

**DEVELOPER'S PUBLIC REPORT  
FOR A CONDOMINIUM**

CONDOMINIUM PROJECT NAME	HO'OMAIIKA'I VILLAGE AT MA'ILI BEACH
Project Address	87-107 Kulaaupuni Street Waianae, Hawaii 96792
Registration Number	6278
Effective Date of Report	<b>April 25, 2007</b>
Developer(s)	AINA PACIFIC INVESTMENTS, INC.

**Preparation of this Report**

The Developer prepared this report to disclose relevant information, including "material facts", that are reasonably known to the Developer about the condominium project covered by this report. This report has been prepared pursuant to the Condominium Property Act, Chapter 514B, Hawaii Revised Statutes, as amended from time to time. The law defines "material facts" to mean "any fact, defect, or condition, past or present that to a reasonable person, would be expected to measurably affect the value of the project, unit, or property being offered or proposed to be offered for sale."

This report has not been prepared or issued by the Real Estate Commission or any other governmental agency. The issuance by the Commission of an effective date for this Developer's Public Report (1) does not mean that the Commission approves or disapproves of the project; (2) does not mean that the Commission thinks that either all material facts or all pertinent changes, or both, about the project have been fully or adequately disclosed; and (3) is not the Commission's judgment of the value or merits of the project.

This report may be used by the Developer for promotional purposes only if it is used in its entirety. No person shall advertise or represent that the Commission has approved or recommended the project, this report or any of the documents submitted with Developer's application for registration of this project.

This report will be amended if, after the effective date of this report, any changes, either material or pertinent changes, or both, occur regarding the information contained in or omitted from this report. In that case, the Developer is required to submit immediately to the Commission an amendment to this report or an amended Developer's Public Report, clearly reflecting the changes, including any omitted material facts, together with such supporting information as may be required by the Commission. In addition, the Developer may choose at any time to change or update the information in this report. Annually, at least thirty days prior to the anniversary date of the Effective Date of this report, the Developer shall file an annual report to update the material contained in this report. If there are no changes, the Developer is required to state that there are no changes. The Developer's obligation to amend this report or to file annual reports ends when the initial sales of all units in the project have been completed.

Purchasers are encouraged to read this report carefully and to seek professional advice before signing a sales contract for the purchase of a unit in the project.

Signing a sales contract may legally bind a purchaser to purchase a unit in the project, though a purchaser may have rights to cancel or rescind a sales contract under particular circumstances that may arise.

---

*This material can be made available for individuals with special needs. Please call the Senior Condominium Specialist at 586-2643 to submit your request.*

## SPECIAL ATTENTION

[Use this page for special or significant matters which should be brought to the purchaser's attention and that are not covered elsewhere in this report.]

### SPECIAL NOTICE

1. This Public Report does not constitute an approval or disapproval of the project nor a representation that the project is in compliance with all County codes, ordinances and subdivision requirements.
  
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 dark dashed lines on the Condominium Map do not represent legally subdivided lots, but merely the location of the limited common element Yard Area 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 may not be available for interior roads and driveways, if any.
  
4. The Project is covered by a Cluster Permit issued by the Department of Planning and Permitting of the City and County of Honolulu. The Cluster Permit is binding on all present and future Unit owners, tenants and occupants of all Units of the Project and all other persons who shall at any time use the Project. A copy of the Cluster Permit is attached to this report as Exhibit "A".
  
5. Pursuant to Section 514B-41, HRS, each Unit owner shall not be obligated for the payment of the Unit owner's share of the common expenses until such time as the Developer sends the owner written notice that, after a specified date, the Unit owner shall be obligated to pay for the portion of common expenses allocated to owner's Unit; until such specified date the Developer shall assure all actual common expenses.

## TABLE OF CONTENTS

	<u>Page</u>
Preparation of this Report .....	1
General Information On Condominiums .....	2
Operation of the Condominium Project .....	2
1. THE CONDOMINIUM PROJECT .....	3
1.1 The Underlying Land .....	3
1.2 Buildings and Other Improvements .....	3
1.3 Unit Types and Sizes of Units .....	3
1.4 Parking Stalls .....	4
1.5 Boundaries of the Units .....	4
1.6 Permitted Alterations to the Units .....	4
1.7 Common Interest .....	4
1.8 Recreational and Other Common Facilities .....	4
1.9 Common Elements .....	5
1.10 Limited Common Elements .....	5
1.11 Special Use Restrictions .....	5
1.12 Encumbrances Against Title .....	5
1.13 Uses Permitted by Zoning and Zoning Compliance Matters .....	6
1.14 Other Zoning Compliance Matters .....	6
1.15 Conversions .....	7
1.16 Project In Agricultural District .....	8
1.17 Project with Assisted Living Facility .....	8
2. PERSONS CONNECTED WITH THE PROJECT .....	9
2.1 Developer .....	9
2.2 Real Estate Broker .....	9
2.3 Escrow Depository .....	9
2.4 General Contractor .....	9
2.5 Condominium Managing Agent .....	9
2.6 Attorney for Developer .....	9
3. CREATION OF THE CONDOMINIUM AND CONDOMINIUM DOCUMENTS .....	10
3.1 Declaration of Condominium Property Regime .....	10
3.2 Bylaws of the Association of Unit Owners .....	10
3.3 Condominium Map .....	10
3.4 House Rules .....	11
3.5 Changes to the Condominium Documents .....	11
3.6 Rights Reserved by the Developer to Make Changes to the Condominium Project or Condominium Documents .....	11
4. CONDOMINIUM MANAGEMENT .....	12
4.1 Management of the Common Elements .....	12
4.2 Estimate of the Initial Maintenance Fees .....	12
4.3 Utility Charges to be Included in the Maintenance Fee .....	12
4.4 Utilities to be Separately Billed to Unit Owner .....	12
5. SALES DOCUMENTS .....	13
5.1 Sales Documents Filed with the Real Estate Commission .....	13
5.2 Sales to Owner-Occupants .....	13
5.3 Blanket Liens .....	13
5.4 Construction Warranties .....	13
5.5 Status of Construction, Date of Completion or Estimated Date of Completion .....	14

## TABLE OF CONTENTS

	<u>Page</u>
5.6 Developer's Use of Purchaser Deposits to Pay for Project Construction Costs Before Closing or Conveyance .....	14
5.6.1 Purchaser Deposits Will Not Be Disbursed Before Closing or Conveyance .....	14
5.6.2 Purchaser Deposits Will Be Disbursed Before Closing .....	14
5.7 Rights Under the Sales Contract .....	16
5.8 Purchaser's Right to Cancel or Rescind a Sales Contract .....	16
5.8.1 Purchaser's 30-Day Right to Cancel a Sales Contract .....	16
5.8.2 Right to Cancel a Sales Contract if Completion Deadline Missed .....	17
5.8.3 Purchaser's Right to Rescind a Binding Sales Contract After a Material Change ..	17
6. MISCELLANEOUS INFORMATION NOT COVERED ELSEWHERE IN THIS REPORT.....	18
EXHIBIT A: Cluster Permit	
EXHIBIT B: Common Elements	
EXHIBIT C: Limited Common Elements	
EXHIBIT D: Encumbrances Against Title	
EXHIBIT E: Estimate of the Initial Maintenance Fees	
EXHIBIT F: Fee Owner's Revised Rights	
EXHIBIT G: Summary of Sales Contract	
EXHIBIT H: Summary of Escrow Agreement	
EXHIBIT I: Unit Types and Sizes of Units	

## **General Information On Condominiums**

A condominium is a special form of ownership of real property. To create a condominium in Hawaii after July 1, 2006, the Condominium Property Act, Chapter 514B, Hawaii Revised Statutes, must be followed. 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 and/or the building(s) and other improvements are leased to the purchaser. The lease for the land usually requires that at the end of the lease term, the lessees (unit owners) deliver their interest in the land to the lessor (fee property owner).

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

You will be entitled to exclusive ownership and possession of your unit. Subject to the documents governing them, condominium units may be individually bought, sold, rented, mortgaged or encumbered, and may be disposed of by will, gift or operation of law.

Your unit will, however, be part of the group of units that comprise the condominium project. Study the project's Declaration of Condominium Property Regime, Bylaws of the Association of Unit Owners, Condominium Map and House Rules, if any, which are being concurrently delivered to you with this report. These documents contain important information on the use and occupancy of the units and the common elements of the project, as well as the rules and regulations of conduct for unit owners, tenants and guests.

### **Operation of the Condominium Project**

The Association of Unit Owners is the entity through which unit owners may take action with regard to the administration, management and operation of the condominium project. Each unit 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 a unit owner. The Board and officers can take certain actions without the vote of the unit owners. For example, the Board may hire and fire employees, increase or decrease maintenance fees, adopt budgets for revenues, expenses and reserves and regulate the use, maintenance, repair and replacement of common elements. Some of these actions may significantly impact the unit owners.

Until there is a sufficient number of purchasers of units to elect a majority of the Board, it is likely at first 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 purchasers should understand that it is important to all unit owners that the transition of control from the Developer to the unit owners be accomplished in an orderly manner and in a spirit of cooperation.

