

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

CONDOMINIUM PROJECT NAME	HGFE LOT 13 CONDOMINIUM
Project Address	Hanalei Plantation Road Hanalei, Kauai, Hawaii 96714
Registration Number	6668
Effective Date of Report	<b>October 17, 2008</b>
Developer(s)	RONALD P. JENSEN and ALEXA C. JENSEN, Trustees of the Jensen Living Trust under unrecorded Trust Agreement dated October 19, 1983, as amended and restated by instrument dated November 10, 1999

**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; or (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.

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*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.]

This is a CONDOMINIUM PROJECT, **not** a subdivision. There are County restrictions on the number of residential dwelling units, or other structures, which may be built on the property. Therefore, unless the Purchaser is buying an existing residential dwelling, THERE IS NO ASSURANCE THAT THE PURCHASER WILL BE ABLE TO BUILD A RESIDENTIAL DWELLING UNIT ON THE PROPERTY. PRIOR TO PURCHASE, THE PROSPECTIVE PURCHASER IS ADVISED TO REVIEW THIS CONDOMINIUM PROJECT WITH THE RESPECTIVE KAUAI COUNTY PLANNING OFFICES TO RECEIVE THE MOST RECENT DIRECTIVES CONCERNING DEVELOPMENT, REPLACEMENT, EXPANSION, OR CONSTRUCTION OF ANY TYPE OF STRUCTURE FOR THIS CONDOMINIUM PROJECT IN THE FUTURE.

1. There are two (2) spatial units on the property. Each spatial unit is located within the project as described in the Declaration and shown on the Condominium Map and each has a theoretical floor area of 25 square feet and a net volume of 125 cubic feet. Each spatial unit does not consist of any actual physical structure within the project at this time
2. This public report does **not** constitute an approval of the project by the Real Estate Commission or any other governmental agency, nor does it warrant that all applicable County codes, ordinances, and subdivision requirements have necessarily been complied with.
3. The land area beneath and appurtenant to each unit is **not** a legally subdivided lot. The dotted lines on the Condominium Map bounding the designated number of square feet in each unit are for illustrative purposes only and should not be construed to be the property lines of legally subdivided lots.
4. Facilities and improvements normally associated with County-approved subdivisions, such as fire protection devices, County street lighting, electricity, upgraded water facilities, improved access for owners and emergency traffic, drainage facilities, etc., may not be provided, and services such as County street maintenance and trash collection will not be available for interior roads and driveways.

THE PROSPECTIVE PURCHASER IS CAUTIONED TO CAREFULLY REVIEW THE CONDOMINIUM DOCUMENTS REFERENCED IN THIS PUBLIC REPORT FOR FURTHER INFORMATION WITH REGARD TO THE FOREGOING.

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## **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 uses, 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	N/A
Address of Project	Hanalei Plantation Road Hanalei, Kauai, Hawaii 96714
Address of Project is expected to change because	New addresses will be assigned by the County as houses are constructed.
Tax Map Key (TMK)	(4) 5-4-04:52
Tax Map Key is expected to change because	CPR numbers will be added to the current tax map key number.
Land Area	67,288 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	0
Floors Per Building	N/A
Number of New Building(s)	N/A
Number of Converted Building(s)	N/A
Principal Construction Materials (concrete, wood, hollow, tile, steel, glass, etc.)	N/A

### 1.3 Unit Types and Sizes of Units

Unit Type	Quantity	BR/Bath	Net Living Area	Net Other Area	Other Areas (lanai, garage, etc.)	Total Area
A	1	0/0	0	25 sq. ft.	Spatial	25 sq. ft.
B	1	0/0	0	25 sq. ft.	Spatial	25 sq. ft.
See Exhibit "A"						

<b>2</b>	<b>Total Number of Units</b>
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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:	4
Number of Guest Stalls in the Project:	0
Number of Parking Stalls Assigned to Each Unit:	2
Attach Exhibit "B" 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:
See Exhibit "A"

**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):
See Exhibit "C"

**1.7 Common Interest**

<u>Common Interest:</u> 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 shall have appurtenant thereto an undivided one-half (1/2) interest in all common elements of the property, and the same proportionate share in all common profits and common expenses of the property (except as may be otherwise provided in the Bylaws) and for all other purposes, including voting. The fractional common interest for each unit is determined by assigning a 1/2 fractional interest to each of the two (2) units irrespective of the actual land areas contained in the limited common elements appurtenant to each unit.

**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 type="checkbox"/>	Recreation Area
<input type="checkbox"/>	Trash Chute/Enclosure(s)
<input type="checkbox"/>	Exercise Room
<input type="checkbox"/>	Security Gate
<input type="checkbox"/>	Playground
<input checked="" type="checkbox"/>	Other (describe): Driveway

**1.9 Common Elements**

<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.	
Described in Exhibit "D"	
Described as follows:	
<b>Common Element</b>	<b>Number</b>
Elevators	0
Stairways	0
Trash Chutes	0

**1.10 Limited Common Elements**

<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.
Described in Exhibit "A"
Described as follows:

**1.11 Special Use Restrictions**

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.	
<input checked="" type="checkbox"/>	Pets: Generally recognized house pets may be kept as provided in Article VII, Section 2, paragraph 14 of the First Restated Declaration of Covenants, Conditions And Restrictions For The Hanalei Garden Farms Estates. No animals in excess of 3 dogs, or 3 cats, or 3 wild or domestic birds, but in any case no more than a total, in combination, of six such animals, may be kept or maintained on any Unit without the prior approval of the Design Committee.
<input type="checkbox"/>	Number of Occupants:
<input checked="" type="checkbox"/>	Other: Land coverage and zoning restrictions as provided in: paragraphs 8 and 11 of the Declaration; Exhibit "D" of the Declaration; and Exhibit "J" attached hereto.
<input type="checkbox"/>	There are no special use restrictions.

**1.12 Encumbrances Against Title**

An encumbrance is a claim against or a liability on the property or a document affecting the title or use of the property. Encumbrances may have an adverse effect on the property or your purchase and ownership of 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).
Exhibit "E" describes the encumbrances against title contained in the title report described below.
Date of the title report: June 23, 2008
Company that issued the title report: Title Guaranty of Hawaii, Inc.

**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		<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	Residential (R-2)
<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 checked="" type="checkbox"/>	Other (specify) Spatial	Two (2)	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	Residential (R-2)
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.					

**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 damages 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"/>

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:

\* Note: There are no structures on the Property.

**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></p> <p><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 non-conforming 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 style="text-align: center;">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 impossible impacts on the project resulting from the provision of the services.</p>	
<p>Other disclosures and information:</p>	

## 2. PERSONS CONNECTED WITH THE PROJECT

<b>2.1 Developer</b>	Name: RONALD P. JENSEN and ALEXA C. JENSEN, Trustees of the Jensen Living Trust under unrecorded Trust Agreement dated October 19, 1983, as amended and restated by instrument dated November 10, 1999 Business Address: 39 Smith Cliff Road Laguna Beach, California 92651  Business Phone Number: (949) 999-0825 Email address:
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).	N/A
<b>2.2 Real Estate Broker</b>	Name: COUNTRY BROKERS, LTD. Business Address: P. O. Box 92 Hanalei, Kauai, Hawaii 96714  Business Phone Number: (808) 826-4099 Email address:
<b>2.3 Escrow Depository</b>	Name: TITLE GUARANTY ESCROW SERVICES, INC. Business Address: 235 Queen Street Honolulu, Hawaii 96813  Business Phone Number: (808) 521-0211
<b>2.4 General Contractor</b>	Name: N/A Business Address:  Business Phone Number:
<b>2.5 Condominium Managing Agent</b>	Name: Self-managed by the Association Business Address:  Business Phone Number:
<b>2.6 Attorney for Developer</b>	Name: Max W. J. Graham, Jr. Business Address: Belles Graham Proudfoot Wilson & Chun, LLP 4334 Rice Street, Suite 202 Lihue, Kauai, Hawaii 96766 Business Phone Number: (808) 246-6962

### 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
Bureau of Conveyances	April 25, 2008	2008-096961

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

#### 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
Bureau of Conveyances	April 25, 2008	2008-096962

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

#### 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	4660	
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 the 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>The Developer reserves the right to change the Declaration and Condominium Map as provided in Paragraphs M. 2. and N. of the Declaration, which provide as follows:</p> <p>M. 2. At any time prior to the first recording in the Bureau of Conveyances of a conveyance or transfer (other than for security) of a unit and its appurtenances to a party not a signatory hereto, the Declarant may amend this declaration and/or the Condominium Map in any manner without approval or consent of any unit purchaser. This paragraph shall not be deemed to limit or restrict the Declarant's right as a unit owner to amend the Declaration as provided herein.</p> <p>N. RESERVED RIGHTS.</p> <p>Other than the Declarant's right to amend this declaration and/or the Condominium Map prior to the first recording of a conveyance of a unit as described in Section M. above, Declarant reserves no other rights to amend the Declaration or condominium map.</p>

## 4. CONDOMINIUM MANAGEMENT

### 4.1 Management of the Common Elements

<u>Management of the Common Elements:</u> 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.	
The Initial Condominium Managing Agent for this project is (check one)	
<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

<u>Estimate of the Initial Maintenance Fees:</u> 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.
Exhibit "F" 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.

