\_ Common Elements only \_\_\_\_\_ Common Elements & Apartments)  
 Water  Sewer  Television Cable  
 Other \_\_\_\_\_

V. MISCELLANEOUS

A. Sales Documents Filed With the Real Estate Commission:

Sales documents on file with the Real Estate Commission include but are not limited to:

- Notice to Owner Occupants
  - Specimen Sales Contract  
Exhibit B contains a summary of the pertinent provisions of the sales contract.
  - Escrow Agreement dated September 11, 1998  
Exhibit D contains a summary of the pertinent provisions of the escrow agreement.
  - Other Specimen Apartment Deed
- 

B. Buyer's Right to Cancel Sales Contract:

1. Rights Under the Condominium Property Act (Chapter 514A, HRS):

Preliminary Report: Sales made by the developer are not binding on the prospective buyer. Sales made by the developer may be binding on the developer unless the developer clearly states in the sales contract that sales are not binding. A prospective buyer who cancels the sales contract is entitled to a refund of all moneys paid, less any escrow cancellation fee up to \$250.00.

Supplementary Report to a Preliminary Report: Same as for Preliminary Report.

Final Report or Supplementary Report to a Final Report: Sales made by the developer are binding if:

- A) The Developer delivers to the buyer a copy of:
  - 1) Either the Final Public Report OR the Supplementary Public Report which has superseded the Final Public Report for which an effective date has been issued by the Real Estate Commission; AND
  - 2) Any other public report issued by the developer prior to the date of delivery, if the report was not previously delivered to the buyer and if the report has not been superseded;
- B) The buyer is given an opportunity to read the report(s); AND
- C) One of the following has occurred:
  - 1) The buyer has signed a receipt for the report(s) and waived the right to cancel; or
  - 2) Thirty (30) days have passed from the time the report(s) were delivered to the buyer; or
  - 3) The apartment is conveyed to the buyer within 30 days from the date the report(s) were delivered to the buyer.

Material Change: Binding contracts with the Developer may be rescinded by the buyer if:

- A) There is a material change in the project which directly, substantially, and adversely affects (1) the use or value of the buyer's apartment or its limited common elements; or (2) the amenities available for buyer's use; AND
- B) The buyer has not waived the right to rescind.

If the buyer rescinds a binding sales contract because there has been a material change, the buyer is entitled to a full and prompt refund of any moneys the buyer paid.

2. Rights Under the Sales Contract: Before signing the sales contract, prospective buyers should ask to see and carefully review all documents relating to the project. If these documents are not in final form, the buyer should ask to see the most recent draft. These include but are not limited to the:

- A) Condominium Public Reports issued by the developer which have been given an effective date by the Hawaii Real Estate Commission.
- B) Declaration of Condominium Property Regime.
- C) Bylaws of the Association of Apartment Owners.
- D) House Rules.
- E) Condominium Map.
- F) Escrow Agreement.
- G) Hawaii's Condominium Property Act (Chapter 514A, HRS, as amended) and Hawaii Administrative Rules, (Chapter 16-107, adopted by the Real Estate Commission, as amended).
- H) Other Declaration of Restrictive Covenants; Deed; Declaration; Agreement; Declaration; Right of Entry; Cotenancy Agreement; SMA(U)-79-9 for Anini Vista Estates Subdivision

Copies of the condominium and sales documents and amendments made by the developer are available for review through the developer and are on file at the Department of Commerce and Consumer Affairs. Reprints of Hawaii's Condominium Property Act (Chapter 514A, HRS) and Hawaii Administrative Rules, Chapter 16-107, are available at the Cashier's Office, Department of Commerce and Consumer Affairs, 1010 Richards Street, 3rd Floor, Honolulu, Hawaii, mailing address: P. O. Box 541, Honolulu, HI 96809, at a nominal cost.

This Public Report is a part of Registration No. 4032 filed with the Real Estate Commission on 9-29-98.

Reproduction of Report. When reproduced, this report must be on:

yellow paper stock       white paper stock       pink paper stock

C. Additional Information Not Covered Above.

This is a condominium project, not a subdivision. Units purchased are not subdivided lots. To determine whether your expectations can be realized, you should carefully review the contents of this Report, especially Exhibit I, a summary of the recorded restrictive covenants for the subdivision within which this project is located. Among other things, the restrictive covenants govern land use, site improvement guidelines, building guidelines, view corridors and tree trimming guidelines and the establishment of a design review committee. You should also conduct your own investigations and ascertain the validity of information provided.

It is anticipated that the initial improvements on each unit will be replaced by or supplemented with a farm dwelling. The prospective purchaser shall have the right to build such farm dwelling at purchaser's expense. The purchaser shall also, in such event, file the "as-built" certificate within thirty days of completion of the farm dwelling in conformance with Section 514A-12, Hawaii Revised Statutes, and record an amendment of the Declaration of Condominium Property Regime ("Declaration") to describe the farm dwelling. The County of Kauai Planning Department requires, in order to process the necessary permits for the construction of a farm dwelling and the processing of a farm dwelling agreement, authorization from at least 75% of the legal and equitable ownership of the entire project, consistent with the Declaration and the Bylaws ("condominium documents"). Except as limited specifically by the condominium documents and subdivision restrictive covenants (if any), all uses permitted in the agricultural zone are permitted. Such uses include, but are not limited to, growing crops, raising animals, residence, diversified agriculture, forestry, orchards and nurseries and wildlife management. See Kauai County Comprehensive Zoning Ordinance, Article 8.7. for detailed information. In relation to specifically permitted uses of buildings and other improvements, structures shall only be occupied or used for agriculture, associated residential uses, and/or other uses permitted under the Kauai County Zoning Ordinances and the condominium documents. A farm dwelling may not be constructed unless a unit owner demonstrates to the County his ability to derive income from his property, established and verified prior to any building permit approval.