**1. THE CONDOMINIUM PROJECT**

**1.1 The Underlying Land**

Fee Simple or Leasehold Project	<input checked="" type="checkbox"/> Fee Simple	<input type="checkbox"/> Leasehold (attach Leasehold Exhibit)
Developer is the Fee Owner	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Fee Owner's Name if Developer is not the Fee Owner	AINA PACIFIC INVESTMENTS, INC., a Hawaii corporation	
Address of Project	107 Kulaaupuni Street, Waianae, Hawaii 96792	
Address of Project is expected to change because	N/A	
Tax Map Key (TMK)	(1) 8-7-01:012	
Tax Map Key is expected to change because	N/A	
Land Area	44,516 square feet	
Developer's right to acquire the Property if Developer is not the Fee Owner (describe)	N/A	

**1.2 Buildings and Other Improvements**

Number of Buildings	4
Floors Per Building	2
Number of New Building(s)	4
Number of Converted Building(s)	0
Principal Construction Materials (concrete, wood, hollow tile, steel, glass, etc.)	Concrete slab on-grade foundation. The Buildings have steel framing, Hardi Board siding and Arch-80 composition shingle roofs.

**1.3 Unit Types and Sizes of Units**

Unit Type	Quantity	BR/Bath	Net Living Area	Net Other Areas	Other Areas (lanai, garage, etc.)	Total Area
See Exhibit <u>I</u> .						

8	<b>Total Number of Units</b>
---	------------------------------

Note: Net Living Area is the floor area of the unit measured from the interior surface of the perimeter walls of the unit. Other documents and maps may give floor area figures that differ from those above because a different method of determining floor area may have been used.

**1.4 Parking Stalls**

Total Parking Stalls in the Project:	16
Number of Guest Stalls in the Project:	0
Number of Parking Stalls Assigned to Each Unit:	2 (in each unit's garage)
Attach Exhibit <u>N/A</u> specifying the Parking Stall number(s) assigned to each unit and the type of parking stall(s) (regular, compact or tandem and indicate whether covered or open).	
If the Developer has reserved any rights to assign or re-assign parking stalls, describe such rights. N/A	

**1.5 Boundaries of the Units**

**Boundaries of the unit:** The perimeter of each Unit shall be established by the exterior face of the perimeter non-party walls, the exterior face of any glass windows, doors, panels or railings along the perimeter and, with respect to the party wall shared with the adjacent Unit, the inner decorated or finished surface of such party wall. Each of the Units shall include all walls, partitions, floors, ceilings and other improvements within said perimeter, including the garage, as shown on the Condominium Map, all built-in appliances and fixtures and all furnishings and appliances originally installed, and all air space encompassed within said perimeter; excluding therefrom, however, all elements, if any, herein established as common elements.

**1.6 Permitted Alterations to the Units**

Permitted alterations to the unit (if the unit is defined as a non-physical or spatial portion of the project, also describe what can be built within such portion of the project): The Project has been developed as a Cluster Project subject to certain rules, restrictions and guidelines regarding uniformity, as set forth in the Cluster Permit. Moreover, the Fee Owner's intent is that the Project, and each Unit therein, has and shall hereafter continue to have and maintain, to the greatest degree possible, a uniform style and appearance. Therefore, although individual Unit owners may make changes within the interior of their Units, their ability to change the exterior of, or expand their Unit, is extremely limited. Purchasers should carefully review Section 10 of the Declaration.

**1.7 Common Interest**

**Common Interest:** Each unit will have a percentage interest in the common elements appurtenant to each unit. This interest is called the "common interest". It is used to determine each unit'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 unit owners. The common interest for each unit in this project, as described in Declaration, is:  
Described in Exhibit N/A.

As follows:  
Each Unit has a common interest of 12.5% for all purposes, including voting.

**1.8 Recreational and Other Common Facilities (Check if applicable):**

<input type="checkbox"/>	Swimming pool
<input type="checkbox"/>	Laundry Area
<input type="checkbox"/>	Storage Area
<input type="checkbox"/>	Tennis Court
<input checked="" type="checkbox"/>	Recreation Area <u>Private Park and Croquet Field</u>
<input type="checkbox"/>	Trash Chute/Enclosure(s)
<input type="checkbox"/>	Exercise Room
<input type="checkbox"/>	Security Gate
<input type="checkbox"/>	Playground
<input type="checkbox"/>	Other (describe):

**1.9 Common Elements**

<p><u>Common Elements</u>: Common elements are those parts of the condominium project other than the individual units and any other real estate for the benefit of unit owners. Although the common elements are owned jointly by all unit owners, those portions of the common elements that are designated as limited common elements (see Section 1.10 below) may be used only by those units to which they are assigned. In addition to the common facilities described in Section 1.8 above, the common elements for this project, as described in the Declaration, are set forth below.</p>									
<p>Described in Exhibit B _____.</p>									
<p>Described as follows: See attached Exhibit "B".</p>									
<table border="1"> <thead> <tr> <th>Common Element</th> <th>Number</th> </tr> </thead> <tbody> <tr> <td>Elevators</td> <td>0</td> </tr> <tr> <td>Stairways</td> <td>0</td> </tr> <tr> <td>Trash Chutes</td> <td>0</td> </tr> </tbody> </table>		Common Element	Number	Elevators	0	Stairways	0	Trash Chutes	0
Common Element	Number								
Elevators	0								
Stairways	0								
Trash Chutes	0								

**1.10 Limited Common Elements**

<p><u>Limited Common Elements</u>: A limited common element is a portion of the common elements that is reserved for the exclusive use of one or more but fewer than all units in the project.</p>
<p>Described in Exhibit C _____.</p>
<p>Described as follows: See attached Exhibit "C".</p>

**1.11 Special Use Restrictions**

<p>The Declaration and Bylaws may contain restrictions on the use and occupancy of the units. Restrictions for this project include, but are not limited to, those described below.</p>	
<input checked="" type="checkbox"/>	Pets:
<input type="checkbox"/>	Number of Occupants:
<input type="checkbox"/>	Other:
<input type="checkbox"/>	There are no special use restrictions.

**1.12 Encumbrances Against Title**

<p>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 a unit in the project. Encumbrances shown may include blanket liens which will be released prior to conveyance of a unit (see Section 5.3 on Blanket Liens).</p>
<p>Exhibit D _____ describes the encumbrances against title contained in the title report described below.</p>
<p>Date of the title report: March 12, 2007</p>
<p>Company that issued the title report: Fidelity National Title Insurance Company</p>

**1.13 Uses Permitted by Zoning and Zoning Compliance Matters**

Uses Permitted by Zoning							
	Type of Use	No. of Units	Use Permitted by Zoning			Zoning	
<input checked="" type="checkbox"/>	Residential	8	<input checked="" type="checkbox"/>	Yes	<input type="checkbox"/>	No	R-5
<input type="checkbox"/>	Commercial		<input type="checkbox"/>	Yes	<input type="checkbox"/>	No	
<input type="checkbox"/>	Mix Residential/Commercial		<input type="checkbox"/>	Yes	<input type="checkbox"/>	No	
<input type="checkbox"/>	Hotel		<input type="checkbox"/>	Yes	<input type="checkbox"/>	No	
<input type="checkbox"/>	Timeshare		<input type="checkbox"/>	Yes	<input type="checkbox"/>	No	
<input type="checkbox"/>	Ohana		<input type="checkbox"/>	Yes	<input type="checkbox"/>	No	
<input type="checkbox"/>	Industrial		<input type="checkbox"/>	Yes	<input type="checkbox"/>	No	
<input type="checkbox"/>	Agricultural		<input type="checkbox"/>	Yes	<input type="checkbox"/>	No	
<input type="checkbox"/>	Recreational		<input type="checkbox"/>	Yes	<input type="checkbox"/>	No	
<input type="checkbox"/>	Other(specify)		<input type="checkbox"/>	Yes	<input type="checkbox"/>	No	
Is/Are this/these use(s) specifically permitted by the project's Declarations or Bylaws?			<input checked="" type="checkbox"/>	Yes	<input type="checkbox"/>	No	
Variances to zoning code have been granted.			<input type="checkbox"/>	Yes	<input checked="" type="checkbox"/>	No	
Describe any variances that have been granted to zoning code.			N/A				

**1.14 Other Zoning Compliance Matters**

Conforming/Non-Conforming Uses, Structures and Lots
<p>In general, a non-conforming use, structure or lot is a use, structure or lot that was lawful at one time but that does not now conform to present zoning requirements. Under present zoning requirements, limitations may apply to extending, enlarging or continuing the non-conformity and to altering and repairing non-conforming structures. In some cases, a non-conforming structure that is destroyed or damaged cannot be reconstructed.</p> <p>If a variance has been granted or if uses, structures or lots are either non-conforming or illegal, the purchaser should consult with county zoning authorities as to possible limitations that may apply in situations such as those described above.</p> <p>A purchaser may not be able to obtain financing or insurance if the condominium project has a non-conforming or illegal use, structure or lot.</p>

	Conforming	Non-Conforming	Illegal
Uses	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Structures	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lot	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

<p>If a non-conforming use, structure or lot exists in this project, this is what will happen under existing laws or codes if the structure is damaged or destroyed:</p> <p>N/A</p>
---

**1.15 Conversions**

<p><b>Developer's statements regarding units that may be occupied for residential use and that have been in existence for five years or more.</b></p>	<p><input type="checkbox"/> <b>Applicable</b>  <input checked="" type="checkbox"/> <b>Not Applicable</b></p>
<p>Developer's statement, based upon a report prepared by a Hawaii-licensed architect or engineer, describing the present condition of all structural components and mechanical and electrical installations material to the use and enjoyment of the units:</p>	
<p>Developer's statement of the expected useful life of each item reported above:</p>	
<p>List of any outstanding notices of uncured violations of any building code or other county regulations:</p>	
<p>Estimated cost of curing any violations described above:</p>	