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

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

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

If checked, the following utilities will be billed to each unit owner and are not included in the maintenance fees:	
<input checked="" type="checkbox"/>	Electricity for the Unit only
<input checked="" type="checkbox"/>	Gas for the Unit only
<input checked="" type="checkbox"/>	Water
<input checked="" type="checkbox"/>	Sewer
<input checked="" type="checkbox"/>	TV cable
<input checked="" type="checkbox"/>	Other (specify) Any and all other utilities

## 5. SALES DOCUMENTS

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

<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: May 1, 2008 Name of Escrow Company: Title Guaranty Escrow Services, Inc. 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 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 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 checked="" type="checkbox"/>	There are <u>no blanket liens</u> affecting title to the individual units.
<input type="checkbox"/>	There are <u>blanket liens</u> that may affect title to the individual units.

<u>Type of Lien</u>	Effect on Purchaser's Interest and Deposit if Developer Defaults or Lien is Foreclosed Prior to Conveyance

### 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: N/A
Appliances: N/A

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

Status of Construction:  N/A
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:
Completion Deadline for any repairs required for a unit being converted, as set forth in the sales contract:

**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**

[ X ]	<p>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.</p> <p><i>If this box is checked, Section 5.6.2, which follows below, will not be applicable to the project.</i></p>
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**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):	
[ ]	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
[ ]	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> [ ]</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:</u> 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.</b></p>
<p><b>Box B</b> [ ]</p>	<p>The Developer has <u>not</u> submitted all information and documents required by law the 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: N/A

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 purchaser, 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 purchaser's 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

1. The use of hazardous material is restricted except as provided under Article H of the Declaration and all hazardous materials laws.
2. Purchasers should be aware that the available land coverage shall be allocated to each Unit as set forth in Exhibit "J".
3. Purchasers should be aware that all of the condominium Units are subject to the restrictions contained in that certain First Restated Declaration Of Covenants, Conditions And Restrictions Of Hanalei Garden Farms Estates, as amended, a summary of which is attached as Exhibit "K" and that certain Design Guidelines of Hanalei Garden Farms Estates, a summary of which is attached as Exhibit "L".
4. The Property is subject to the conditions of Special Management Area Use Permit SMA(U)-96-1, Project Development Use Permit U-96-1, and Class IV Zoning Permit Z-IV-96-1, a copy of which is attached hereto as Exhibit "M".
5. The Property is located within the Special Management Area of the County of Kauai. As such, all development on the Property is subject to the terms and conditions of the Special Management Area Rules and Regulations of the County of Kauai.
6. Potable water is supplied to the Property by Princeville Utilities Company, Inc. ("PUCI"). The first water meter ("First Meter") for the Property will be installed without any requirement of payment of a Contribution In Aid Of Construction ("CIAC") fee to PUCI. However, when the second water meter ("Second Meter") is installed, a CIAC fee will need to be paid to PUCI. The owner of Unit B will be entitled to the First Meter, and will not be required to pay a CIAC Fee. The owner of Unit A will be assigned the Second Meter, and will be required to pay the CIAC Fee to PUCI.
7. Spatial Units. Units A and B are spatial units. Section 514B-3, HRS, permits a unit to be described by spatial coordinates rather than constructing or erecting a physical unit. In this project each of the units is a 5 foot by 5 foot area as shown on the Condominium Map. Each of the spatial units may be replaced with a dwelling or structure as described in the Declaration. As provided in the Declaration, any improvements must be in compliance with all applicable building codes and zoning ordinances

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.

RONALD P. JENSEN and ALEXA C. JENSEN, Trustees of the  
Jensen Living Trust under unrecorded Trust Agreement  
dated October 19, 1983, as amended and restated  
by instrument dated November 10, 1999

\_\_\_\_\_  
Owners/Developers

By Ronald P. Jensen TTE  
RONALD P. JENSEN, Trustee

July 28, 2008

\_\_\_\_\_  
Date

By Alexa C. Jensen TTE  
ALEXA C. JENSEN, Trustee

July 28, 2008

\_\_\_\_\_  
Date

Distribution:

Department of Finance, County of Kauai

Planning Department, County of Kauai

**\*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.**

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## EXHIBIT "A"

### A. UNIT DESCRIPTIONS:

The project contains two (2) units. Units A and B are spatial areas, each of which is in the shape of a cube with the following spatial coordinates:

1. The base of the cube is located at ground level at the location shown on the Condominium Map.
2. The base and the top of the cube are both in the shape of a square (in the horizontal plane) which have equal sides, five (5) feet in length.
3. The four (4) sides of the cube are all in the shape of a square (in the vertical plane) which connect the base to the top of the cube and which have equal sides, five (5) feet in length.
4. The Unit is all of the area within the coordinates of the spatial areas.
5. The Unit has a net floor area of twenty-five (25) square feet, and a net volume of one hundred twenty-five (125) cubic feet.
6. Each Unit is located as shown on the Condominium Map.

NOTE: THE FLOOR AREAS ARE APPROXIMATE ONLY. THE DECLARANT MAKES NO REPRESENTATION OR WARRANTIES WHATSOEVER AS TO THE FLOOR AREA OF A PARTICULAR UNIT.

### B. UNIT LOCATIONS:

Units A and B are located as shown on the Condominium Map.

### C. UNIT ACCESS TO PUBLIC ROAD:

Units A and B each have access: across their respective appurtenant Limited Common Element to the Common Element; from the Common Element to Hanalei Plantation Road, a private road subject to an access easement in favor of the Property; and from Hanalei Plantation Road to Honu Road, a County road.

### D. COMMON ELEMENTS:

The common elements of the project shall specifically include, but are not limited to, the following:

1. The land described in Exhibit "A" attached to the Declaration in fee simple.

2. All central and appurtenant installations for common services, including power, light, water, telephone and sewer.

3. Any and all apparatus and installations of common use and all other parts of the project necessary or convenient to its existence, maintenance and safety, or normally in common use.

4. The Common Element containing 3,858 square feet, as shown on the Condominium Map

E. LIMITED COMMON ELEMENTS:

Units A and B shall have appurtenant thereto for their exclusive use certain limited common elements as described as follows:

1. Unit A. Unit A shall have appurtenant to it a limited common element which consists of the land area under and surrounding Unit A, which contains approximately 31,715 square feet as designated on the Condominium Map and described in Exhibit 1 attached to the Declaration, and is reserved for the exclusive use of Unit A for the purposes described in the Project Documents.

2. Unit B. Unit B shall have appurtenant to it a limited common element which consists of the land area under and surrounding Unit B, which contains approximately 31,715 square feet as designated on the Condominium Map and described in Exhibit 2 attached to the Declaration, and is reserved for the exclusive use of Unit B for the purposes described in the Project Documents.

## EXHIBIT "B"

### PARKING PLAN

Each Owner shall be required to provide a minimum of two (2) regular sized parking spaces within the Owner's Unit for use by the Owner, the occupants of the Unit, and their guests. The parking spaces shall be provided within attached or detached garages that shall be constructed at the time of the initial construction of a Condominium House (as that term is defined in the Declaration) on the unit.

## EXHIBIT "C"

### ALTERATIONS TO UNITS

1. Provided that the unit owner satisfies the applicable terms and conditions of the Project Documents and obtains the necessary governmental permits and the prior approval of the Design Guidelines as set forth in the Restrictive Covenants, each unit owner shall have the right at his sole option at any time and from time to time, as hereinafter set forth, without the consent and/or approval of the owner of any other unit or any other persons or entity (unless such consent is required by any governmental agency, in which case it shall be promptly given), to construct, reconstruct, repair, maintain, improve, renovate, remodel, make additions to, enlarge, remove, replace, alter or restore the improvements to or in his unit or portions thereof or upon or within any limited common elements or easements appurtenant to his unit (collectively, the foregoing are referred to as "alterations"). Each unit owner who makes such alterations (hereinafter referred to as the "Altering Owner") shall have the right without the consent or joinder of any other person to amend this declaration and the Condominium Map to accomplish any such alterations. If required by the Act, promptly upon completion of such alterations the Altering Owner shall duly record such amendment to this declaration in the Bureau of Conveyances, together with a complete set of the floor plans of such unit as so altered, certified by a registered architect or professional engineer to fully and accurately depict the altered portions of the property as built. All existing unit owners and all future unit owners and their mortgagees, by accepting an interest in a unit, consent to all such alterations and agree to give and shall be deemed to have given the Altering Owner a power of attorney to execute an amendment to the declaration solely for the purpose of describing the alterations to such unit in the declaration so that the Altering Owner shall hereafter have a power of attorney from all the other unit owners to execute such amendment to the declaration. This power of attorney shall be deemed coupled with each owner's interest in his unit (including his common interest) and shall be irrevocable. If, despite the provisions of this paragraph, any governmental agency shall require some or all of the owners of units in the Project (other than the Altering Owner) to sign the necessary governmental permit application or related documents, then all of the other unit owners shall be required to sign any such permit applications or related documents (including authorizations allowing the Altering Owner to sign such governmental permits on behalf of such other owners) as may be necessary to allow a unit owner to obtain the governmental permit authorized by this paragraph. Any such unit owner who wrongfully refuses to sign such permits or provide the Altering Owner with the necessary authorizations: shall be liable to the Altering Owner for all such damages (including costs and attorneys' fees) incurred by the Altering Owner as a result of such refusal; and shall be subject to such other legal and/or equitable remedies as may be available to the Altering Owner.