A buyer should understand that all development and use of the property shall be in compliance with County codes and ordinances, that owners in this condominium project will not necessarily receive the same County benefits as owners of approved subdivided lots, and that owners who develop their limited common element later than others may find that land use and zoning changes or insufficient utility capacities may thwart their expectations.

The developer has executed a Waiver and Release which, in exchange for issuance of building permits for the shade structures, the owner releases the County of Kauai from any claim arising out of the fact that water service is not provided by the County Water Department. The owner acknowledges, further, that there may not be future water service for the property from the County of Kauai and that the Waiver and Release Agreement is binding on all successors, heirs and assigns. A purchaser should contact the appropriate County Water Department to determine current status of water service prior to purchase.

Disclosure re: Selection of Real Estate Broker

This public report shall not bind a purchaser to the sale of any apartment until (1) the Developer first submits to the Real Estate Commission a duly executed disclosure abstract identifying the designated sales agent, and a duly executed copy of a broker listing agreement with a Hawaii-licensed real estate broker, and (2) gives a copy of said disclosure abstract to the purchaser together with a copy of the Public Report.

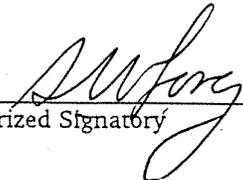
If the Developer(s), as the owners, choose to represent themselves in the sale of an apartment, said abstract need not be given to the purchaser, as all necessary disclosures are covered in this report.

Pursuant to sections 16-99-3(g) and 16-99-11(d), Hawaii Administrative Rules ("HAR"), prospective purchasers are hereby advised that Owner Mark A. Werner, RS27474, is a current and active Hawaii-licensed real estate salesperson. Further, that Mark A. Werner is associated with Pahio Vacation Ownership, Inc. Pursuant to section 16-99-11(c), HAR, "(n)o licensee shall be allowed to advertise 'For Sale by Owner', 'For Rent by Owner', 'For Lease by Owner', 'For Exchange by Owner' for Unit B."

D. The developer hereby certifies that all the information contained in this Report and the Exhibits attached to this Report and all documents to be furnished by the developer to buyers concerning the project have been reviewed by the developer and are, to the best of the developer's knowledge, information and belief, true, correct and complete.

STEPHEN W. LONG

Printed Name of Developer

By:   Date 9/21/98  
Duly Authorized Signatory

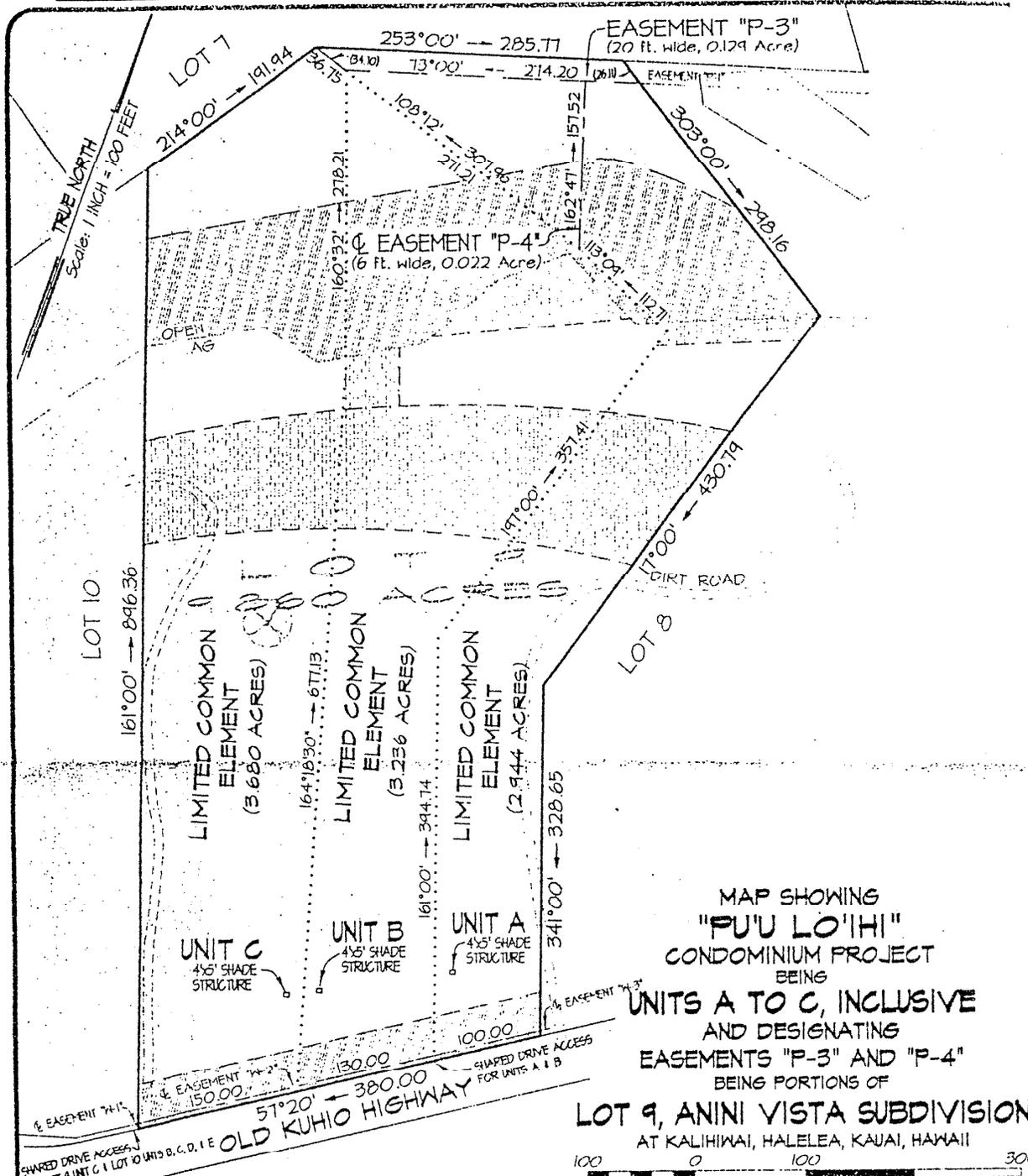
Stephen W. Long, Developer

Printed Name & Title of Person Signing Above

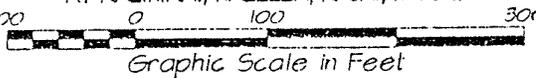
Distribution:

Department of Finance, County of Kauai  
Planning Department, County of Kauai

CONDOMINIUM PLOT PLAN AND LIMITED COMMON ELEMENT LOCATIONS



MAP SHOWING  
 "FU'U LO'HI"  
 CONDOMINIUM PROJECT  
 BEING  
 UNITS A TO C, INCLUSIVE  
 AND DESIGNATING  
 EASEMENTS "P-3" AND "P-4"  
 BEING PORTIONS OF  
 LOT 9, ANINI VISTA SUBDIVISION  
 AT KALIHUWAI, HALELEA, KAUAI, HAWAII



PREPARED FOR:  
 STEPHEN W. LONG & ASSOCIATES  
 P.O. BOX 1428  
 HANAIEI, HI 96814  
 MARCH 17, 1998  
 REVISED-APRIL 23, 1998

- NOTE:
1. THIS PROJECT DOES NOT INVOLVE THE SALE OF INDIVIDUAL LOTS. THE DOTTED LINES ON THE CONDOMINIUM MAP ARE FOR ILLUSTRATION PURPOSES ONLY. THEY REPRESENT EITHER A LIMITED COMMON ELEMENT OR COMMON ELEMENT.
  2. EASEMENT "P-3" FOR PEDESTRIAN PURPOSES IN FAVOR OF LOT 8.
  3. EASEMENT "P-4" FOR PEDESTRIAN PURPOSES IN FAVOR OF UNIT B.
  4. [Symbol] DENOTES NO BUILDING & RESTRICTED LANDSCAPE HEIGHTS AREA.
  5. [Symbol] DENOTES RESTRICTED BUILDING & LANDSCAPE AREA.
  6. THERE SHALL BE A 10' BUILDING SETBACK FROM CFR DIVISION LINES.



THIS MAP WAS PREPARED BY ME OR UNDER MY SUPERVISION  
 Ronald J. Wagner  
 RONALD J. WAGNER  
 Licensed Professional Land Surveyor  
 Certificate No. 50174

Wagner Engineering Services, Inc.  
 P.O. Box 851 Hanalei, HI 96714 (808) 826-7256  
 Tax Map Key: (4) 5-3-09:09

EXHIBIT B

SUMMARY OF SALES CONTRACT

The PU'U LO'IHI Sales Contract and Receipt (the "contract"), contains, among other provisions, the following (which may be modified or otherwise limited by provisions not summarized):

1. The method of payment of the purchase price to the escrow agent, subject to other terms.
2. The closing date for the purchase.
3. Whether, at the time of execution of the contract, an effective date for a final public report has been issued.
4. The terms and conditions of the sale which include, among other provisions, the following:
  - (a) That Purchaser will receive a copy of the final public report for the project.
  - (b) Purchaser agrees that all payments made will be placed on deposit with escrow pursuant to the terms of the Escrow Agreement.
  - (c) Seller has a right to extend the closing date by 31 days or by 31 days after the public report effective date is issued, whichever is later.
  - (d) After issuance of the Final Public Report effective date and Buyer's waiver of its right to cancel under Hawaii Revised Statutes Section 514A-62, Purchaser shall not have the right to rescind the contract.
  - (e) Purchaser has received a copy of the Escrow Agreement for the Project.
  - (f) If Purchaser defaults, Seller may cancel the contract or bring legal action against Purchaser to force sale, obtain money damages, or retain Purchaser's deposit money held in escrow.
  - (g) The unit the Purchaser is purchasing will be shown on a condominium map prior to closing and will have the right to cancel if it is different from that shown on the Exhibit A.
  - (h) That a deed conveying clear title will be given at closing, subject to certain obligations.
  - (i) The Purchaser agrees to give future easements if reasonably required for the project.
  - (j) The Purchaser will accept the Unit "AS-IS". Purchaser assumes all risks regarding any potential hazardous materials on the condo property or property adjoining or in the vicinity, including liability for suits by third parties. Seller is, however, unaware of any such materials, chemicals or conditions on the property.
  - (k) The payment of commissions, if any, is set out in the contract.
  - (l) Time is of the essence of the obligations of Purchaser under the contract.

**SPECIAL NOTICE:** THE FOREGOING SUMMARY IS NOT INTENDED TO BE A THOROUGH AND EXHAUSTIVE EXPLANATION OF ALL TERMS AND PROVISIONS CONTAINED IN THE CONTRACT. WHILE A PURCHASER CAN USE THIS SUMMARY AS A GENERAL SUMMARY OF THE PURCHASER'S RIGHTS AND OBLIGATIONS, THE PURCHASER MUST REFER TO THE PURCHASER'S CONTRACT TO DETERMINE THE BUYER'S ACTUAL RIGHTS AND OBLIGATIONS. IF ANY CONFLICT OR DIFFERENCE EXISTS BETWEEN THIS SUMMARY AND THE CONTRACT, THE CONTRACT WILL CONTROL NOT THIS SUMMARY.

**END OF EXHIBIT B**

**EXHIBIT C**

**SCHEDULE OF APARTMENTS AND COMMON INTERESTS**

Qty.	Unit No.	Area of Limited Common Element* (Acres)	No. of Br./Bath	Appx. Net Living Area (Sq. Ft.)	Appx. Other Area (Sq. Ft.)	% of Common Int.
1	A	2.944	0/0	0	20-shade structure	33 1/3
1	B	3.236	0/0	0	20-shade structure	33 1/3
1	C	3.680	0/0	0	20-shade structure	33 1/3

Pursuant to Section 16-107-5, Hawaii Administrative Rules, reference is hereby made to the method by which common interest has been computed. There are three units, each of which will burden the common elements equally. Therefore, the assessment of undivided interest both for common expense and for voting is 33 1/3% for each unit.