<p><b>Verified Statement from a County Official</b></p>
<p>Regarding any converted structures in the project, attached as Exhibit _____ is a verified statement signed by an appropriate county official which states that either:</p> <p>(A) The structures are in compliance with all zoning and building ordinances and codes applicable to the project at the time it was built, and specifying, if applicable:</p> <ul style="list-style-type: none"> <li>(i) Any variances or other permits that have been granted to achieve compliance;</li> <li>(ii) Whether the project contains any legal nonconforming uses or structures as a result of the adoption or amendment of any ordinances or codes; and</li> <li>(iii) Any violations of current zoning or building ordinances or codes and the conditions required to bring the structure into compliance;</li> </ul> <p>or</p> <p>(B) Based on the available information, the county official cannot make a determination with respect to the foregoing matters in (A) above.</p>
<p>Other disclosures and information:</p>

**1.16 Project In Agricultural District**

<p><b>Is the project in an agricultural district as designated by the land use laws of the State of Hawaii?</b>  <b>If answer is "Yes", provide information below.</b></p>	<p><input type="checkbox"/> Yes  <input checked="" type="checkbox"/> No</p>
<p>Are the structures and uses anticipated by the Developer's promotional plan for the project in compliance with all applicable state and county land use laws? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If the answer is "No", provide explanation.</p>	
<p>Are the structures and uses anticipated by the Developer's promotional plan for the project in compliance with all applicable county real property tax laws? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If the answer is "No", provide explanation and state whether there are any penalties for noncompliance.</p>	
<p>Other disclosures and information:</p>	

**1.17 Project with Assisted Living Facility**

<p><b>Does the project contain any assisted living facility units subject to Section 321-11(10), HRS?</b>  <b>If answer is "Yes", complete information below.</b></p>	<p><input type="checkbox"/> Yes  <input checked="" type="checkbox"/> No</p>
<p>Licensing requirements and the impact of the requirements on the costs, operations, management and governance of the project.</p>	
<p>The nature and the scope of services to be provided.</p>	
<p>Additional costs, directly attributable to the services, to be included in the association's common expenses.</p>	
<p>The duration of the provision of the services.</p>	
<p>Other possible impacts on the project resulting from the provision of the services.</p>	
<p>Other disclosures and information.</p>	

## 2. PERSONS CONNECTED WITH THE PROJECT

<p><b>2.1 Developer(s)</b></p>	<p>Name: AINA PACIFIC INVESTMENTS, INC., a Hawaii corporation, P.O. Box 701136, Kapolei, Hawaii 96709</p> <p>Business Address:</p> <p>Business Phone Number: (808) 625-6574</p> <p>E-mail Address:</p>
<p>Names of officers and directors of developers that are corporations; general partners of a partnership; partners of a limited liability partnership (LLP); or a manager and members of a limited liability company (LLC) (attach separate sheet if necessary).</p>	<p>CHRIS VENN President/Vice President/Treasurer/Secretary</p>
<p><b>2.2 Real Estate Broker</b></p>	<p>Name: MERIDIAN PROPERTIES, INC. Business Address: 1600 Kapiolani Blvd., Honolulu, HI</p> <p>Business Phone Number: (808) 942-2224</p> <p>E-mail Address:</p>
<p><b>2.3 Escrow Depository</b></p>	<p>Name: FIDELITY NATIONAL TITLE INSURANCE COMPANY Business Address: 201 Merchant St,#2100,Honolulu, HI</p> <p>Business Phone Number: (808) 536-0404</p>
<p><b>2.4 General Contractor</b></p>	<p>Name: CUTWATER BUILDINGS, LLC Business Address: P.O. Box 1153, Waialua, HI 96791</p> <p>Business Phone Number: (808) 383-5964</p>
<p><b>2.5 Condominium Managing Agent</b></p>	<p>Name: None, self managed by the Association Business Address:</p> <p>Business Phone Number:</p>
<p><b>2.6 Attorney for Developer</b></p>	<p>Name: WILLIAM C. BYRNS, ESQ. Business Address: 2650 ASB Twr, 1001 Bishop St Honolulu, HI 96813</p> <p>Business Phone Number: (808) 523-3080</p>

### 3. CREATION OF THE CONDOMINIUM AND CONDOMINIUM DOCUMENTS

A condominium is created by recording in the Bureau of Conveyances (Regular System) or filing in the Office of the Assistant Registrar of the Land Court, or both, a Declaration of Condominium Property Regime, a Condominium Map and the Bylaws of the Association of Unit Owners. The Condominium Property Act (Chapter 514B, HRS), the Declaration, Bylaws and House Rules control the rights and obligations of the unit owners with respect to the project and the common elements, to each other, and to their respective units.

#### 3.1 Declaration of Condominium Property Regime

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

Land Court or Bureau of Conveyances	Date of Document	Document Number
Declaration	2/22/2007	2007-049115

Amendments to Declaration of Condominium Property Regime		
Land Court or Bureau of Conveyances	Date of Document	Document Number
N/A		

#### 3.2 Bylaws of the Association of Unit Owners

The Bylaws of the Association of Unit Owners govern the operation of the condominium project. They provide for the manner in which the Board of Directors of the Association of Unit 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 that affect how the condominium project will be governed.

Land Court or Bureau of Conveyances	Date of Document	Document Number
Bylaws	2/22/2007	2007-049116

Amendments to Bylaws of the Association of Unit Owners		
Land Court or Bureau of Conveyances	Date of Document	Document Number
N/A		

#### 3.3 Condominium Map

The Condominium Map contains a site plan and floor plans, elevations and layout of the condominium project. It also shows the floor plan, unit number and dimensions of each unit.

Land Court Map Number	
Bureau of Conveyances Map Number	4414
Dates of Recordation of Amendments to the Condominium Map:	

**3.4 House Rules**

The Board of Directors may adopt rules and regulations (commonly called "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. Changes to House Rules do not need to be recorded to be effective.

The House Rules for this project:

Are Proposed	<input type="checkbox"/>
Have Been Adopted and Date of Adoption	<input type="checkbox"/>
Developer does not plan to adopt House Rules	<input checked="" type="checkbox"/>

**3.5 Changes to the Condominium Documents**

Changes to Condominium Documents: Changes to the Declaration, Bylaws and Condominium Map are effective only if they are duly adopted and recorded. Where permitted, the minimum percentages of the common interest that must vote for or give written consent to changes to the Declaration, Bylaws and Condominium Map are set forth below. The percentages for any individual condominium project may be more than the minimum set by law if the Declaration or Bylaws for the project so provide.

Document	Minimum Set by Law	This Condominium
Declaration	67%	67%
Bylaws	67%	67%

**3.6 Rights Reserved by the Developer to Make Changes to the Condominium Project or Condominium Documents**

<input type="checkbox"/>	No rights have been reserved to the Developer to change the Declaration, Bylaws, Condominium Map or House Rules (if any).
<input checked="" type="checkbox"/>	<p>Developer has reserved the right to change the Declaration, Bylaws, Condominium Map and House rules (if any) and to add to or merge the project or to develop the project in one or more phases, and such rights are summarized as follows:</p> <p>Section 24.b. of the Declaration permits the Developer to amend the Declaration to file the "as built" verified statement (with plan, if applicable) required by Section 514B-34, HRS.</p> <p>Section 29 of the Declaration provides as follows: See attached Exhibit "F".</p>

#### 4. CONDOMINIUM MANAGEMENT

##### 4.1 Management of the Common Elements

<p><b>Management of the Common Elements:</b> The Association of Unit 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.</p>	
<p>The Initial Condominium Managing Agent for this project is (check one):</p>	
<input type="checkbox"/>	Not affiliated with the Developer
<input checked="" type="checkbox"/>	None (self-managed by the Association)
<input type="checkbox"/>	The Developer or an affiliate of the Developer
<input type="checkbox"/>	Other (explain)

##### 4.2 Estimate of the Initial Maintenance Fees

<p><b>Estimate of the Initial Maintenance Fees:</b> The Association will make assessments against your unit 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 unit and the unit 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.</p>	
<p>Exhibit <u>E</u> contains a breakdown of the estimated annual maintenance fees and the monthly estimated maintenance fee for each unit, certified to have been based on generally accepted accounting principles, with the Developer's statement as to when a unit owner shall become obligated to start paying the unit owner's share of the common expenses.</p>	

##### 4.3 Utility Charges to be Included in the Maintenance Fee

<p>If checked, the following utilities are included in the maintenance fee:</p>	
<input checked="" type="checkbox"/>	Electricity for the common elements
<input type="checkbox"/>	Gas for the common elements
<input checked="" type="checkbox"/>	Water for the common elements
<input type="checkbox"/>	Sewer
<input type="checkbox"/>	TV cable
<input type="checkbox"/>	Other (specify)

##### 4.4 Utilities to be Separately Billed to Unit Owner

<p>If checked, the following utilities will be billed to each unit owner and are not included in the maintenance fee:</p>	
<input checked="" type="checkbox"/>	Electricity for the Unit only
<input type="checkbox"/>	Gas for the Unit only
<input checked="" type="checkbox"/>	Water (Units will be submetered with AOAO reading the submeters)
<input checked="" type="checkbox"/>	Sewer
<input checked="" type="checkbox"/>	TV cable
<input type="checkbox"/>	Other (specify)

## 5. SALES DOCUMENTS

### 5.1 Sales Documents Filed with the Real Estate Commission

Sales Documents on file with the Commission include, but are not limited to, the following:	
<input checked="" type="checkbox"/>	Specimen Sales Contract Exhibit <u>G</u> contains a summary of the pertinent provisions of the sales contract. Including but not limited to any rights reserved by the Developer.
<input checked="" type="checkbox"/>	Escrow Agreement dated: Name of Escrow Company: Exhibit <u>H</u> contains a summary of the pertinent provisions of the escrow agreement.
<input type="checkbox"/>	Other

### 5.2 Sales to Owner-Occupants

If this project contains three or more residential units, the Developer shall designate at least fifty percent (50%) of the units for sale to Owner-Occupants.