2. Any alteration of a unit pursuant to Paragraph K of the Declaration shall be subject to the following conditions:

(a) All such alterations shall conform with all applicable governmental regulations, laws and ordinances.

(b) Such alterations may decrease or increase the size of improvements located on or within the affected unit, provided that no alteration shall extend or place such improvements outside of the limits of such unit.

(c) All such alterations shall be at the sole expense of the unit owner making the change and shall be completed within eighteen (18) months of the issuance of all necessary governmental permits for the commencement thereof and in a manner that will not unreasonably interfere with any other unit owner's use of his unit.

(d) With the prior consent of the Board of Directors, the owner of the altered unit shall have the right to: utilize, relocate, realign and/or develop additional, central and appurtenant installations for services to the unit affected by such alteration for electricity, sewer and other utilities and services; and when necessary, add, delete, relocate, realign, designate and grant easements and rights-of-way over, under and on the common elements as necessary or desirable in connection therewith. Provided, however, that no work done pursuant to this paragraph shall cause any unreasonable interruption in the service of such utilities to any other part of the Project, nor shall it unreasonably interfere with any other unit owner's use or enjoyment of his unit.

3. Each and every conveyance, lease and mortgage or other lien made or created on any unit and all common interests, limited common elements, and other appurtenances thereto shall be subject to the provisions of Paragraph K of the Declaration and any lease of a unit shall reserve to all unit owners the rights set forth in Paragraph K of the Declaration.

4. When applying for or submitting building permits, use permits, zoning permits or any other land use permits with governmental agencies, the governmental agency may require some or all of the owners of the Project to sign the permit forms. In such case, all unit owners shall be required to sign such permit applications and related documents as may be necessary for any unit owner to obtain such permits, so long as the requesting unit owner has complied with the Condominium Documents.

5. The issuance of an effective date for the Condominium Public Report should not be construed to mean that all governmental laws, ordinances and regulations have been complied with and all subsequent development and use shall comply with applicable governmental laws, ordinances and regulations. Additionally, the creation of the Condominium Property Regime does not mean that the land has met the subdivision requirements of the County. As such, certain facilities and improvements normally associated with County approved subdivisions may not be necessarily included as part of this Project.

6. The owner of each unit shall be allowed to construct, place and/or maintain the following improvements within the owner's unit: one Condominium House; and any and all other improvements allowed by the Restrictive Covenants.

## EXHIBIT "D"

### COMMON ELEMENTS

The common elements of the project shall specifically include, but are not limited to, the following:

1. All central and appurtenant installations for common services, including utilities.
2. Any and all apparatus and installations of common use and all other parts of the project necessary or convenient to its existence, use, maintenance or safety, or normally in common use.
3. The Common Element (Driveway), as shown on the Condominium Map.

## EXHIBIT "E"

### ENCUMBRANCES AGAINST TITLE

1. RIGHT-OF-ENTRY to CITIZENS UTILITIES COMPANY, whose interest is now held by KAUAI ISLAND UTILITY CO-OP, dated February 4, 1998, and recorded as Document No. 99-011892, granting a right-of-entry and easement for utility purposes.
2. SETBACK (10 feet wide) for building purposes, as shown on subdivision map prepared by Thomas H. Oi, Licensed Professional Land Surveyor, dated December 1, 1999, approved on April 9, 2002, by the Planning Commission of the County of Kauai.
3. SETBACK (15 feet wide) for building purposes, as shown on subdivision map prepared by Thomas H. Oi, Licensed Professional Land Surveyor, dated December 1, 1999, approved on April 9, 2002, by the Planning Commission of the County of Kauai.
4. SETBACK (15 feet wide) for swimming pool purposes, as shown on subdivision map prepared by Thomas H. Oi, Licensed Professional Land Surveyor, dated December 1, 1999, approved on April 9, 2002, by the Planning Commission of the County of Kauai.
5. SETBACK (30 feet wide) for building purposes, as shown on subdivision map prepared by Thomas H. Oi, Licensed Professional Land Surveyor, dated December 1, 1999, approved on April 9, 2002, by the Planning Commission of the County of Kauai.
6. DESIGNATION OF EASEMENT "H-13" for landscape purposes, as shown on subdivision map prepared by Thomas H. Oi, Licensed Professional Land Surveyor, dated December 1, 1999, approved on April 9, 2002, by the Planning Commission of the County of Kauai.
7. DESIGNATION OF EASEMENT "J-9" for access and landscape purposes, as shown on subdivision map prepared by Thomas H. Oi, Licensed Professional Land Surveyor, dated December 1, 1999, approved on April 9, 2002, by the Planning Commission of the County of Kauai.
8. DESIGNATION OF EASEMENT "L-22" for landscape purposes, as shown on subdivision map prepared by Thomas H. Oi, Licensed Professional Land Surveyor, dated December 1, 1999, approved on April 9, 2002, by the Planning Commission of the County of Kauai.
9. DESIGNATION OF EASEMENT "L-23" for landscape purposes, as shown on subdivision map prepared by Thomas H. Oi, Licensed Professional Land Surveyor, dated December 1, 1999, approved on April 9, 2002, by the Planning Commission of the County of Kauai.
10. Restriction of vehicular access rights along Hanalei Plantation Road, except where access is permitted, as shown on subdivision map prepared by Thomas H. Oi, Land Surveyor, with Portugal & Associates Inc., dated December 1, 1999, approved on April 9, 2002, by the Planning Commission of the County of Kauai.

11. Water service is not available from the Department of Water, County of Kauai, as shown on subdivision map prepared by Thomas H. Oj, Licensed Professional Land Surveyor, dated December 1, 1999, approved on April 9, 2002, by the Planning Commission of the County of Kauai.

12. The terms and provisions contained in the following:

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR THE HANAIEI GARDEN FARMS ESTATES dated July 15, 2002, recorded as Document No. 2002-138948.

Said Declaration was amended by instrument dated October 17, 2002, recorded as Document No. 2002-184603; restated by instrument dated September 9, 2003, recorded as Document No. 2003-193061; amended by instrument dated November 28, 2003, recorded as Document No. 2003-267002; corrected by instrument dated August 12, 2004, recorded as Document No. 2004-172341; and further amended by instrument dated June 1, 2007, recorded as Document No. 2007-104620.

13. The terms and provisions contained in the following:

DECLARATION OF GRANT AND RESERVATION OF EASEMENTS FOR THE HANAIEI GARDEN FARMS ESTATES SUBDIVISION dated July 15, 2002, and recorded as Document No. 2002-138949.

14. The terms and provisions contained in the following:

DECLARATION OF THE CONDOMINIUM PROPERTY REGIME OF HGFE LOT 13 CONDOMINIUM dated April 25, 2008, and recorded as Document No. 2008-096961.

Condominium Map No. 4660 and any amendments thereto.

15. The terms and provisions contained in the BY-LAWS OF THE ASSOCIATION OF UNIT OWNERS OF HGFE LOT 13 dated April 25, 2008, recorded as Document No. 2008-096962.

16. Real Property Taxes, if any, that may be due and owing. For more information contact the County of Kauai, Real Property Assessment Division.

**EXHIBIT "F"**

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>
Unit A	\$60.00 x 12 = \$720.00
Unit B	\$60.00 x 12 = \$720.00

***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 Fee x 12 months =

Yearly Total

Utilities and Services

Air Conditioning

Electricity

common elements only

\$ 30.00 x 12 = \$ 360.00

common elements and apartments

Elevator

Gas

common elements only

common elements and apartments

Refuse Collection

Telephone

Water and Sewer

Maintenance, Repairs and Supplies

Building

Grounds/Roads

Entrance and Gate

\$ 30.00 x 12 = \$ 360.00

Management

Management Fee

\$ 300.00 x 12 = \$3,600.00

Payroll and Payroll Taxes

Office Expenses

Insurance

\$ 30.00 x 12 = \$ 360.00

Reserves(\*)

\$ 30.00 x 12 = \$ 360.00

Taxes and Government Assessments

Audit Fees

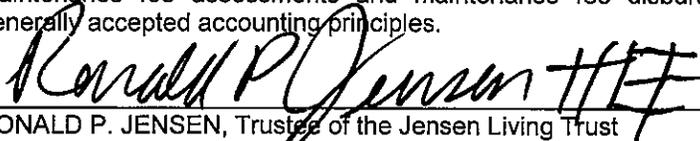
Legal Fees

Other

TOTAL

\$ 120.00 x 12 = \$1,440.00

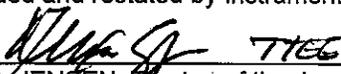
RONALD P. JENSEN and ALEXA C. JENSEN, Trustees of the Jensen Living Trust under unrecorded Trust Agreement dated October 19, 1983, as amended and restated by instrument dated November 10, 1999, the developer for the HGFE LOT 13 CONDOMINIUM project, hereby certify that the above estimates of initial maintenance fee assessments and maintenance fee disbursements were prepared in accordance with generally accepted accounting principles.