The common interest appurtenant to each unit shall be permanent. Subject to the zoning requirements and amendments of the Condominium Map and the Declaration of Condominium Property Regime, each unit owner may use the unit, alter or add to it in any manner deemed desirable, so long as it is permitted by law and the Declaration of Protective Covenants and House Rules, if any. If adjoining unit owners desire to alter and/or transfer portions of their respective units, they can do so by the filing of an amendment to the Condominium Map and the Declaration of Condominium Property Regime together with their respective signatures.

**\*Note:** Land areas referenced herein are not legally subdivided lots.

**END OF EXHIBIT C**

## EXHIBIT D

### SUMMARY OF PORTIONS OF ESCROW AGREEMENT

The Escrow Agreement ("Agreement") between TITLE GUARANTY ESCROW SERVICES, INC. (the "Escrow"), and Stephen W. Long, Mark A. Werner and Michal F. Stover (the "Seller"), contains, among other provisions, the following (which may be modified or otherwise limited by provisions not summarized):

1. Whenever Seller enters into a sales contract for the sale of an apartment, Seller will require that payments due under the sales contract be made to Escrow and will deliver an executed copy of the sales contract to Escrow.

2. Escrow will receive payments under the sales contract and sums received from any other source with respect to the project. Funds held under the Agreement will initially be deposited in an account for the project. Interest on all funds will be paid to Seller.

3. Escrow will release from the trust fund and disburse Buyer's funds at closing, unless: (a) Buyer has elected within seven days of signing the sales contract to cancel and receive all funds paid, without deduction; or (b) the Real Estate Commission has not issued a Final Public Report on the project or the requirements of the sales contract have not been met; or (c) Seller has not satisfied Escrow that all other requirements of Hawaii Revised Statutes have been met.

4. Escrow will return deposited sums to the Buyer without interest if Seller and Buyer give Escrow written notice to return the funds to Buyer, if there is a right to cancellation and refund of monies under the sales contract or otherwise. If there is a cancellation under the seven-day right, no fees will be charged Buyer. Thereafter, in the event of a cancellation as a matter of agreement or right, Buyer's funds shall be returned to Buyer less Escrow's cancellation fee, if any, and all other costs incurred in connection with the Escrow, not less than \$25.00.

5. Escrow will arrange for and supervise the signing of all documents which are to be signed subsequent to and contemplated by the sales contract.

6. As Escrow's compensation for its performance under this Agreement, Escrow will receive its schedule rate for each apartment for which an apartment deed of the project is handled by Escrow and recorded in the Bureau of Conveyances of the State of Hawaii. Escrow will record all applicable documents. The cost of title insurance will be an additional amount, based upon schedule rate.

**SPECIAL NOTICE:** THE ABOVE SUMMARY IS NOT INTENDED TO BE A THOROUGH AND EXHAUSTIVE EXPLANATION OF ALL TERMS AND PROVISIONS CONTAINED IN THE AGREEMENT. WHILE ONE CAN USE THIS SUMMARY AS A GENERAL SUMMARY OF THE AGREEMENT, ONE MUST REFER TO THE ACTUAL AGREEMENT TO DETERMINE THE RIGHTS AND OBLIGATIONS OF THE PARTIES. IF ANY CONFLICT OR DIFFERENCE EXISTS BETWEEN THIS SUMMARY AND THE AGREEMENT, THE AGREEMENT WILL CONTROL AND NOT THIS SUMMARY.

END OF EXHIBIT D

**EXHIBIT E**

**COMMON ELEMENTS OF THE PROJECT**

The common elements of the project are:

(a) the land in fee simple;

(b) all commonly used present or future ducts, electrical equipment, wiring and other central and appurtenant installations for common services, if any, including power, light, sewage, irrigation and telephone; and

(c) any and all other future elements and facilities in common use or necessary to the Project.

**LIMITED COMMON ELEMENTS OF THE PROJECT**

Certain parts of the common elements, referred to as the "limited common elements", have been designated and set aside for the exclusive use of one or more units, and such unit(s) have appurtenant exclusive easements for the use of such limited common elements. The limited common elements set aside, reserved and deemed a limited common element appurtenant to and for the exclusive use of each respective unit is that certain land area upon and around which Units A, B and C are located, shown and designated on the Condominium Map and the table below.

<u>Unit Number</u>	<u>Area of Limited Common Element*</u>
A	2.944 acres
B	3.236 acres
C	3.680 acres

\*Land areas referenced herein are not legally subdivided lots.

In addition, Easement P-4 is a limited common element pedestrian easement over Unit A in favor of Unit B.

**END OF EXHIBIT E**

**EXHIBIT F**

**ENCUMBRANCES AGAINST TITLE**

1. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in the following:

INSTRUMENT: DEED

DATED : January 20, 1967  
RECORDED : Liber 5582 Page 1

The foregoing includes, but is not limited to, matters relating to water reservations.

2. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in the following:

INSTRUMENT: AGREEMENT

DATED : November 21, 1980  
RECORDED : Liber 15273 Page 507  
WITH : the COUNTY OF KAUAI, a political subdivision of the State of Hawaii  
RE : no building permits shall be applied until construction of the off-site water line is commenced.

3. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in the following:

INSTRUMENT: AGREEMENT TO INCORPORATE AGRICULTURAL RESTRICTIONS INTO INSTRUMENTS OF CONVEYANCE

DATED : ---- (acknowledged May 2, 1980)  
RECORDED : Liber 15457 Page 110  
WITH : the COUNTY OF KAUAI PLANNING COMMISSION

4. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in the following:

INSTRUMENT: DECLARATION

DATED : December 1, 1981  
RECORDED : Liber 16478 Page 24

5. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in the following:

INSTRUMENT: AGREEMENT  
DATED : April 29, 1997  
RECORDED : Document No. 97-057327  
WITH : PRINCEVILLE UTILITIES COMPANY, INC.  
RE : water service

6. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in the following:

INSTRUMENT: DECLARATION  
DATED : May 6, 1997  
RECORDED : Document No. 97-061606

7. RIGHT OF ENTRY

TO : CITIZENS UTILITIES COMPANY  
DATED : March 18, 1997  
RECORDED : Document No. 97-069217  
GRANTING : a right-of-entry for the purposes of building, constructing, repairing, maintaining and operating pole and wire lines, and/or underground lines and related appliances and equipment for the transmission and distribution of electricity and for communications and control circuits.

8. GRANT

TO : PRINCEVILLE UTILITIES COMPANY, INC.  
DATED : September 16, 1997  
RECORDED : Document No. 97-130955  
GRANTING : an easement to construct, reconstruct, install, maintain, operate, repair and remove an underground waterline or lines, etc., as part of Grantee's water system, on, over, under and across the following described easement area:

All of that certain parcel of land (portion(s) of the land(s) described in and covered by Land Patent Number 8173, Land Commission Award Number 8559-B, Apana 39 to William C. Lunailo) situate, lying and being along the north side of Old Kuhio Highway at Kalihiwai, Island and County of Kauai, State of Hawaii, being EASEMENT "W-2", 10 feet wide, over and across Lot 9 of the "ANINI VISTA SUBDIVISION", in favor of Lot 8 and Princeville Water Systems, Inc., being a strip of land extending five (5.00) feet on each side of the

centerline described as per survey of Wesley M. Thomas, Land Surveyor, with Wes Thomas & Associates, Inc., revised January 6, 1989:

Beginning at the southwest end of said centerline, being also on the east side of Lot 10, the coordinates of which referred to Government Survey Triangulation Station "POOKU" being 3,000.68 feet north and 9,688.26 feet east and running by azimuths measured clockwise from true South:

1. 237° 20' 380.00 feet along the remainders of TMK: 5-3-06: 11, 4th Division, and L.P. 8173, L.C. Aw. 8559-B, Ap. 39 to William C. Lunaliilo to the northeast end of said centerline, being also on the west side of Lot 8 and containing an area of 3,800 square feet, more or less.
  
9. Claims arising out of customary and traditional rights and practices, including without limitation, those exercised for subsistence, cultural, religious, access or gathering purposes, as provided for in the Hawaii Constitution or the Hawaii Revised Statutes.
  
10. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in the following:  

INSTRUMENT: LIMITED WARRANTY DEED

DATED : December 10, 1997

RECORDED : Document No. 98-031285
  
11. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in that certain unrecorded Special Management Area Use Permit SMA(U)-79-9 approved by the Planning Commission of the County of Kauai on March 8, 1979, and amended on August 18, 1997.
  
12. MORTGAGE  

MORTGAGOR : STEPHEN W. LONG, husband of Elizabeth A. Lipski

MORTGAGEE : HONOLULU LIMITED, a Maryland corporation

DATED : March 9, 1998

RECORDED : Document No. 98-031286

AMOUNT : \$525,000.00

13. AGREEMENT OF SALE

VENDOR : STEPHEN W. LONG  
VENDEE : MARK A. WERNER, single, as Tenant in  
Severalty, as to an undivided 49% interest  
DATED : March 5, 1998  
RECORDED : Document No. 98-031287  
AMOUNT : \$375.000.00

14. AGREEMENT OF SALE

VENDOR : STEPHEN W. LONG  
VENDEE : MICHAL F. STOVER, wife of Loring E. Harkness  
III, as Tenant in Severalty, as to an  
undivided 44% interest  
DATED : March 5, 1998  
RECORDED : Document No. 98-031288  
AMOUNT : \$330,000.00

15. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in the following:

INSTRUMENT: COTENANCY AGREEMENT  
DATED : March 5, 1998  
RECORDED : Document No. 98-031289  
PARTIES : STEPHEN W. LONG, "Long", MARK A. WERNER,  
"Werner", and MICHAL F. STOVER, "Stover"

16. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in the following:

INSTRUMENT: LONG RIGHT TO REDEEM AGREEMENT  
DATED : March 5, 1998  
RECORDED : Document No. 98-031290  
PARTIES : STEPHEN W. LONG, "Long", MARK A. WERNER,  
"Werner", and MICHAL F. STOVER, "Stover"

17. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in the following:

INSTRUMENT: WERNER RIGHT TO REDEEM AGREEMENT  
DATED : March 5, 1998  
RECORDED : Document No. 98-031291  
PARTIES : STEPHEN W. LONG, "Long", MARK A. WERNER,  
"Werner", and MICHAL F. STOVER, "Stover"

18. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in the following:

INSTRUMENT: STOVER RIGHT TO REDEEM AGREEMENT  
DATED : March 5, 1998  
RECORDED : Document No. 98-031292  
PARTIES : STEPHEN W. LONG, "Long", MARK A. WERNER,  
"Werner", and MICHAL F. STOVER, "Stover"

19. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in the following:

INSTRUMENT: DECLARATION OF CONDOMINIUM PROPERTY REGIME OF  
PU'U LO'IHI AND CONDOMINIUM MAP NO. 2787  
DATED : August 5, 1998  
RECORDED : Document No. 98-129016

20. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in the following:

INSTRUMENT: BYLAWS OF PU'U LO'IHI  
DATED : August 5, 1998  
RECORDED ; Document No. 98-129017

21. WAIVER AND RELEASE dated March 16, 1998 recorded as Document No. 98-036522 between Stephen W. Long and County of Kauai.