<input checked="" type="checkbox"/>	The sales of units in this project are subject to the Owner-Occupant requirements of Chapter 514B.
<input type="checkbox"/>	Developer has designated the units for sale to Owner-Occupants in this report. See Exhibit _____.
<input checked="" type="checkbox"/>	Developer has or will designate the units for sale to Owner-Occupants by publication.

### 5.3 Blanket Liens

Blanket Liens: A blanket lien is an encumbrance (such as a mortgage) on the entire condominium project or more than one unit that secures some type of monetary debt (such as a loan) or other obligation. Blanket liens (except for improvement district or utility assessments) must be released as to a unit before the developer conveys the unit to a purchaser. The purchaser's interest will be affected if the developer defaults and the lien is foreclosed prior to conveying the unit to the purchaser.

<input type="checkbox"/>	There are <u>no blanket liens</u> affecting title to the individual units.
<input checked="" type="checkbox"/>	There are <u>blanket liens</u> that may affect title to the individual units.

Type of Lien	Effect on Purchaser's Interest and Deposit if Developer Defaults or Lien is Foreclosed Prior to Conveyance
Mortgage	Purchaser's interest may be terminated but in such event, purchaser shall be entitled to return of his deposit, less escrow's fees and costs.

### 5.4 Construction Warranties

Construction Warranties: Warranties for individual units and the common elements, including the beginning and ending dates for each warranty (or the method of calculating them), are as set forth below:

**Building and Other Improvements:** The only warranty is the contractor's statutory 1-year warranty which Developer shall attempt to assign to purchaser (Developer makes no, and hereby expressly disclaims, any representations as to whether such warranty is assignable.)  
**Appliances:**  
 None.

**5.5 Status of Construction, Date of Completion or Estimated Date of Completion**

Status of Construction: Developer anticipates the estimated date of completion as May 2007.
Completion Deadline: If a sales contract for a unit is signed before the construction of the unit has been completed, or, in the case of a conversion, completion of any repairs, does not occur by the completion deadline set forth below, one of the remedies available to a purchaser is a cancellation of the purchaser's sales contract. The sales contract may include a right of the Developer to extend the completion deadline for force majeure as defined in the sales contract. The sales contract may also provide additional remedies for the purchaser.
Completion Deadline for any unit not yet constructed, as set forth in the sales contract: Developer anticipates that all Units will be completed by May 2007; provided, however, purchaser should refer to the sales contract for more information.
Completion Deadline for any repairs required for a unit being converted, as set forth in the sales contract: N/A

**5.6 Developer's Use of Purchaser Deposits to Pay for Project Construction Costs Before Closing or Conveyance**

The Developer is required to deposit all moneys paid by purchasers in trust under a written escrow agreement with a Hawaii licensed escrow depository. Escrow shall not disburse purchaser deposits to the Developer or on behalf of the Developer prior to closing, except if a sales contract is canceled or if Developer has met certain requirements, which are described below.

**5.6.1 Purchaser Deposits Will Not Be Disbursed Before Closing or Conveyance**

<input checked="" type="checkbox"/>	The Developer hereby declares by checking the box to the left that it shall use its own funds to complete the construction of the condominium project by the date indicated in Section 5.5 of this report, and the Developer, pursuant to its own analysis and calculations, certifies that it has sufficient funds to complete the construction of the condominium project. If the box to the left is checked, Sections 5.6.2 and 5.7, which follow below, will not be applicable to the project.
-------------------------------------	---

**5.6.2 Purchaser Deposits Will Be Disbursed Before Closing**

Hawaii law provides that, if certain statutory requirements are met, purchaser deposits in escrow under a binding sales contract may be used before closing to pay for certain project costs. For this project, the Developer indicates that purchaser deposits may be used for the following purposes (check applicable box):	
<input type="checkbox"/>	For new construction: to pay for project construction costs described in the Developer's budget and approved by the Developer's lender or an otherwise qualified, financially disinterested person; or
<input type="checkbox"/>	For conversions: to pay for repairs necessary to cure violations of county zoning and building ordinances and codes, for architectural, engineering, finance and legal fees, and for other incidental expenses.

In connection with the use of purchaser deposits (check Box A or Box B):

<p><b>Box A</b> <input type="checkbox"/></p>	<p>The Developer has submitted all information and documents required by law and the Commission prior to the disbursement of purchaser deposits before closing. This means that the Developer may use such deposits before closing. If the Developer decides not to use purchaser deposits before closing, the Developer does not need to amend this report.</p> <p>If Box A is checked, you should read and carefully consider the following notice, which is required by law:</p> <p><b><u>Important Notice Regarding Your Deposits: Deposits that you make under your sales contract for the purchase of the unit may be disbursed before closing of your purchase to pay for project costs, construction costs, project architectural, engineering, finance, and legal fees, and other incidental expenses of the project. While the developer has submitted satisfactory evidence that the project should be completed, it is possible that the project may not be completed. If your deposits are disbursed to pay project costs and the project is not completed, there is a risk that your deposits will not be refunded to you. You should carefully consider this risk in deciding whether to proceed with your purchase.</u></b></p>
<p><b>Box B</b> <input type="checkbox"/></p>	<p>The Developer has <u>not</u> submitted all information and documents required by law and the Commission, and, until all such information and documents are submitted, thus, the Developer cannot use purchaser deposits.</p> <p>If the Developer later submits all information and documents required by law and the Commission for the use of purchaser deposits, then the Developer must provide an amendment to this report or an amended developer's public report to each purchaser who has signed a sales contract. At such time, the <b><u>Important Notice Regarding Your Deposits</u></b> set forth immediately above will apply to all purchasers and will be restated in the amendment to this report or an amended developer's public report. When an effective date for such an amendment or an amended developer's public report is issued, <b><u>you will not have the right to rescind or cancel the sales contract by reason of such submission and amendment.</u></b> (This, however, does not affect your right to rescind for material changes or any other right you may have to rescind or cancel the sales contract, as described in Section 5.8 below.) If the Developer decides not to use purchaser deposits before closing, the Developer does not need to amend this report.</p> <p>You should understand that, although the <b><u>Important Notice Regarding Your Deposits</u></b> set forth above does not currently apply to you, it might apply to you in the future, and, therefore, you should read and carefully consider it now to ensure that you understand the risk involved in deciding whether to proceed with your purchase.</p>

**Material House Bond.** If the Developer has submitted to the Commission a completion or performance bond issued by a material house instead of a surety as part of the information provided prior to the use of purchaser deposits prior to closing or conveyance of a unit, the Developer shall disclose the same below and disclose the impact of any restrictions on the Developer's use of purchaser deposits.

## 5.7 Rights Under the Sales Contract

Before signing the sales contract, prospective purchasers should carefully review all documents relating to the project. These include but are not limited to the documents listed below. Items 2, 3 and 4 are made a part of this public report, as well as Item 5, if any, and are being delivered to you with this report.

1.	<b>Developer's Public Report</b>
2.	<b>Declaration of Condominium Property Regime (and any amendments)</b>
3.	<b>Bylaws of the Association of Unit Owners (and any amendments)</b>
4.	<b>Condominium Map (and any amendments)</b>
5.	House Rules, if any
6.	Escrow Agreement
7.	Hawaii's Condominium Property Act (Chapter 514B, HRS, as amended) and Hawaii Administrative Rules (Chapter 16-107, adopted by the Real Estate Commission, as amended), provided that rules and regulations under Chapter 514B have not yet been adopted.
8.	Other:

Copies of the condominium and sales documents and amendments made by the Developer are available for review through the Developer or through the Developer's sales agent, if any. The Condominium Property Regime law (Chapter 514B, HRS) and the Administrative Rules (Chapter 107, HAR), are available online. Please refer to the following sites:

Website to access official copy of laws: [www.capitol.hawaii.gov](http://www.capitol.hawaii.gov)

Website to access rules: [www.hawaii.gov/dcca/har](http://www.hawaii.gov/dcca/har)

## 5.8 Purchaser's Right to Cancel or Rescind a Sales Contract

A purchaser's right to cancel a sales contract or to rescind a sales contract may arise under varying circumstances. In the sections below, some circumstances that will give rise to a purchaser's right to cancel or rescind are described, together with what a purchaser must do if the purchaser wishes to exercise any of the rights.

### 5.8.1 When a Sales Contract becomes Binding and Purchaser's 30-Day Right to Cancel a Sales Contract

A sales contract signed by a purchaser and the developer will not become binding on a purchaser or the Developer until the following events have taken place:

(1) The purchaser has signed the sales contract.

(2) The Developer has delivered to the purchaser a true copy of the developer's public report with an effective date issued by the Commission, together with all amendments to the report as of the date of delivery, and the project's recorded Declaration and Bylaws, House Rules (if any), the Condominium Map and any amendments to them to date (all of which are a part of the developer's public report). If it is impracticable to include a letter-sized Condominium Map, the Developer must provide written notice of an opportunity to examine the Condominium Map.

(3) The Developer has delivered to the purchaser a notice of the purchaser's 30-day cancellation right on a form prescribed by the Commission.