RONALD P. JENSEN, Trustee of the Jensen Living Trust under unrecorded Trust Agreement dated October 19, 1983, as amended and restated by instrument dated November 10, 1999

July 28, 2008

Date



ALEXA C. JENSEN, Trustee of the Jensen Living Trust under unrecorded Trust Agreement dated October 19, 1983, as amended and restated by instrument dated November 10, 1999

July 28, 2008

Date

Pursuant to §514B-144, HRS, the association will be required to adopt an annual budget. Pursuant to §514B-148, HRS, the annual budget shall include both total replacement reserves as of the date of the budget, and estimated replacement reserves. The association shall assess the unit owners to either fund a minimum of fifty percent of the estimated replacement reserves or fund one hundred percent of the estimated replacement reserves when using a cash flow plan; provided that a new association need not collect estimated replacement reserves until the fiscal year which begins after the association's first annual meeting. For each fiscal year, the association shall collect the amount assessed to fund the estimated replacement for that fiscal year reserves, as determined by the association's plan.

The association shall compute the estimated replacement reserves by a formula that is based on the estimated life and the estimated capital expenditure or major maintenance required for each part of the property. The estimated replacement reserves shall include:

(1) Adjustments for revenues which will be received and expenditures which will be made before the beginning of the fiscal year to which the budget relates; and

(2) Separate, designated reserves for each part of the property for which capital expenditures or major maintenance will exceed \$10,000. Parts of the property for which capital expenditures or major maintenance will not exceed \$10,000 may be aggregated in a single designated reserve.

"Capital expenditure" means an expense that results from the purchase or replacement of an asset whose life is greater than one year, or the addition of an asset that extends the life of an existing asset for a period greater than one year.

"Cash flow plan" means a minimum twenty-year projection of an association's future income and expense requirements to fund fully its replacement reserves requirements each year during that twenty-year period, except in an emergency; provided that it does not include a projection of special assessments or loans during that twenty-year period, except in an emergency.

"Major maintenance" means an expenditure for maintenance or repair that will result in extending the life of an asset for a period greater than one year.

"Replacement reserves" means funds for the upkeep, repair, or replacement of those parts of the property, including but not limited to roofs, walls, decks, paving, and equipment, that the association is obligated to maintain.

NOTE: Developer discloses that Developer has not conducted a reserve study in accordance with §514B-148, HRS, and the replacement reserve rules, if any, adopted by the Real Estate Commission.

## EXHIBIT "G"

### SUMMARY OF PURCHASE CONTRACT

The Purchase Contract, including the terms and conditions attached thereto as the CPR Addendum (hereinafter collectively called the "Sales Contract") contain the price and other terms and conditions under which a purchaser will agree to buy a unit in the Project. Among other things, the Sales Contract states:

(a) The total purchase price, method of payment and additional sums which must be paid in connection with the purchase of a unit.

(b) That the purchaser acknowledges having received and read, prior to signing the Sales Contract, the following: The Developer's Public Report and any amendments; the recorded project Declaration and Bylaws and any amendments; the project House Rules, if any, with amendments; a letter sized Condominium Project Map and amendments; and the Notice of Buyer's Right to Cancel.

(c) That the Developer makes no representations concerning rental of a unit, income or profit from a unit, or any other economic benefit to be derived from the purchase of a unit.

(d) That the purchaser's money will be held in escrow, under the terms of the Escrow Agreement.

(e) Requirements relating to the purchaser's financing of the purchase of a unit.

(f) That the unit and the Project will be subject to various other legal documents which the purchaser should examine, and that the Developer may change these documents under certain circumstances.

(g) That the Developer makes no warranties regarding the unit, the Project or anything installed or contained in the unit or the Project.

(h) That the purchaser must close the purchase at a certain date and pay closing costs, in addition to the purchase price.

(i) That, unless requested, the purchaser will not receive interest on deposits made under the Sales Contract.

(j) If the buyer shall default:

(1) The contract may, at the seller's option, be terminated by written notice to the buyer; and

(2) Any sums paid by the buyer shall belong to the seller as liquidated damages (up to a maximum of 20% of the total purchase price); and

(3) The seller may pursue any other remedy, including specific performance, permitted by law or equity. All costs, including reasonable attorneys' fees, incurred by reason of default by the buyer shall be borne by the buyer.

The Sales Contract contains various other important provisions relating to the purchase of a unit in the Project. It is incumbent upon purchasers and prospective purchasers to read with care the specimen sales Contract on file with the Real Estate Commission.

## EXHIBIT "H"

### SUMMARY OF ESCROW AGREEMENT

The Escrow Agreement sets up an arrangement under which the deposits a purchaser makes pursuant to a Sales Contract will be held by a neutral party ("Escrow"). Under the Escrow Agreement, these things will or may happen:

- (a) Escrow will let the purchaser know when payments are due.
- (b) Escrow will arrange for the purchaser to sign all necessary documents.

(c) The purchaser is entitled to a refund if the purchaser or seller cancels the Sales Contract in accordance with its cancellation provisions, or if the purchaser terminates its reservation before the Sales Contract is binding. However, Escrow may deduct from the refund cancellation fees in accordance with the Sales Contract in an amount not to exceed \$250.00.

In the event of a default by the purchaser, the funds paid by the purchaser shall belong to the seller as liquidated damages (up to a maximum of twenty percent (20%) of the total purchase price).

The Escrow Agreement contains various other important provisions and establishes certain charges with which a purchaser should be familiar. It is incumbent upon purchasers and prospective purchasers to read with care the executed Escrow Agreement on file with the Real Estate Commission.

(d) The purchaser's funds that are placed in trust prior to closing may be used by the seller after:

(1) the purchaser has (i) been provided with a developer's public report; and any amendments thereto, recorded copies of the project Declaration and Bylaws, with any amendments, the project House rules (if any), with any amendments, a letter sized Condominium Project Map, with any amendments, and a Notice of Buyer's Right to Cancel; (ii) executed a receipt and notice and has waived his right to cancel or thirty (30) days have elapsed since the purchaser has been provided with the final public report and receipt and notice of right to cancel;

(2) the seller notifies escrow in writing that since (i) and (ii) have happened, the Sales Contract is binding; and

(3) the seller's attorney advises escrow that the Sales Contract is binding and the requirements of Hawaii Revised Statutes, Sections 514B-87 and -91 have been met.

(e) Escrow may not disburse any buyer's funds in the construction of the project until completion of the project and the expiration of the mechanic's and materialmen's lien period. Escrow may disburse prior to completion of the project and expiration of the applicable lien period if the Developers would furnish each purchaser an Owners Title Insurance with an endorsement against any future liens placed on the apartments or project as a result of the development, plus providing the Real Estate Commission a release of the General Contractor's lien rights.

EXHIBIT "I"

DEVELOPER'S ZONING COMPLIANCE DECLARATION

RONALD P. JENSEN and ALEXA C. JENSEN, Trustees of the Jensen Living Trust under unrecorded Trust Agreement dated October 19, 1983, as amended, and restated by instrument dated November 10, 1999, the Developer of the HGFE LOT 13 CONDOMINIUM project ("Project"), hereby certifies pursuant to Hawaii Revised Statutes ("HRS"), Sections 514B-32(a)(13) and 514B-54(a)(8), and subject to the penalties contained in HRS Section 514B-69(b), as follows:

1. That the Project is in compliance with all zoning and building ordinances and codes and all other permitting requirements of the County of Kauai ("County").
2. That the Project conforms to the existing underlying zoning of the County for the Project property and all other County permitting requirements.
3. That the Project does not contain any existing structures being converted to condominium regime status.
4. That the Project is not located in the State Land Use Commission Agricultural District.

  
\_\_\_\_\_  
RONALD P. JENSEN, Trustee of the Jensen Living Trust under unrecorded Trust Agreement dated October 19, 1983, as amended, and restated by instrument dated November 10, 1999

  
\_\_\_\_\_  
ALEXA C. JENSEN, Trustee of the Jensen Living Trust under unrecorded Trust Agreement dated October 19, 1983, as amended, and restated by instrument dated November 10, 1999

## EXHIBIT "J"

### LAND COVERAGE

Land coverage shall be allocated to the Units as follows:

1. The total land coverage ("Total Land coverage") for the project is 50% of the total size of the Property.
2. The net land coverage for the Project ("Net Land Coverage") is the Total Land Coverage minus the land coverage within the Common Element Driveway.
3. Each unit will be allocated land coverage ("Unit Land Coverage") equal to one-half (1/2) of the Net Land Coverage.