22. For real property taxes that may be due and owing, reference is made to the County of Kauai Director of Finance.

**END OF EXHIBIT F**

EXHIBIT G

DISCLOSURE ABSTRACT FOR  
PU'U LO'IHI

Pursuant to Hawaii Revised Statutes, Section 514(A)-61, the Developer of PU'U LO'IHI makes the following disclosures:

1. The Developer of the project is STEPHEN W. LONG, P. O. Box 1428, Hanalei, HI 96714; telephone 826-4550.
2. See Exhibit H to the Final Public Report for the projected maintenance fees. The Developer discloses that no reserve study was conducted in accordance with §514A-83.6, HRS, and replacement reserve rules, Subchapter 6, Title 16, Chapter 107, Hawaii Administrative Rules, as amended.
3. There are no warranties against defects of material and workmanship in individual apartments, common elements or exclusive use areas, and the purchaser buys his/her unit in an "as is" condition.
4. All of the apartments of the project are to be used for agricultural purposes and permitted residential use within the agricultural zone. There will be no commercial use except those activities permitted by the County of Kauai County Comprehensive Zoning Ordinance.
5. Individual Units will be sold "by owner" pursuant to the form purchase contract on file with the Real Estate commission.

  
\_\_\_\_\_  
STEPHEN W. LONG

Dated: 9/21/98 \_\_\_\_\_

RECEIPT

The undersigned has received a copy of the foregoing disclosure abstract with Exhibit H this \_\_\_ day of \_\_\_\_\_, 19\_\_.

Purchaser(s)  
\_\_\_\_\_  
\_\_\_\_\_

EXHIBIT H

ESTIMATE OF INITIAL MAINTENANCE FEES  
AND  
ESTIMATE OF MAINTENANCE FEE DISBURSEMENTS

Estimate of Initial Maintenance Fees:

<u>Apartment</u>	<u>Monthly Fee x 12 months =</u>	<u>Yearly Total</u>
A, B, & C, each	\$32.00	\$384.00

DEVELOPER DISCLOSES THAT BECAUSE THERE ARE NO DEPRECIABLE COMMON ELEMENTS IN THE PROJECT, NO RESERVES ARE COLLECTED AT THIS TIME. FURTHER, NO RESERVE STUDY WAS CONDUCTED IN ACCORDANCE WITH Sec. 514A-83.6, HAWAII REVISED STATUTES, OR SUBCHAPTER 6, TITLE 16, HAWAII ADMINISTRATIVE RULES, AS AMENDED.

The Real Estate Commission has not reviewed the estimates of maintenance fee assessments and disbursements for their accuracy or sufficiency.



## EXHIBIT I

### SUMMARY OF DECLARATION OF RESTRICTIVE COVENANTS FOR ANINI VISTA ESTATES SUBDIVISION

This Project is located on one of the lots of the Anini Vista Estates Subdivision. Lots in the subdivision are subject to a "Declaration of Restrictive Covenants" (herein called the "Restrictive Covenants") dated May 6, 1997, recorded in the Bureau of Conveyances of the State of Hawaii on as Document No. 97-061606. This is a summary of the types of restrictions applicable to the subdivision as a whole, and to the Lot upon which this Project is located. This summary is not meant to completely recite the actual provisions of the Restrictive Covenants, nor to cover every issue in which a purchaser might have interest. A prospective purchaser is urged to obtain a full copy of the Restrictive Covenants from the Developer prior to entering into an agreement to purchase a unit.

#### ARTICLE II Restrictions

Section 1. Land Use. The lots shall be used in accordance with the State Land Use District Regulation and the Comprehensive Zoning Ordinance of the Island and County of Kauai. Uses shall be limited to those uses permissible in an "A" agricultural district. Any dwelling constructed on any lot shall be a farm dwelling where agricultural activity provides income to the occupying family. No off street or curb parking is permitted, commercial activities (other than vacation rentals) shall be prohibited and no activities which generates offensive noises and offensive or noxious odors shall be permitted.

Section 2. Site Improvement Guidelines. There are height limitations on corner lots for fences, walls, hedges or shrubs to protect sight lines at intersections within the subdivision. There are restrictions on materials used for fences and a height limitation for walls. Recreational and construction vehicles, boats and trailers must be parked under roof. Lots must be kept mowed in a reasonable manner. There are limitations on the number of driveways permitted each lot. Construction is limited to the hours of 7:00 a.m. and 6:00 p.m.

Section 3. Building Guidelines. There are building setbacks. There are minimum building sizes, costs and limitations to construction materials. There are height restrictions. There is a minimum roof pitch slope and limitations on the type of roofing materials permissible. Garages must accommodate at least two cars. There are limitations on the numbers of barns and accessory farm buildings permitted on each dwelling site. There are restrictions against temporary buildings within the subdivision.

Section 4. View Corridors and Tree Trimming Guidelines. Lot owners shall have the right to reasonably trim vegetation in the open space zoning area to enhance views. Only licensed tree trimmers with adequate insurance coverage shall be allowed to undertake and complete such trimming work.

Section 5. Additional Restrictions. No noxious or offensive activity shall be carried on upon any lot. No temporary buildings shall be used on any lot for residential purposes. There are restrictions as to the types of signs permitted on the lots. There are guidelines for garbage and refuse disposal. Water will be

supplied only through a public water system. No improvements or any grading or other materials shall impede the free flow of water in the natural water courses located within the lots.

ARTICLE III  
Design Review Committee

Section 1. Design Review Committee and Amendments to the Guidelines. A design review committee consisting of three members will be established. These Restrictive Covenants, including the guidelines set forth herein, may be amended by a vote of at least seven of the nine lot owners.

ARTICLE IV  
General Provisions

Section 1. Duration. These Restrictive Covenants will be in effect from the date of their recordation and shall run with the land.

Section 2. Enforcement. The Association of Owners of Anini Vista Estates shall have the right and the responsibility to enforce any or all of the restrictive covenants and conditions imposed by this Declaration. Any disputes or differences or questions arising between the Association and a lot owner concerning the interpretation of or compliance with these covenants shall be submitted to arbitration.