(4) The purchaser does at least one of the following:

(a) Waives the purchaser's right to cancel the sales contract within 30 days from receipt of the notice of the purchaser's 30-day cancellation right; or

- (b) Allows the 30-day cancellation period to expire without exercising the right to cancel; or
- (c) Closes the purchase of the unit before the 30-day cancellation period expires.

The purchaser or the Developer may cancel the sales contract at any time during the 30-day cancellation period, and the sales contract will be canceled and the purchaser's deposits returned to the purchaser, less any escrow cancellation fee and other costs associated with the purchase, up to a maximum of \$250.

### **5.8.2 Right to Cancel a Sales Contract if Completion Deadline Is Missed**

In addition to the purchaser's 30-day cancellation right described in Section 5.8.1 above, when a sales contract is signed before completion of construction of a project, the purchaser will have the right to cancel if the unit is not completed by certain deadlines. In conversion projects, there must be a deadline for completion of any required repairs. Every sales contract shall contain an agreement of the Developer that the completion of construction shall occur on or before the completion deadline, and that completion deadline is set forth in this report in Section 5.5. The sales contract shall provide that the purchaser may cancel the sales contract at any time after the specified completion deadline, if completion of construction does not occur on or before the completion deadline, as the same may have been extended. Upon a cancellation, the purchaser's deposits shall be refunded, less any escrow cancellation fee and other costs associated with the purchase, up to a maximum of \$250.00.

### **5.8.3 Purchaser's Right to Rescind a Binding Sales Contract After a Material Change**

If a "material change" in a project occurs after a purchaser has signed a sales contract that has become binding, the purchaser will have a 30-day right to rescind after notification and description of the material change. A material change is defined in the Condominium Property Act to be any change that "directly, substantially and adversely affects the use or value of (1) a purchaser's unit or appurtenant limited common elements; or (2) those amenities of the project available for the purchaser's use."

The purchaser will be informed of the material change by the developer on a form prescribed by the Commission containing a description of the material change.

After notice of the material change, the purchaser may waive the right to rescind by:

- (1) Checking the waiver box on the rescission form; or
- (2) Letting the 30-day rescission period expire, without taking any action to rescind; or
- (3) Closing the purchase of the unit before the 30-day rescission period expires.

The rescission form must be signed by all purchasers of the affected unit and delivered to the developer no later than midnight of the 30<sup>th</sup> calendar day after the purchasers received the rescission form from the developer. Purchasers who validly exercise the right of rescission shall be entitled to a prompt and full refund of any moneys paid.

A rescission right shall not apply in the event of any additions, deletions, modifications and reservations including, without limitation, the merger or addition or phasing of a project, made pursuant to the terms of the project's Declaration.

These provisions shall not preclude a purchaser from exercising any rescission rights pursuant to a contract for the sale of a unit or any applicable common law remedies.

**6. MISCELLANEOUS INFORMATION NOT COVERED ELSEWHERE IN THIS REPORT**

The Developer declares subject to the penalties set forth in Section 514B-69, HRS, that this project conforms to the existing underlying county zoning for the project, zoning and building ordinances and codes and all applicable permitting requirements adopted by the county in which the project is located, all in accordance with Sections 514B-5 and 32(a)(13), HRS.

For any conversion, if any variances have been granted, they are specified in Section 1.14 of this report, and, if purchaser deposits are to be used by the Developer to cure any violations of zoning, permitting requirements or rules of the county in which the project is located, the violation is specified in Section 1.15 of this report, along with the requirements to cure any violation, and Section 5.5 specifies the date by which the cure will be completed.

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 purchasers 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. The Developer hereby agrees promptly to amend this report to report and include either or all material facts, material or pertinent changes to any information contained in or omitted from this report and to file annually a report to update the material contained in this report at least 30 days prior to the anniversary date of the effective date of this report.

AINA PACIFIC INVESTMENTS, INC.  
Printed Name of Developer

By:  2/22/2007  
Duly Authorized Signatory\* Date

CHRISTOPHER VENN - PRESIDENT  
Printed Name & Title of Person Signing Above

Distribution:

Department of Finance, City and County of Honolulu

Planning Department, City and County of Honolulu

**\*Must be signed for a corporation by an officer; for a partnership or limited liability partnership (LLP) by the general partner; for a limited liability company (LLC) by the manager or an authorized member; and for an individual by the individual.**

# EXHIBIT

## A

### DEPARTMENT OF PLANNING AND PERMITTING CITY AND COUNTY OF HONOLULU

STATE OF HAWAII

IN THE MATTER OF THE APPLICATION )

OF )

BAYSHORE PROPERTIES )

FILE NO. 2006/CL-4

FOR A CLUSTER HOUSING PERMIT )

### FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECISION AND ORDER

#### I. APPLICATION

##### A. Basic Information:

Landowner:	Bayshore Properties (Chris Venn)
Applicant/Agent:	Patrick Mori
Location:	107 Kulaaupuni Street – Maili
Tax Map Key:	8-7-001: 012
Lot Area:	44,516 Square Feet
Zoning:	R-5 Residential District
State Land Use District:	Urban District
Development Plan Area:	Waianae

##### B. Proposal:

The proposed development consists of four (4) two-family detached units (total of eight (8) dwelling units) and appurtenant site improvements. These dwelling units are sited on a long rectilinear lot. A 20-foot wide private roadway is to be provided through the project site with access driveways on both Kulaaupuni and Alapaki Streets. The central portion of this private roadway would be curved with grass pavers and removable galvanized steel bollards (to allow emergency vehicle pass-through). Park dedication is to be satisfied with a landscaped area in the central area located between the two (2) interior two-family dwelling units and include a trellis, picnic tables, and paved outdoor barbecue area. Mailboxes and trash enclosures for four (4) units are to be located at each access driveway.

Of the four (4) two-family detached units proposed, the two (2) corner units are sited 45 degrees to the property lines and the two (2) interior units are sited parallel with each other. Each of the two-story dwelling unit consists of three (3) bedrooms, 2-1/2 baths, living, dining, kitchen, laundry, den, and two-car garage. Each unit has an average floor area of about 1,842 square feet. The proposed exterior building materials for these two-family dwelling units include concrete slab on-grade foundation, wood framing and roof truss, Hardi plank siding on the lower floor, board and batten siding on the upper level, and asphalt shingle roofing. The exterior painting colors arranged in two (2) color schemes that include warm beiges, tan, sage, warm gray, olive green, and taupe.

## II. FINDINGS OF FACT

On the basis of the evidence presented, the Director has found:

### A. Description of Site/Surrounding Uses:

The site has been mass graded (without grading permit) with the proposed private roadway and building pads already staked out. There are dust screens and chainlink fencing around its perimeter. The site is relatively flat with the slightest slope running from a high elevation of 5.4 feet at Alapaki Street to a low elevation of 4.5 feet at Kulaaupuni Street. There are some mature kiawe trees along the northern side of the property and within the Kulaaupuni Street right-of-way (extending in both the northern and southern directions). It is a long rectilinear lot (about 120 feet wide x 374 feet long) with vehicular access on both Kulaaupuni and Alapaki Streets. Kulaaupuni Street is situated on the mauka end and runs parallel with the lot's width and Alapaki Street is located on the makai end and runs perpendicular to the lot width with connection to Farrington Highway. There are no sidewalks, curbs or gutters within any of the street right-of-ways in the surrounding area.

The residential lots along Alapaki Street are zoned R-5 with about 5,000 square feet in lot area and comprised of single-story and two-story structures. The abutting residential parcels along Kulaaupuni Street in the northern and southern directions are also zoned R-5 and have long rectilinear configurations similar to this site. There are a few of these long rectilinear lots located further down that have been subdivided into smaller 5,000-square foot parcels. The residential lots located across Kulaaupuni Street in the eastern and southeast directions are zoned R-5 with about 5,000-square foot lots. Lots located in the northeastern direction are zoned Country. There is a parcel zoned B-1 Neighborhood Business District at the end of Alapaki Street along Farrington Highway (see Exhibit B – Existing Zoning Map).

### B. Other DPP Permits/Approvals Required:

1. Park Dedication: Park dedication application will be required for review and approval.
2. Building, Grading, and Trenching Permits: Building, grading, and trenching permits will be required for the dwelling units, building pads, private roadway, and driveways.

3. Water and Sewer Connection Permits: The availability of water will be determined when the construction drawings and/or building permits are approved. A Site Development Division Master Application for Sewer Connection will be required.
4. Construction Plan Review: Utility work and driveways within the City right-of-way will require construction plans to be reviewed and approved.

C. Public Agency Comments:

Comments were received from the Board of Water Supply, Honolulu Fire Department, Department of Environmental Services, and Department of Planning and Permitting – Civil Engineering Branch.

The Department of Environmental Services commented that due to the lack of a turnaround on Alapaki Street, refuse will not be collected using automated carts. For those homes with refuse collection on Alapaki Street, carts will not be provided and refuse will be collected via the City's manual refuse collection services.

The Board of Water Supply commented that the applicant will be required to pay the Water System Facilities Charges for resource development, transmission and daily storage. The proposed development should be master metered with a meter on Alapaki Street, in the right-of-way. All water mains within the property shall remain the responsibility of the Community Association.

The Civil Engineering Branch of the DPP requested that a drainage report to identify existing and proposed drainage conditions and identify any increase in runoff from the predevelopment conditions.

Agency comments are included in the file.