## EXHIBIT "K"

### SUMMARY OF FIRST RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR THE HANAIEI GARDEN FARMS ESTATES, AS AMENDED

Uses, structures, and development within the HGFE Lot 13 Condominium project ("Project") are subject to the First Restated Declaration Of Covenants, Conditions And Restrictions For Hanalei Garden Farms Estates, as amended ("Restrictive Covenants"). Among other things, the Restrictive Covenants provide as follows:

1. That all of the condominium units in the Project shall be subject to the Restrictive Covenants.
2. That all units shall be subject to the Design Guidelines set forth in the Restrictive Covenants.
3. That no Building or Improvement shall be constructed except as provided in the Restrictive Covenants, and except as approved by the Design Committee.
4. That all plans for Improvements and Buildings must be submitted to the Design Committee for its prior approval.
5. That all Buildings and Improvements shall be subject to the design restrictions, setback requirements, and density limitations set forth in the Restrictive Covenants.
6. That certain uses shall be prohibited within the Project.
7. That certain structures and other Improvements or Buildings are prohibited by the Restrictive Covenants.
8. That each unit shall be required to submit a Unit Landscaping Plan for prior approval by the Design Committee.
9. That each unit owner is responsible for maintaining the existing watercourses and drainage (and any drainage improvements) within the limited common element appurtenant to each such unit.
10. That the Association of Apartment Owners of the HGFE Lot 13 Condominium and the Hanalei Garden Farms Estates Homeowners Association retain the rights to enforce the Restrictive Covenants and to obtain legal remedies against any unit owner that violates the Restrictive Covenants.

11. That the Restrictive Covenants may be amended as set forth in the Restrictive Covenants.

The Restrictive Covenants contain other important provisions relating to the uses, development, and buildings allowed within the Project. It is incumbent upon purchasers and prospective purchasers to read with care the Restrictive Covenants. A copy has been submitted to the Commission by the Developer as part of its project file. Prospective purchasers may also read the Covenants by asking the Sales Agent for a copy.

## EXHIBIT "L"

### SUMMARY OF DESIGN GUIDELINES OF HANAIEI GARDEN FARMS ESTATES

Uses, structures, and development within the HGFE Lot 13 Condominium project ("Project") are subject to the Design Guidelines Of Hanalei Garden Farms Estates ("Design Guidelines"). Among other things, the Design Guidelines provide as follows:

1. That all units shall be subject to the Design Guidelines.
2. That no Building or Improvement shall be constructed except as provided in the Design Guidelines, and except as approved by the Design Committee.
3. That all plans for Improvements and Buildings must be submitted to the Design Committee for its prior approval pursuant to the Design Review Process set forth in the Design Guidelines.
4. That all Buildings and Improvements shall be subject to the Design Guidelines set forth in the Design Guidelines.
5. That all development shall be subject to the Construction Regulations contained in the Design Guidelines.
6. That the Association of Unit Owners of the HGFE Lot 13 Condominium and the Hanalei Garden Farms Estates Homeowners Association retain the right to enforce the Design Guidelines and to obtain legal remedies against any unit owner that violates the Design Guidelines.
7. That the Design Guidelines may be amended as set forth therein.

The Design Guidelines contain other important provisions relating to the uses, development, and buildings allowed within the Project. It is incumbent upon purchasers and prospective purchasers to read with care the Design Guidelines. A copy has been submitted to the Commission by the Developer as part of its project file. Prospective purchasers may also read the Design Guidelines by asking the Sales Agent for a copy.

EXHIBIT "M"

MARYANNE W. KUSAKA  
MAYOR



COUNTY OF KAUAI  
PLANNING DEPARTMENT  
4444 RICE STREET, SUITE 473  
LIHUE, KAUAI, HAWAII 96766

DEE M. CROWELL  
PLANNING DIRECTOR

IAN K. COSTA  
DEPUTY PLANNING DIRECTOR

TELEPHONE (808) 241-6677  
FAX (808) 241-6699

August 12, 1996

RECEIVED  
AUG 20 1996

BELLES GRAHAM  
PROUDFOOT & WILSON

William F. and Martha J. Mowry  
c/o Max W. S. Graham, Esq.  
Belles Graham Proudfoot and Wilson  
Attorneys At Law  
4334 Rice Street, Suite 202  
Lihue, Hawaii 96766

Subject: Special Management Area Use Permit SMA(U)-96-1  
Project Development Use Permit U-96-1  
Class IV Zoning Permit Z-IV-96-1  
TMK: 5-4-04: 27 Hanalei, Kauai

The Planning Commission at its regular meeting held on August 8, 1996 approved the subject permit applications to allow the development of a 13-lot residential subdivision and one open space (landfill) lot and a total density of 23 residential units, subject to the following conditions:

1. As represented by the applicant, the number of residential dwellings to be built in the subdivision and on the proposed lots identified on Exhibit "A" shall be subject to the following restrictions:
  - a. Lots 1, 2, and 4 shall be limited to one single family residential dwelling. No guest houses or Additional Dwelling Units (ADU's) shall be allowed on these lots.
  - b. Lots 5 through 14 shall be limited to two single family residential dwellings. No guest houses shall be allowed on these lots.
  - c. The applicant shall enter into an agreement with the County of Kauai that shall recognize the prohibition of ADU's and guest cottages on the lots in the subdivision. The agreement shall be incorporated into the deed of each lot and filed with the State Bureau of Conveyances.

The applicant shall be responsible to prepare the agreement. Draft copies of the agreement shall be submitted to the Planning Department for review and approval prior to or at time of subdivision application and review.

2. The applicant is advised that the subject permits do not authorize the development of second dwelling units on Lots 5 through 14 unless Condition No. 3 of Ordinance No. PM-294-94 is amended by the County Council. Based on the representations of the applicant, the subject permits do not allow a residential density greater than two dwelling units on lots 5 through 14. In view of the revised subdivision layout and proposed density, the applicant shall submit prior to subdivision application an amendment to Ordinance No. PM-294-94 to allow 2 dwelling units per lot on Lots 5 through 14.
3. Lot 3 (landfill) shall remain in the Open District and Project District (O/PD). No residential dwellings shall be allowed on this lot. Access to the lot shall be for subdivision lot owners only and any use of this lot shall be limited to open, recreational type uses and activities. A buffer zone as recommended and approved by the State Health Department (Office of Solid Waste Management) shall be identified accordingly on the subdivision map. No structures and impervious surfaces, such as tennis courts and pavilions, shall be allowed on Lot 3, except for walkways as shown on Figure 14 of the applicant's Revised Submittal Packet dated May 9, 1996.
4. The following components of the Project Development Use Permit relating to the design controls and guidelines as specified in the Revised Submittal Packet dated May 9, 1996 containing the design manual, CC&R's, including other development plan concepts and applicable development standards required for the entire subdivision shall be adhered to:
  - a. Setbacks to property lines (See Setback Table in attached Exhibit "A");
  - b. The twenty-five (25) foot building height limit for lots 4 to 14 as allowed in the North Shore Planning Area shall be measured from natural (existing) or finished grade, whichever is lower, along all points of the building foundation.

Lots 1 and 2 shall have lower building heights as shown on Exhibit "A". The intent of this provision is to limit building heights on Lots 1 and 2 to a height not exceeding 15' to 18' above the crown of the Hanalei Plantation Road.

All future lot owners shall submit a grading plan showing existing and finished contours along with the construction drawings at time of building permit application. (See attached Exhibit "A" and "B");

- c. Uninterrupted wall heights shall not exceed 12 feet;
- d. Building colors shall consist of warm toned earth colors. However, buildings along the bluff shall be restricted to earth tone shades in the middle to dark ranges. The use of mirrored glass, reflective sunscreens, or other highly reflective materials for exterior surfaces and roofs shall be prohibited. Color and material boards shall be submitted to the Planning Department for review and approval prior to Building Permit application;
- e. 2-story building height restrictions and design criteria (See attached Exhibit "B");
- f. Second dwelling unit setback lines on Lots 5 through 14 (Note: Setback line is established parallel to and 130 feet from rear property line. See Attached Exhibit "A");
- g. A maximum Lot length to width ratio of 5 : 1 is permitted for certain lots in the subdivision;
- h. Each dwelling unit shall not exceed a maximum of 2 floors facing south;
- i. A minimum of seventy-five percent (75%) of the area of all roofs on each structure shall be sloped with a minimum pitch of 4 (vertical) to 12 (horizontal). Hipped roofs are encouraged. Gabled ends or flat roofed ends of buildings facing south shall not exceed twenty feet in width.

The Applicant is advised that the CC&R's, Design Guidelines and other associated documents are subject to final review and approval prior to final subdivision approval.