END OF EXHIBIT I

EXHIBIT J

Shoreline Management Permit for Anini Vista Subdivision

1. SMA(U)-79-9 approved February 28, 1979
2. Amendment to SMA(U)-79-9 dated August 14, 1997

EDUARDO E. MALAPIT  
MAYOR



BRIAN K. NISHIMOTO  
PLANNING DIRECTOR

COUNTY OF KAUAI  
PLANNING DEPARTMENT  
4280 RICE STREET  
LIHUE, KAUAI, HAWAII 96766

March 8, 1979

Mr. James C. Blackwell, Jr.  
P. O. Box 908  
Lihue, Hawaii 96766

Subject: Special Management Area Use Permit SMA(U)-79-9  
James C. Blackwell, Jr./Alan T. Sanborn  
TMK: 5-3-06:11 Anini, Hanalei, Kauai

The Planning Commission at its meeting held on February 28, 1979, approved the above permit for a 10-lot agricultural subdivision, subject to the following conditions:

1. As recommended by the Health Department, compliance with Chapter 1, Sanitation, Public Health Regulations, relative to the cemeteries on the property.
2. As represented by the applicant, the subdivision shall not be developed under the Horizontal Property Regime Act.
3. All grading, earth-moving, agriculture grubbing or removal of vegetation shall be strictly in accordance with the County Grading Ordinance or an accepted management program of the U.S. Soil Conservation Service. All such activities shall be done in accordance with acceptable soil conservation, cultivation and other land management practices

Mr. James C. Blackwell, Jr.  
Page 2  
March 8, 1979

and shall not create adverse effects to shoreline lands, water, or ecosystems. Grading and grubbing shall be strictly limited within the steeper areas.

4. The subdivision shall comply with all applicable requirements of the Subdivision and Comprehensive Zoning Ordinances of the County of Kauai, and shall include deed restrictions for each lot which require compliance with the State Land Use Regulations relative to permissible uses in the Agriculture District, and if dwellings are to be constructed, the dwellings shall be farm dwellings as defined as follows:

"Farm Dwelling shall mean a single-family dwelling located on and used in connection with a farm where agricultural activity provides income to the family occupying the dwelling."

Draft copies of such deed restrictions shall be submitted prior to final approval of the subdivision and final copies submitted within 30 days after recordation, but not later than six (6) months from final approval. Failure to so record the deed restrictions shall automatically cause this subdivision to be in violation of the laws governing the subdivision of lands in the Agriculture District.

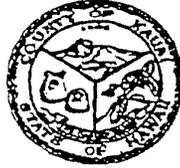
5. Prior to and during construction and use, all applicable State and County laws, codes, ordinances, rules and regulations be complied with.



BRIAN NISHIMOTO  
Planning Director

cc: Mayor, Pub. Works Dept.  
Water Dept., Health Dept.  
Hwys. Div., Taxation Br.

MARYANNE W. KUSAKA  
MAYOR



PLANNING DEPARTMENT

DEE M. CROWELL  
PLANNING DIRECTOR  
IAN K. COSTA  
DEPUTY PLANNING DIRECTOR  
TELEPHONE (808) 241-4477  
FAX (808) 241-6699

August 18, 1997

RECEIVED  
AUG 20 1997

Max W. J. Graham, Jr.  
Belles Graham Proudfoot & Wilson  
4334 Rice Street, Suite 202  
Lihue, Hawaii 96766

BELLES GRAHAM  
PROUDFOOT & WILSON

Subject: Request to Delete Condition No. 2  
Special Management Area Use Permit SMA(U)-79-9  
Anini Vista Estates Subdivision  
TMK: 5-3-09: 1 to 10

The Planning Commission at its meeting held on August 14, 1997 approved the subject request to delete Condition No. 2 of SMA Use Permit SMA(U)-79-9 in its entirety. In order to further address visual/scenic, environmental, and historical concerns of the project, the Planning Commission added the following new Condition No. 2 to the subject permit.

- "2. In order to further address visual/scenic, environmental, and historic concerns of the project the following shall apply:
  - a. In addressing environmental and visual impacts of the project, the owner/applicant of each lot shall submit a landscape plan for review and approval by the Planning Department prior to the development of final plans for construction or grading on each of the lots within the subdivision. As much as possible existing mature vegetation within the SMA portions of the project shall either be preserved or replaced with other approved vegetation. Landscape plan(s) should include identification of existing mature vegetation to be retained on the site, along with proposed landscaping for the project. Proposed landscaping shall consist of native or other species common to the area.

- b. Building design review shall be required for all buildings or structures on each lot in the subdivision. Design guidelines shall be as follows:
- i. As represented only a one (1) story building or dwelling will be permitted off the existing grade level. A lower second story may be permitted only at the lower level on a down slope lot condition as shown on the attached Exhibit "B".
  - ii. The color scheme of all buildings to be constructed shall be of medium to dark or compatible earth tone colors. The use of highly reflective colors or materials on the roofs of all buildings shall not be allowed. Color scheme samples shall be submitted to the Planning Department for review and approval prior to building permit application.
  - iii. The use of mirrored glass, reflective sun screens or other highly reflective materials for exterior windows shall be prohibited.
  - iv. All exterior lighting shall consist only of shielded lights, cut-off luminaries, or indirect lighting. Spotlights aimed upward or spotlighting of structures shall be prohibited.
  - v. With the exception of Lots 3, 4, 6, and 8 of the subdivision, the construction of all farm dwellings and accessory buildings shall be confined to the portions of each lot within the subdivision which are not located in the SMA. With the exception of Lots 3, 4, 6, and 8 of the subdivision, the development of buildings, structures, and roadways within the SMA shall not be allowed. Construction of the SMA portion of Lot 4 shall be limited to a Guest House and pedestrian pathway. Construction on the SMA portion of Lots 6 and 8 shall be limited to one farm dwelling each, accessory structures, and driveways, but shall not include any Guest Houses.