D. Community Comments:

Upon acceptance of the application for processing, informational notices were sent to various community organizations, and the Neighborhood Board. No comment letters or telephone calls were received.

### III. ANALYSIS

A. Compliance with Land Use Ordinance:

The proposal complies with the Land Use Ordinance (LUO), Sections 8.50-1 and 8.50-2, relating to cluster housing, and other regulations of the LUO.

B. Objectives of Cluster Development:

The objectives of cluster housing permit is to allow development of housing sites which would otherwise be difficult to develop under conventional City subdivision standards, and which can provide common amenities. Under R-5 Residential District subdivision

standards, the parcel cannot be subdivided since access to the site does not meet the requirements of the Subdivision Rules and Regulations. In addition, the proposal provides for multiple dwellings "clustered" around a common park.

C. Site Plan:

The civil site plan (Sheet C-3) shows a proposed 6-foot high vinyl fence along the Kulaaupuni Street frontage, along the southern property line, and between two-family dwelling units. The proposed fences do not extend beyond the front building line. An existing CRM wall runs along the southwest property line to Alapaki Street. There is no fencing shown on the site plan along the northern property line.

D. Density:

The proposed development represents a density of about eight (8) units per acre (eight (8) units / 1.02 acres). The surrounding R-5 residential district has an average density of about 7-8 units per acre.

In accordance with Section 21-8.50-2 of the LUO, regarding cluster site design standards for the R-5 residential district, the minimum land area required is 15,000 s.f. and a maximum theoretical density of 11 units (44,516 s.f. / 3,750 s.f.) that could be allowed for this zoning lot. The proposed project meets the minimum land area and is less than the maximum number of units with 44,516 s.f. and 8 units. The total proposed floor area of 14,740 s.f. (1,842 s.f. x 8 units) is equivalent to a floor area ratio (FAR) of 0.33.

Although there is no FAR regulation in the residential districts, the maximum allowable floor area for future expansions should be limited in order to retain the residential character and maximize the amount of open space. The maximum floor area, including for future expansions, should not exceed a FAR of 0.45 or 660 square feet per unit.

E. Building Area:

The proposed total building area (lot coverage) is 10,548 s.f. (1,318.5 s.f. x 8 units). The net lot area not including the 20-foot wide private roadway would be approximately 37,181 s.f. (44,516 s.f. - (20' x 366.75')). Therefore the proposed building area is about 28.4% of the net lot area (10,548 s.f. / 37,181 s.f.).

Typically the maximum allowable building area for R-5 residential districts is 50% of the lot area. This would result in a potential building area for future expansions surplus of about 8,042 s.f. This would be an excessive amount of building area for such a cluster development. As such, further restrictions should be considered to establish the maximum building area for future expansions and/or the amount of impervious surface area to offset the proposed increased in density for this R-5 residential district.

With an average proposed building area of 1,318.5 s.f. (per drawings submitted), this would represent a lot coverage of about 23.7% of the overall lot area. The cluster guidelines recommend at least 10% of the total permitted building area should be reserved for future expansion. With a maximum building area of 30% of the overall lot area, the maximum building area per dwelling unit would be 1,669 s.f. As such, it is

recommended that the maximum building area for future expansion should be limited to 30% of the overall lot area or an average of about 350 s.f. per unit.

F. Yards and Height Setbacks:

The project appears to comply with the required yards and setbacks of the LUO. The proposed side and rear yards are ten (10) feet from the property lines and 30-40 feet between the two-story structures.

G. Off-Street Parking:

Although a two-car garage is provided for each dwelling unit (as required), there aren't any guest parking stalls provided. Cluster housing guidelines recommend one (1) guest stall be provided for every four (4) units or a total of two (2) guest stalls should be provided for this project. However, there are 16- to 25-foot deep driveways fronting the proposed two-car garages that could serve as guest parking stalls. As such, no additional guest parking stalls would be required.

H. Landscaping:

The proposed landscape plan shows a variety of planting materials throughout the cluster housing development. The landscaping should be maintained in a healthy visual condition at all times. It is not certain whether the proposed landscaping within the front yards will be maintained by the individual homeowners or the homeowner's association. Automatic irrigation system should be provided.

I. Design Alterations and Options Package:

If owners will be allowed to alter and/or add to the proposed dwelling units then design standards shall be established for such future expansions. They should be compatible in design with the proposed dwelling units in terms of building scale, massings, articulations, materials, colors, and finishes. Such design alterations and options package should be submitted for review and approval. ←

J. Park Dedication:

According to Park Dedication Rules and Regulations, the required private park land area for the eight (8) proposed dwelling units is 2,400 s.f. (8 units x 300 s.f. per unit). The landscape plan shows a private park area of 3,374 s.f., which includes the grass pavers situated over the private roadway. The grass pavers should not be included as park dedication. Without the grass pavers, the net land area for park dedication would be 2,510 s.f. (3,374 s.f. - 864 s.f.), which would be more than the required land area (not including the value of the recreation equipment).

The Honolulu Fire Department did not have any objections to the proposed grass pavers and removable galvanized steel bollards located on the private roadway that would be used for emergency vehicle access.

The proposed trellis is situated in the middle of the private park, which would prevent effective use of the grassy area for small outdoor recreation activities. There aren't any large grassy areas for families to utilize on this property. As such, it is recommended

that the trellis be relocated across the private roadway adjacent to the picnic tables and barbecue grill area. This may require a different trellis configuration and/or some additional land area for the proposed trellis. However, it should be noted that this would be a private park for the benefit of the cluster housing residents and their guests.

K. Grading, Drainage, and Utilities:

It was observed and reported (April 10, 2006) by Wastewater Branch personnel that mass grading was being done without a grading permit. As such, a grading permit will be required subsequent to this land use permit.

According to grading plan (Sheet C-4), site drainage flows in the makai direction from Alapaki Street to Kulaaupuni Street. The DPP Civil Engineering Branch has requested a drainage report to identify existing and proposed drainage conditions and identify any increase in runoff from the predevelopment conditions.

Proposed water lines connect to the existing system on Alapaki Street. Proposed sewer lines connect to the existing sewer system along Kulaaupuni Street. There is an existing fire hydrant located across Kulaaupuni Street. The proposed fire hydrant on-site is located fronting the two-family dwelling units on Alapaki Street. Proposed underground electrical lines connect to the overhead power poles along Kulaaupuni Street via HECO transformer located along the northern property line about 90 feet in-board.

According to Sewer Connection Application No. 2005/SCA-0414 (approved June 17, 2005), sewer capacity is available for eight (8) units subject to construction plan review.

L. Relationship to the Surrounding Neighborhood:

The proposed cluster housing development is somewhat compatible with the surrounding residential district. However, it will be a newer development in an older neighborhood with a higher density and less open space.

#### IV. CONCLUSIONS OF LAW

Based on the foregoing Findings, the Director has made the following conclusions:

- A. The proposal generally conforms to the Cluster Housing provisions, and meets with the criteria for approval specified in Sections 21-8.50-1 and 21-8.50-2 of the LUO;
- B. The proposal generally conforms to other applicable LUO regulations; and
- C. The proposal would not adversely affect adjoining uses, and is consistent with character (including the design and density) of the neighborhood.

## V. DECISION AND ORDER

Based on the Report and Conclusions, the Director of the Department of Planning and Permitting (DPP) hereby grants APPROVAL of the Cluster Housing Permit application for Bayshore Properties Development, in accordance with Exhibits "A through C", subject to the following conditions:

- A. The applicant, its successors, or assigns shall provide all improvements in conformity with Exhibits "C-1" to "C-9" and the conditions imposed herein. All improvements shall be completed prior to issuance of the Certificate of Occupancy.
- B. All work shall be in accordance with approved application documents, and be subject to compliance with the Land Use Ordinance (LUO) unless otherwise stated herein. In addition, all work shall comply with all applicable Federal, State and County regulations, standards, statutes and ordinances unless otherwise stated.
- C. If homeowners are allowed to alter or add to their dwelling unit, then the applicant shall submit a Design Alterations and Options Package for review and approval by the DPP, Urban Design Branch prior to issuance of any building permit. It shall designate allowable locations for future expansions (i.e., lanais and bedrooms), building areas (lot coverage), floor areas, materials, colors, and finishes for all dwelling units.
- D. The applicant shall submit a Fence Master Plan for review and approval by the DPP, Urban Design branch prior to the issuance of any building permit. This master plan shall establish designs standard for fences and/or walls. It should include the following design guidelines:
  1. Any solid fencing or walls located in the front yard (i.e., forward of the front building line - in line with the proposed powder room and entry door - to the common access drive) shall not exceed 2.5 feet in height.
  2. Picket fencing may be allowed in the front yard but limited to a maximum overall height of 3.5 feet including any solid walls below and a 2-foot wide planting strip shall be provided on the common access drive side of the fence with a continuous planted hedge.
  3. Side and rear fencing and/or walls shall not exceed six (6) feet in height.
  4. Any retaining wall protecting a cut shall not exceed six (6) feet in height, as measured from the lowest finish grade.
  5. Typical fence and/or wall details for various site conditions should show dimensions, allowable materials, color, and finish.
- E. The applicant shall submit a Drainage Report for review and approval by the DPP Civil Engineering Branch, prior to the issuance of any grading permit.
- F. Building permit plans, including any revisions, shall be submitted for review and approval to the DPP Urban Design Branch (through the building permit application process), and shall include:

1. Landscape plans showing trees, palms, and planting materials with specie name, quantity, size, planting details, and automatic irrigation system;
  2. Approved alterations and options package (if applicable);
  3. Approved fence master plan;
  4. Approved park dedication plan, including trellis and outdoor recreation facilities;
  5. Specifications for all exterior lighting, including light fixture type, wattage, and light spread; and
  6. All utilities within the project site shall be placed underground. All transformers and trash enclosures which exceed 2.5 feet in height shall be screened from the street and surrounding lots with a minimum 4-foot high landscape hedge.
- G. The applicant shall incorporate this Cluster Housing Permit, approved Design Alterations and Options Package (if applicable), and approved Fence Master Plan into the restrictive covenants, which run with the land, to serve as notice to all owners and tenants. The covenant shall include notice of the following:
1. The number of dwelling units (B) shall not be increased, and the project lot shall not be further subdivided;
  2. All work shall comply with the applicable Land Use Ordinance (LUO) standard for the underlying zoning district, unless otherwise stated herein:
    - a) A minimum 10-foot setback, for structures, fences or walls, shall be required from the common access drive;
    - b) Within the project, the minimum distances between buildings shall be as follows:
      - (i) Ten (10) feet between two (2) one-story dwellings.
      - (ii) 15 feet between a one-story and a two-story dwelling or portion thereof.
      - (iii) 20 feet between two-story dwellings.
    - c) If the property is condominiumized, then future expansions shall comply with required yards and height setbacks of the underlying zoning district as measured from limited common element (LCE) lines, except for existing non-conforming portions of Units D and E, where the corner of the two-story structure and covered porch are located only about three (3) feet from the park dedication area (common element);
    - d) The maximum building area (lot coverage) shall not exceed 30 percent of the original lot area of 44,516 square feet (s.f.) or 13,355 s.f. For future expansions, the maximum building area (lot coverage) for each dwelling

unit shall not exceed 350 s.f. If the property is condominiumized, then, within each limited common element, the maximum building area (lot coverage) for future expansion shall not exceed 350 s.f. for each limited common element;

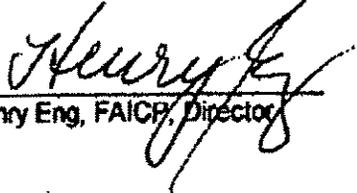
- e) The overall maximum density (floor area) shall not exceed a floor area ratio (FAR) of 0.45 or 20,032 s.f. for the overall project (44,516 s.f. x 0.45 FAR) or an additional floor area of 660 s.f. per unit (20,032 s.f. / 8 units = 2,504 s.f. - 1,843 s.f. [proposed floor area] = 661 or 660 s.f. [rounded figure]).
  - 3. All expansions, alterations and reconstruction shall be compatible in design with the existing and surrounding structures. The Director may require the redesign of exterior entrances, stairways, bar areas, including plumbing and electrical systems, to ensure that the number of dwellings is not increased;
  - 4. Approved two-car garages and any other required parking shall not be eliminated or converted to other uses;
  - 5. Relocation of approved project fences and walls shall not be permitted;
  - 6. All landscaping approved and required by this permit shall be retained and maintained in a healthy visual condition at all times, or replacement landscaping shall be required;
  - 7. All exterior lighting shall be subdued or shielded to prevent glare and light spillage on surrounding lots and public rights-of-way. Where appropriate, full-cutoff fixtures or cutoff shields may be required. Mercury vapor and low/high pressure sodium lamps shall not be permitted; and
  - 8. All private common elements including roadways, utilities, landscaping, and drainage patterns shall be maintained by the homeowner's association and/or individual homeowners.
- H. If the property is condominiumized, then a draft covenant shall be submitted for review and approval by the DPP, Urban Design Branch. Upon approval of the covenant, a certified recorded copy shall be filed with the DPP, prior to a change in any ownership. The homeowners association shall be responsible for administering covenants consistent with these requirements.
- I. The applicant shall obtain all necessary building permits within three (3) years from the date of this approval or the Cluster Housing Permit shall be null and void. For good cause, the applicant may request to extend the time limit. The request for an extension must be submitted in writing, prior to the expiration of the Cluster Housing Permit, and include justification for the extension. The cluster permit shall automatically lapse if the applicant fails to submit such a request for extension.
- J. The DPP will review violations of the Permit conditions. If the applicant, homeowners' association, or individual homeowner does not comply with any of the said conditions, the DPP shall take appropriate action necessary to: (1) prevent further non-compliance; and/or (2) compel compliance with the conditions.

- K. Modification to the project shall be subject to approval by the DPP. In no case shall any modification change the general intent of the design concept and the environmental character of the project. Major modifications shall require a new permit.
- L. For good cause, the Director of the DPP may impose additional requirements and/or amend the above conditions.

Dated at Honolulu, Hawaii, this 6<sup>th</sup> day of July, 2006.

DEPARTMENT OF PLANNING  
AND PERMITTING  
CITY AND COUNTY OF HONOLULU  
STATE OF HAWAII

By

  
Henry Eng, FAICP, Director

HE:cs

Attachments

doc458570rev1

EXHIBIT "B"

Common Elements. The common elements shall remain undivided, and no right shall exist to partition or divide any part thereof, except as provided in the Act. Any such partition or division shall be subject to the prior consent thereto by the holder(s) of all mortgages on Units.

The Units are located in the manner shown on the Condominium Map. The common elements include the remaining portions of the Project including, without limitation:

- a. The Land;
- b. The Driveway shown as a darkened area on the Condominium Map;
- c. The Private Park and Croquet Field, each as shown on the Condominium Map, including (i) all improvements now or thereafter situated thereon, including the trellis/pavilion, outdoor barbeque, grills, tables, grasscrete area, bollards and (ii) landscaping now or thereafter located thereon (the bollards, which are removable for emergency vehicle pass through, and landscaped areas are expressly required by the Cluster Permit described below);
- d. All fences now or hereafter located (i) on or near the boundary of the Land, (ii) on or near the boundary of any Yard Area, as described below, and/or (iii) the common elements of the Project;
- e. Any improvements now or hereafter constructed for drainage or utilities purposes such as the various swales shown on the Condominium Map, fire hydrant, transformer pad, electricity, gas, water, irrigation, sewer, telephone, radio and television signal distribution, irrigation and other utilities which serve more than one Unit; and
- f. Any and all elements and facilities naturally in common use or necessary to the existence, upkeep and safety of the Project, including without limitation the trash enclosures, as shown on the Condominium Map.

End of Exhibit "B"

EXHIBIT "C"

Limited Common Elements.

(a) The following items shall constitute limited common elements appurtenant to each Unit and are hereby set aside for the exclusive use of such Unit:

(i) each Unit's porch containing approximately sixty (60) square feet, lanai containing approximately fifty (50) square feet, and balcony containing approximately fifty (50) square feet, as shown on the Condominium Map;

(ii) the land (the "Yard Area") surrounding such Unit, as shown by dark dashed lines on the Condominium Map;

(iii) the concrete walkway and L-shaped area located between such walkway and the Unit;

(iv) the mailbox located in one of the two mailbox areas, as shown on the Condominium Map; and

(b) the following items shall constitute limited common elements appurtenant to the two Units in each Building and are hereby set aside for the exclusive use of such two (2) Units:

(i) the foundation slab, roof, the unfinished and undecorated portion of the structural party wall located between the Units, and the Driveway Island.

End of Exhibit "C"

EXHIBIT "D"

Encumbrances Against Title

1. Reservation in favor of the State of Hawaii of all mineral and metallic mines.
2. A mortgage to secure an indebtedness as shown below, and any other obligations secured thereby  
  
Amount: \$2,850,000.00  
Dated: July 10, 2006  
Loan No.: None Shown  
Mortgagor: Aina Pacific Investments, Inc., a Hawaii corporation  
Borrower: Bonnie G. Venn, an unmarried woman  
Mortgagee: Lomarey III, LLC, a California limited liability company  
Recorded: July 18, 2006, in the Bureau of Conveyances of the State of Hawaii, Document No. 2006-130780.
3. Instrument: Declaration of Condominium Property Regime of  
Ho`omaika`i Village at Ma`ili Beach  
Recorded: March 16, 2007 in the Bureau of Conveyances of the State of Hawaii, Document No. 2007-049115
4. Instrument: Bylaws of Association of Apartment Owners of  
Ho`omaika`i Village at Ma`ili Beach  
Recorded: March 16, 2007 in the Bureau of Conveyances of the State of Hawaii, Document No. 2007-049116
5. Instrument: Condominium Map  
No.: 4414
6. For Real Property Taxes that may be due and owing reference is made to the Department of Finance, City and County of Honolulu.

END OF EXHIBIT "D"

EXHIBIT "E"  
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 = Yearly Total</u>	
<b>A through H</b>	<b>\$273.00 each</b>	<b>\$3,276.00 each</b>

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

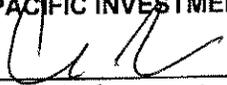
Estimate of Maintenance Fee Disbursements:

Monthly x 12 months = Yearly Total

Utilities and Services		
Air Conditioning		
Electricity		\$ 96.00
<input checked="" type="checkbox"/> common elements only		
<input type="checkbox"/> common elements and apartments		
<del>Elevator</del> WATER	\$10.00	120.00
<del>Gas</del>		
<input type="checkbox"/> common elements only		
<input type="checkbox"/> common elements and apartments		
<del>Refuse Collection</del>		
<del>Telephone</del>		
<del>Water and Sewer</del>		
Maintenance, Repairs and Supplies	25.00	300.00
Building	45.00	540.00
Grounds / Landscaping	75.00	900.00
Roads/Driveways	25.00	300.00
<del>Management Fencing</del>		
<del>Management Fee</del>		
<del>Payroll and Payroll Taxes</del>		
<del>Office Expenses</del>	85.00	1,020.00
Insurance		
<del>Reserves (*)</del>		
<del>Taxes and Government Assessments</del>		
<del>Audit Fees</del>		
<del>Other</del>		\$ 3,276.00
<b>TOTAL</b>	<del>\$xxx12xx</del>	<del>xxx</del>

AINA PACIFIC INVESTMENTS, INC., the developer of the condominium project, hereby certifies that the above estimates of initial maintenance fee assessments and maintenance fee disbursements were prepared in accordance with generally accepted accounting principles.