- 5. Residential structures to be constructed on the south side of the second dwelling unit setback line shall be limited as follows:

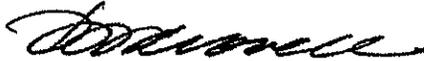
- a. Total allowable width of structure(s) south of the second dwelling unit setback line, facing Hanalei Valley, shall not exceed 100 feet (See Exhibit "C");
  - b. For Lots 1, 2, and 4, the total allowable building square footage shall not exceed twenty-five (25%) percent of the lot area;
  - c. For Lots 5 through 14, the total allowable building square footage shall not exceed thirty-eight (38%) percent of the lot area on the bluff side of the second dwelling unit setback line;
  - d. For the purpose of administering this permit, the term "Building Square Footage" shall include all roofed or covered areas, interior and exterior. Building square footage shall also include trellised areas or structures, including swimming pools. Building square footage shall include decks or walkways constructed above 30 inches from existing or finished grade, whichever is lower.
6. The applicant is advised that although the Special Management Area (SMA) Use Permit will cover the number of lots and total residential density of 23 units, SMA permits for individual lot owners may be required for large scale grading work. Any substantial grading work in excess of 100 cubic yards intended by future lot owners shall be subject to the review of the Planning Department.
  7. The rear setbacks (facing or along the rim of Hanalei Valley) for all of the lots in the subdivision, shall be landscaped in accordance with the applicant's landscape master plan and individual landscape master plans that will be required of each landowner at time of building permit application. Accessory uses and structures, including but not limited to decks 30 inches above finished grade, storage buildings, and light fixtures shall be prohibited in the setback area. In-ground swimming pools may encroach at a distance of not more than fifty percent (50%) of the rear setback, provided that no above grade accessory structures of any kind, temporary or permanent, shall be allowed in the setback area.
  8. The applicant's landscape master plan and individual lot owner landscape master plans shall identify by name, number, and specific locations, those existing trees on the subject property which will be saved and used incorporated as part of the subdivision landscaping plan. The applicant shall provide the Planning Department the opportunity to review the master landscape plan prior to subdivision application and any

grading or grubbing of the subject property. The applicant shall incorporate maintenance provisions for the landscaping in the deeds of the individual lots for the project.

9. To ensure that the building design, color schemes, and landscaping requirements of Conditions Nos. 4, 5, 7, and 8 are adhere to, all proposed buildings within the proposed subdivision shall be subject to design review of the Planning Department prior to building permit application and preferably to be submitted during the design development phase for individual dwellings or structures.
10. Grading and grubbing activities on the subject property shall not be allowed during and prior to subdivision review and final subdivision approval.
11. As represented by the applicant, the CC&R's shall include a waiver and indemnity agreement that absolves the County of Kauai from any claims that may accrue relative to the past, present, and future use of the subject property. The waiver and indemnity agreement is to be reviewed and approved by the County Attorney. Specific disclosure on the dump site Lot 3 shall be provided in the agreement.
12. All setback lines and second dwelling unit setback lines shall be indicated on the preliminary and final subdivision maps for the project.
13. All conditions of approval of the subject permits shall be recorded with the State Bureau of Conveyances and properly disclosed in all sales conveyances documents.
14. As represented by the applicant, all on site utilities for the subdivision shall be installed underground. The height and type of lamp/fixture for any street lights proposed in the dead-end roadways shall be subject to the review and approval of the Planning Department.
15. The applicant shall comply with and resolve those conditions as imposed and recommended by the State Health Department, Public Works Department, and Fire Department.
16. The Planning Commission and Planning Department reserves the authority to impose additional conditions or to reject building permit applications as deemed necessary if it is found that any development proposed on the individual lots do not conform to the development concepts considered as part of the Project Development Use Permit.

William F. and Martha J. Mowry  
Page 6  
August 12, 1996

17. The applicant is advised that additional government agency conditions may be imposed. It shall be the applicant's responsibility to resolve those conditions with the respective agency(ies).
18. The Planning Commission reserves the authority to impose additional conditions, modify or delete conditions stated herein, or revoke the subject permits through proper procedures should the applicant fail to comply with the conditions of approval.



DEE M. CROWELL  
Planning Director

cc: Andrew Daymude-Keith Companies-Hawaii  
Public Works Dept.  
Water Dept.  
State Health Dept.  
Historic Preservation Div.-DLNR  
Fire Dept.  
Office of State Planning  
Real Property Div.

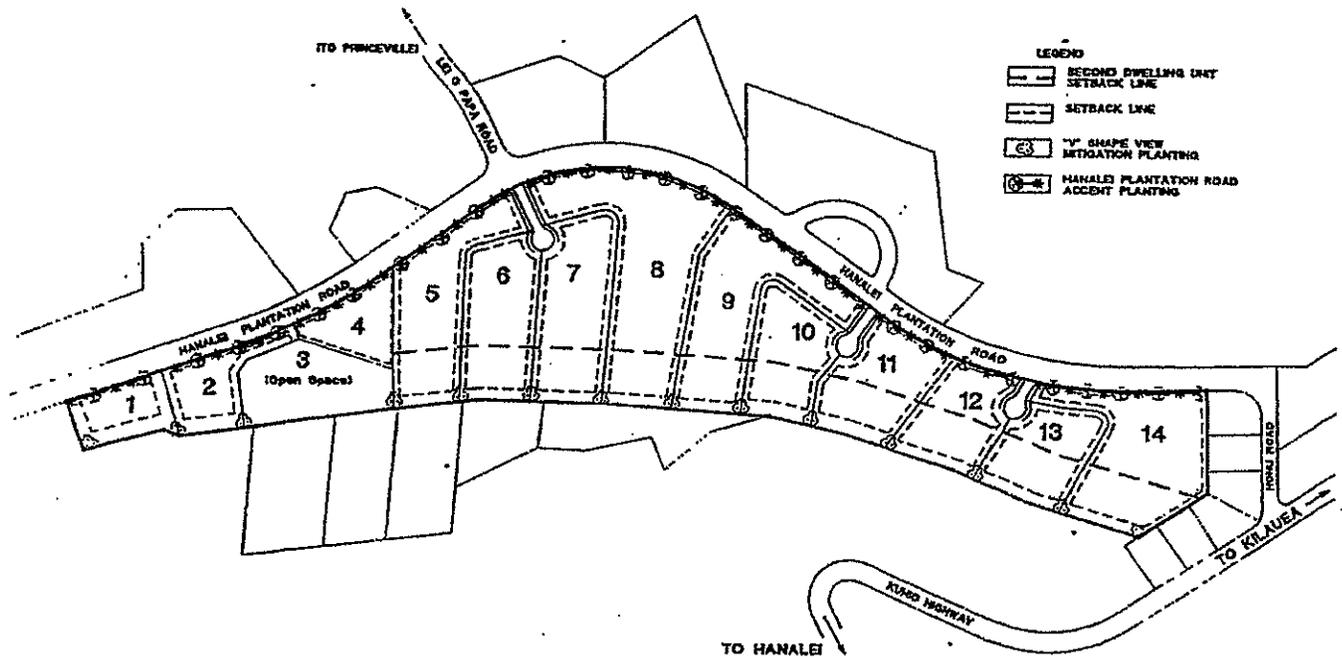
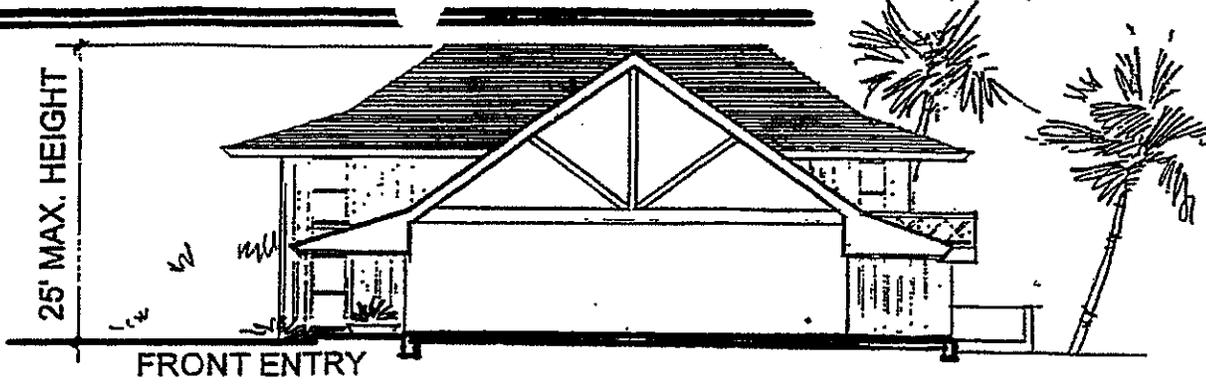