Page 3  
Max W. J. Graham, Jr.  
August 18, 1997

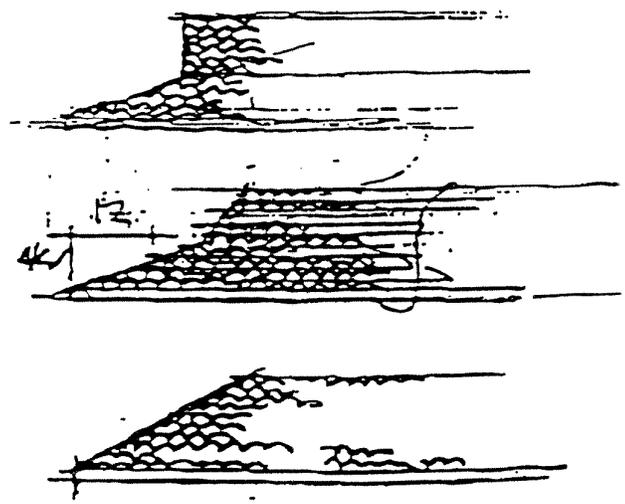
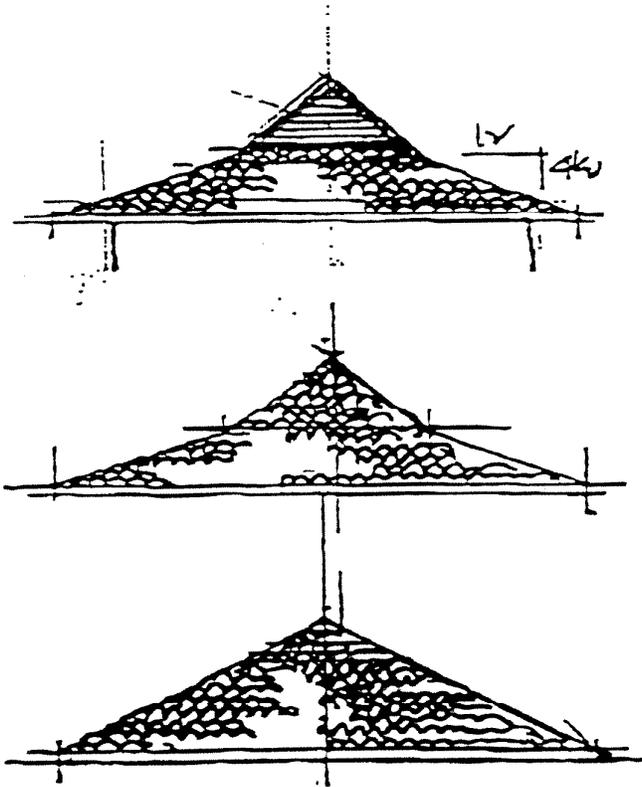
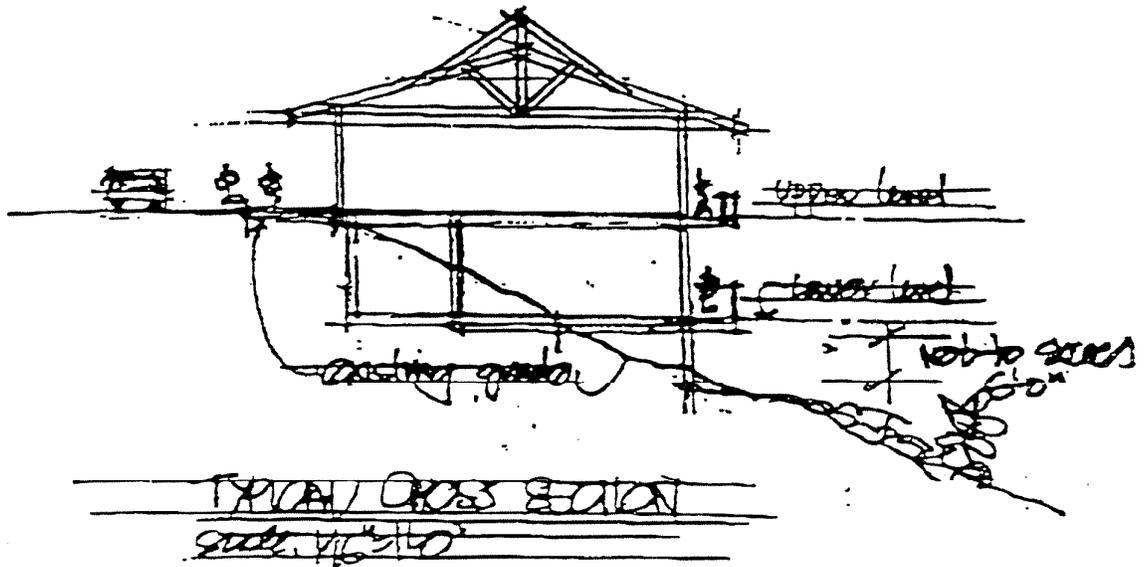
Construction of Lot 3, all of which is located in the SMA, shall be limited to one farm dwelling, accessory structures, a driveway, one Guest House, and such other structures as may be approved by the Planning Director or the Planning Commission pursuant to the Special Management Area Rules and Regulations of the County of Kauai.

- vi. Prior to the submittal of a building permit application for any development on Lots 3, 4, 6, and 8, the owner(s)/applicant(s) of Lots 3, 4, 6, and 8 shall submit a master plan for each respective lot for review and approval by the Planning Commission. The master plan shall indicate the location and orientation of all structures, buildings, and roadways on subject lots. Master plan should also include conceptual structure designs, landscaping, building location, and color schemes.
  
- c. As recommended by the State Historic Preservation Division (SHPD), prior to any construction or grading within the SMA portions of the lots within the subdivision, the applicant/owner shall contact the State Historic Preservation Division at 742-7033 regarding archaeological requirements for the project.



DEE M. CROWELL  
Planning Director

cc: State Historic Preservation Division  
Enclosure



TYPICAL ROOFS