AINA PACIFIC INVESTMENTS, INC.

By: 

Its: PRESIDENT

Date: 2/22/2007

(\*)Mandatory reserves assessment and collection in effect beginning 1994 budget year. The Developer is to attach to this exhibit an explanation whether, in arriving at the figure for "Reserves", the Developer has conducted a reserve study in accordance with §514A-83.6, HRS, and the replacement reserve rules, Subchapter 6, Title 16, Chapter 1070, Hawaii Administrative Rules, as amended.

Pursuant to §514A-83.6, HRS, a new association created after January 1, 1993, need not collect estimated replacement reserves until the fiscal year which begins after the association's first annual meeting.

EXHIBIT "F"

Developer's Public Report for Condominium  
Condominium Project Name: HO'OMAIKA'I VILLAGE AT MA'ILI BEACH

Fee Owner's Reserved Rights.

In addition to any other rights reserved herein, the Declarant hereby reserves the right for itself and its agents, to do the following without the consent of any Unit purchaser or any other person or entity and without any amendment to this Declaration:

(a) Fee Owner reserves the right to grant to any utility company or public or governmental authority or other person or entity rights-of-way and other easements, and the right to modify or amend any existing or newly granted rights-of-way and easements, which are for the benefit of the Project (or any Unit or Units) or which do not materially interfere with the use or materially impair the value of any Unit, over, across, under and through the common elements and limited common elements for access and for lines and other transmission facilities and appurtenances for electricity, gas, telephone, water, sewer and/or septic system, drainage and other public services and utilities, and rights to enter for the purpose of installing, repairing, altering and removing such lines and facilities and of trimming any trees in the way thereof.

(b) Declarant shall have the right to maintain development facilities and conduct sales of Units until deeds are issued to Unit purchasers with respect to all Units in the Project. Such right shall include, but not be limited to, maintaining model Unit, operating a sales and construction office, conducting advertising, placing signs, using parking spaces and erecting lighting in connection with such sales; provided, however, that in exercising such right, the Declarant shall not materially interfere with the rights of any Unit owner to the use of, or access to, his Unit or any of the common elements appurtenant thereto.

(c) The Declarant shall have the right to enter upon the Land and the Project and carry on such construction and demolition activities as may be necessary in connection with such alteration, modifications and restorations, including, but not limited to, parking storage of construction equipment and materials, provided that the Declarant shall not materially interfere with the rights of any Unit owner to the use of, or access to, his or her Unit or any of the common elements appurtenant thereto.

END OF EXHIBIT "F"

EXHIBIT "G"  
**Ho`omaika`i Village at Ma`ili Beach** Condominium Project  
Summary of Sales Contract

Seller intends to use the standard form DROA as the form of sales contract for the project.

1. Evidence of Title. Seller shall furnish Buyer evidence of Seller's marketable title to the interest which is to be conveyed to Buyer. If Seller fails to deliver title as herein provided, Buyer has the option to terminate this agreement and have any of Buyer's deposits returned to Buyer. The foregoing shall not exclude any other remedies available to Buyer. Buyer will receive an Owner's standard coverage policy of title insurance at closing: (a) Seller shall pay 60% of the premium to be charged for an Owner's standard coverage policy of title insurance to be issued to the buyer in the amount of the sales price; and (b) Buyer shall pay 40% of such premium and any additional costs relating to the issuance of any extended coverage policy, including a Lender's policy.
2. Risk of Loss. Risk of loss passes to Buyer upon transfer of title or occupancy whichever occurs first.
3. Default. It is expressly understood and agreed: First: In the event Buyer fails to pay the balance of the purchase price or complete the purchase as herein provided, Seller may (a) bring an action for damages for breach of contract; (b) retain the initial deposit and all additional deposits provided for herein, as liquidated damages; and (c) Buyer shall be responsible for any cost incurred in accordance with this contract. Second: In the event Seller fails to perform his obligations as herein provided, Buyer not being in default, Buyer may (a) bring an action against Seller for damages for breach of contract; (b) file and maintain an action against Seller for specific performance of this contract; and (c) Seller shall be responsible for any cost incurred in accordance with this contract. The foregoing shall not exclude any other remedies available to either Seller or Buyer. In the event of default and/or a lawsuit arising out of this contract (including a suit by a REALTOR for commission), the prevailing party shall be entitled to recover all costs incurred including reasonable attorneys' fees. All expenses incurred by escrow shall be deducted from deposited funds prior to any disbursement to the prevailing party.
4. Consent. The obligations of Buyer or Seller hereunder are conditioned upon obtaining those necessary consents of vendors, existing mortgagees, lessors and/or condominium, co-op or other such associations, Buyer or Seller agree to cooperate and take all reasonable action to obtain such consents.
5. Time Is Of The Essence. If either Buyer or Seller for reasons beyond his control cannot perform his obligation to purchase or sell the property by the closing date, then such party by giving escrow written notice prior to the closing date called for in this contract with copies to all parties to this contract, can extend closing for no longer than 30 calendar days to allow performance. Thereafter time is of the essence and the default provisions of paragraph 5 apply. Any further extension must then be agreed to in writing by both parties. There is no automatic right to extend. This provision relates only to the extension of the closing date.

THE ABOVE SUMMARY IS NOT INTENDED TO BE A THOROUGH AND EXHAUSTIVE EXPLANATION OF ALL TERMS AND PROVISIONS CONTAINED IN THE DROA. THE BUYER MUST REFER TO THE BUYER'S DROA TO DETERMINE THE BUYER'S ACTUAL RIGHTS AND OBLIGATIONS. IF ANY CONFLICT OR DIFFERENCE EXISTS BETWEEN THIS SUMMARY AND THE DROA, THE DROA WILL CONTROL, NOT THIS SUMMARY.

EXHIBIT "H"  
**Ho`omaika`i Village at Ma`ili Beach** Condominium Project  
Summary of Escrow Agreement

The Escrow Agreement ("Agreement") between FIDELITY NATIONAL TITLE INSURANCE COMPANY ("Escrow"), and AINA PACIFIC INVESTMENTS, INC., a Hawaii corporation (hereinafter, collectively, "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 contracts 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.
3. Escrow will release from the Trust Fund and disburse Buyer's funds at closing. No disbursements will be made from Buyer's fund until: (a) the Real Estate Commission has issued a Final Public Report on the project and forty-eight (48) hours have elapsed since Buyer's receipt of a copy of the Final Public Report; (b) Buyer has waived its right to cancel the sales contract; and (c) Seller has notified Escrow that all other requirements of Sections 514A-39 and 514A-63, Hawaii Revised Statutes, have been met. Where sales contracts are entered into, Escrow will disburse funds upon presentation by Seller of Buyer's signed receipt for the Final Public Report and with notification by Seller that all of the requirements of Section 514A-39 and 514A-63, Hawaii Revised Statutes, have been met. Escrow will call for payments by the Buyer upon receipt of notice from Seller that any payments are due under sales contract.
4. Escrow will return deposited sums to the Buyer without interest if Seller gives Escrow written notice to return the funds to Buyer, or with respect to a Buyer whose funds were obtained before the issuance of a Final Public Report, Escrow receives from the Buyer a written request to cancel the sales contract or after issuance of the Final Public Report and Buyer's waiver of his right to cancel the sales contract in accordance with Section 514A-62, Hawaii Revised Statutes, there shall be any material change in the project which directly, substantially and adversely affects the use or value of the Buyer's apartment or appurtenant common elements or those amenities of the project available for Buyer's use, of a nature entitling the Buyer to cancel his sales contract pursuant to Section 514A-63, Hawaii Revised Statutes. These funds shall be returned to Buyer less Escrow's cancellation fee, if any, any mortgagee's cancellation fee and all other costs incurred in connection with the Escrow.
5. As Escrow's compensation for its performance under this Agreement, Escrow will receive an amount to be determined by Escrow 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. Title insurance will also cost an additional sum.
6. If Buyer defaults under the sales contract and Seller subsequently certifies in writing to Escrow that Seller has terminated the Sales Contract, Escrow shall thereafter treat all funds of the Purchase under the sales contract as funds of the Seller and not the Purchaser. Upon Seller's request, Escrow shall pay such funds to Seller less any cancellation fee.

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, HE OR SHE 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.

EXHIBIT "I"

Unit types and Sizes of Units

Unit Type	Quantity	BR/Bath	Net Living Area	Net Other Areas	Other Areas (lanai, garage, etc.)	Total Area
A C E G	4	3/2.5	1708 sq.ft.	60 sq.ft. 50 sq.ft. 50 sq.ft. 440 sq.ft.	Porch Lanai Balcony Garage	2,308 sq.ft.
B D F H	4	3/2.5	1708 sq.ft.	60 sq.ft. 50 sq.ft. 50 sq.ft. 440 sq.ft.	Porch Lanai Balcony Garage	2,308 sq.ft.