TABLE 2: INDIVIDUAL LOT CALCULATIONS

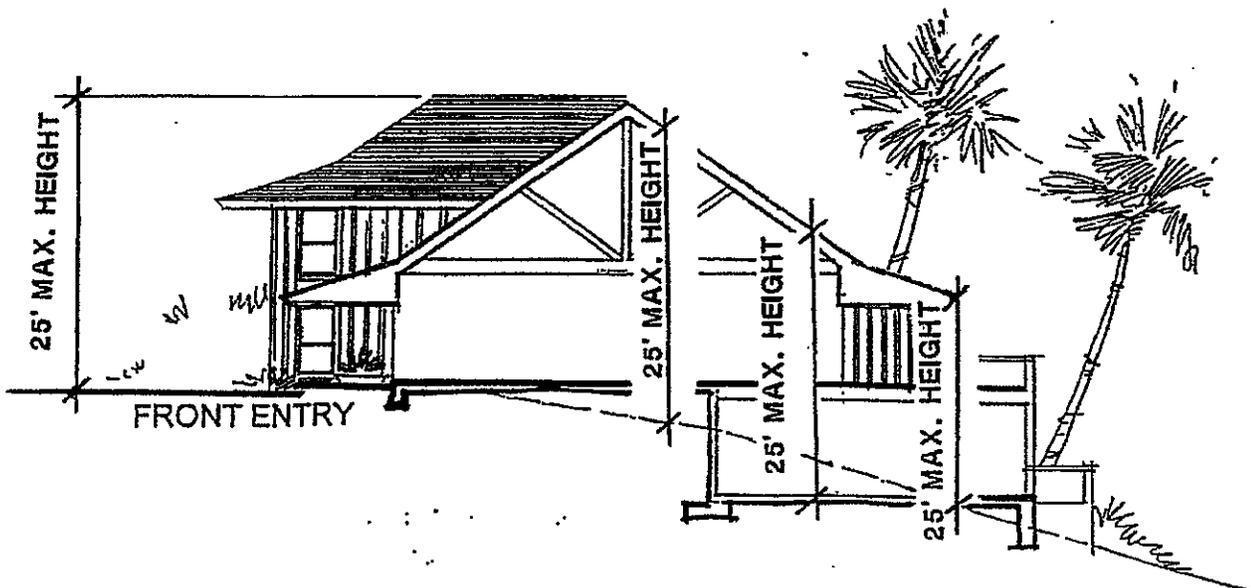
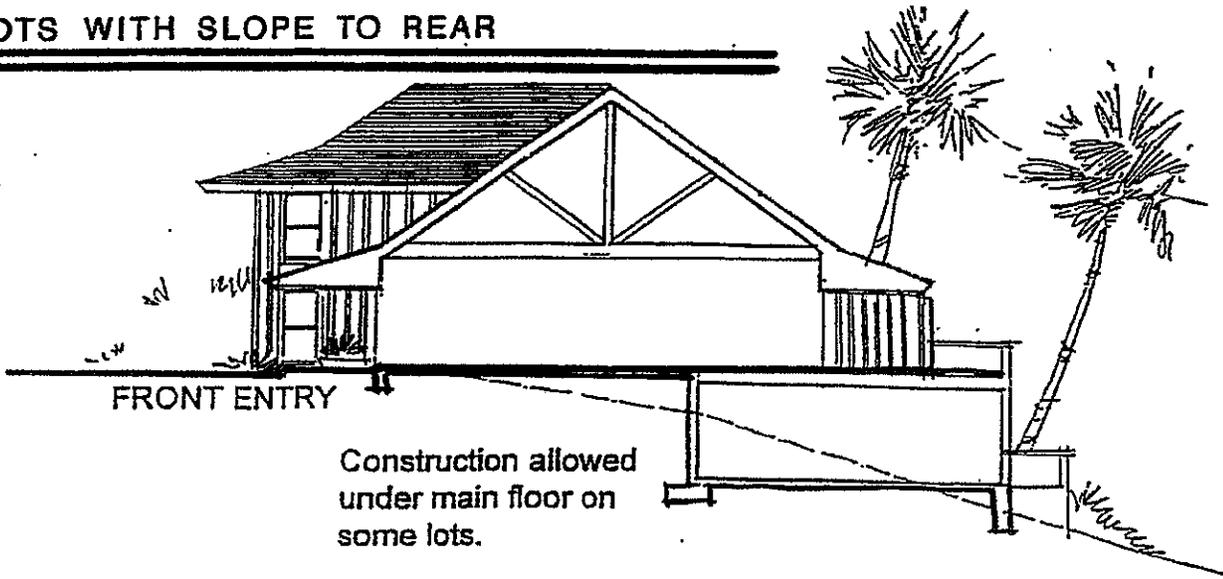
Lot No. #:	Acres	Square Footage	Building Set Backs / Allowable Building Height			
			Front	Side	Rear	Height
	.71	31,120	10'	30'	40'	200 MSL
	.86	37,625	10'	20'	40'	205 MSL
(openspace)	1.39	60,730	NA	NA	NA	NA
	.76	33,158	10'	5'	10'	25'
	1.89	82,139	10'	15'	30'	25'
	1.85	71,670	10'	15'	30'	25'
	1.83	79,154	10'	15'	30'	25'
	3.10	134,892	10'	15'	30'	25'
	2.45	106,539	10'	15'	30'	25'
0	1.28	55,931	10'	15'	40'	25'
1	1.47	64,122	10'	15'	40'	25'
2	1.23	53,441	10'	15'	30'	25'
3	1.22	53,336	10'	15'	30'	25'
4	2.35	102,350	10'	15'	30'	25'
<b>Total Residential Area</b>	<b>*20.80</b>	<b>*905,487</b>				
<b>Average Lot Size</b>	<b>1.60</b>	<b>68,652</b>				
<b>Project Total</b>	<b>22.72</b>	<b>990,223</b>				

Does not include Lot #3, Open Space

**R FLAT LOTS**



**R LOTS WITH SLOPE TO REAR**



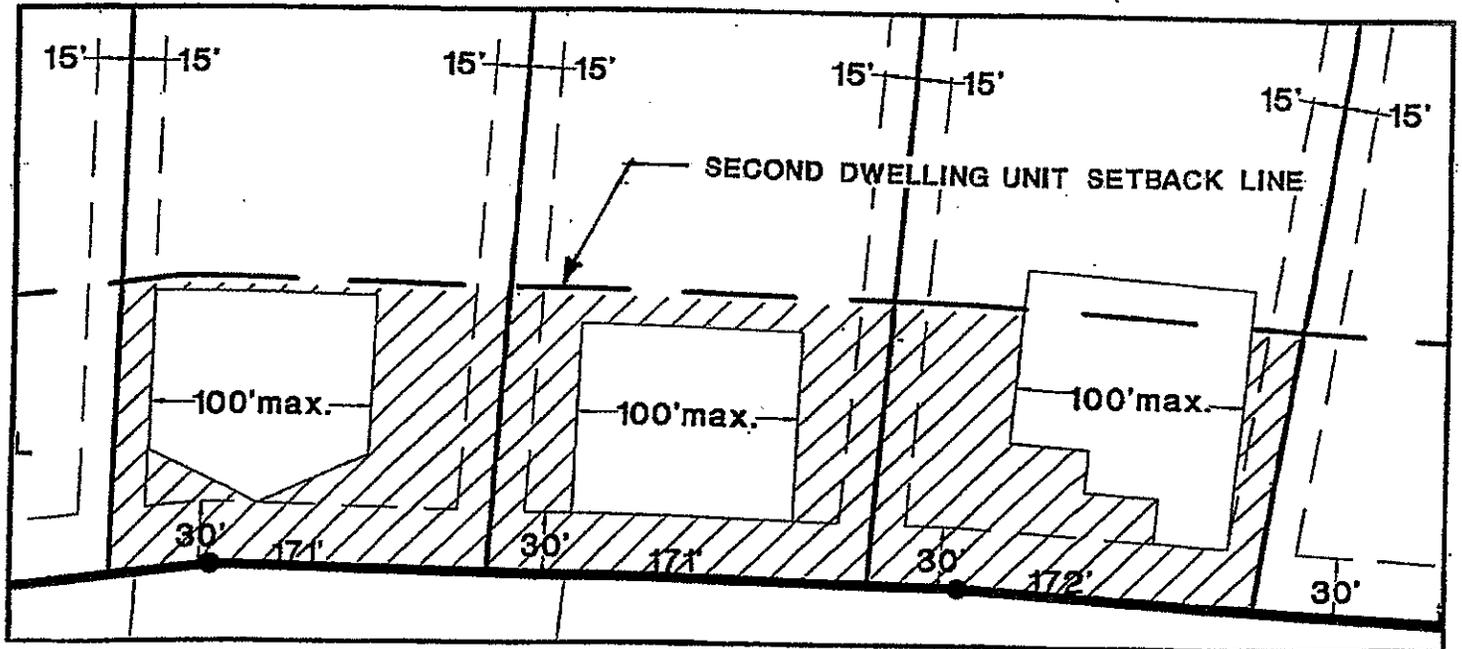
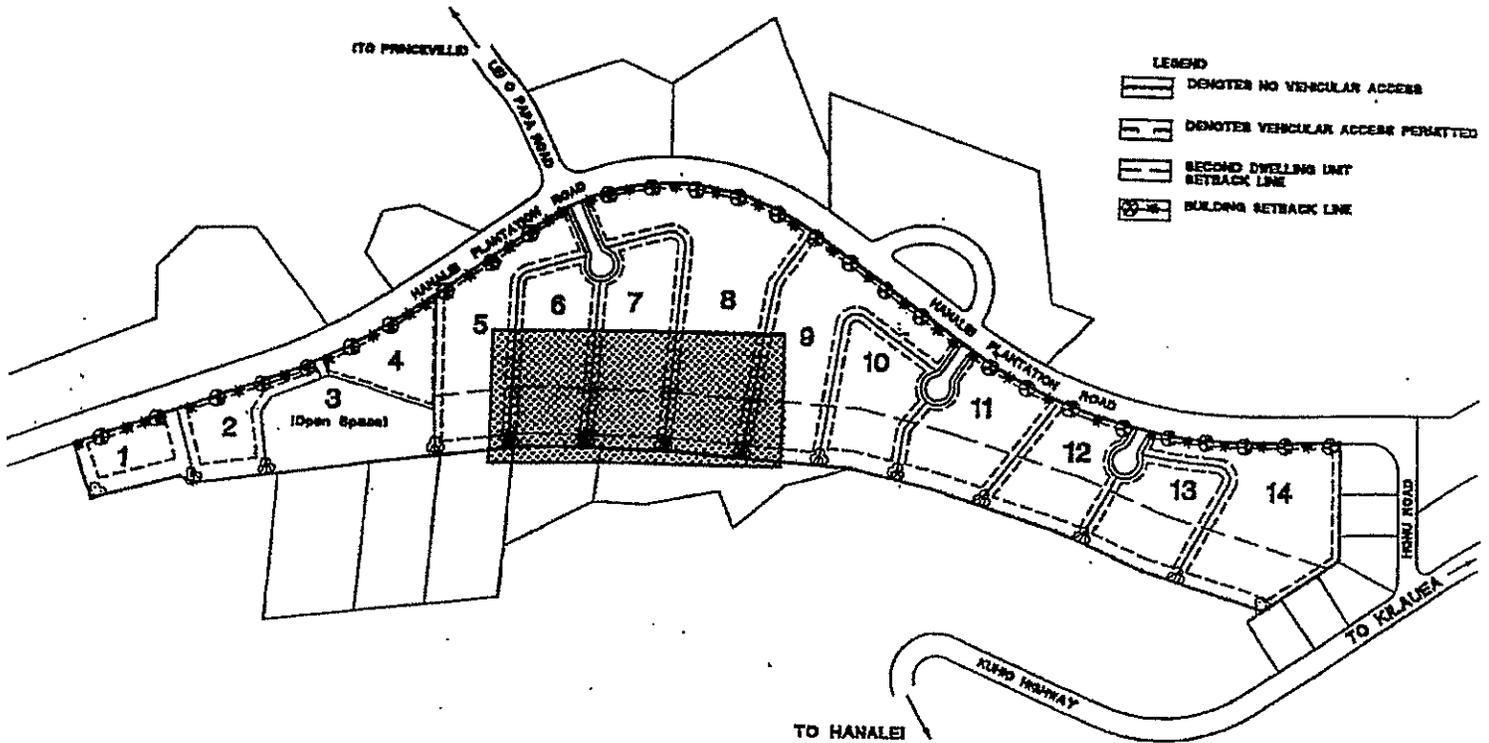


EXHIBIT C

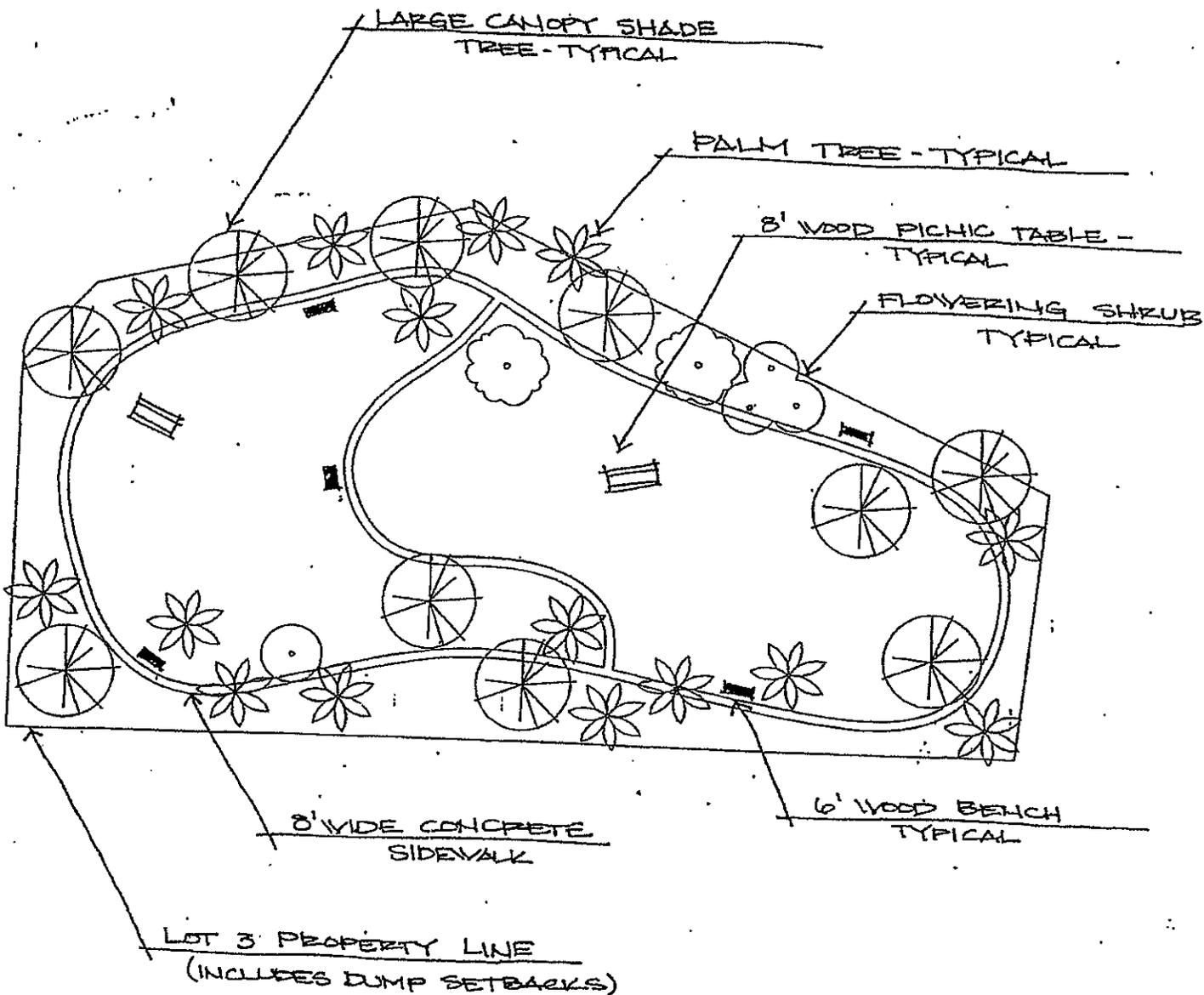


FIGURE #14

Conceptual Open Space Landscape Plan  
 HANAIEI GARDEN FARMS ESTATES

MARYANNE W. KUSAKA  
MAYOR



COUNTY OF KAUAI  
PLANNING DEPARTMENT  
4444 RICE STREET, SUITE 473  
LIHUE, KAUAI, HAWAII 96766

DEE M. CROWELL  
PLANNING DIRECTOR  
IAN K. COSTA  
DEPUTY PLANNING DIRECTOR

TELEPHONE (808) 241-6677  
FAX (808) 241-6699

RECEIVED  
AUG 23 1996

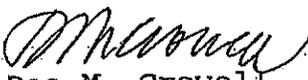
BELLES GRAHAM  
PROUDFOOT & WILSON

August 20, 1996

William and Martha Mowry  
c/o Max W. S. Graham, Esq.  
Belles Graham Proudfoot and Wilson  
Attorneys At Law  
4334 Rice Street, Suite 202  
Lihue, Hawaii 96766

SUBJECT: Special Management Area Use Permit SMA(U)-96-1  
Project Development Use Permit U-96-1  
Class IV Zoning Permit Z-IV-96-1  
TMK: 5-4-04: 27 Hanalei, Kauai

Please attach the enclosed exhibits to our letter of approval dated August 12, 1996, for the subject permits.

  
Dee M. Crowell  
PLANNING DIRECTOR

cc: Andrew Daymude, Keith Companies-Hawaii  
Public Works Dept.  
Water Dept.  
State Health Dept.  
Historic Preservation Div.-DLNR  
Fire Dept.  
Office of State Planning  
Real Property Div.

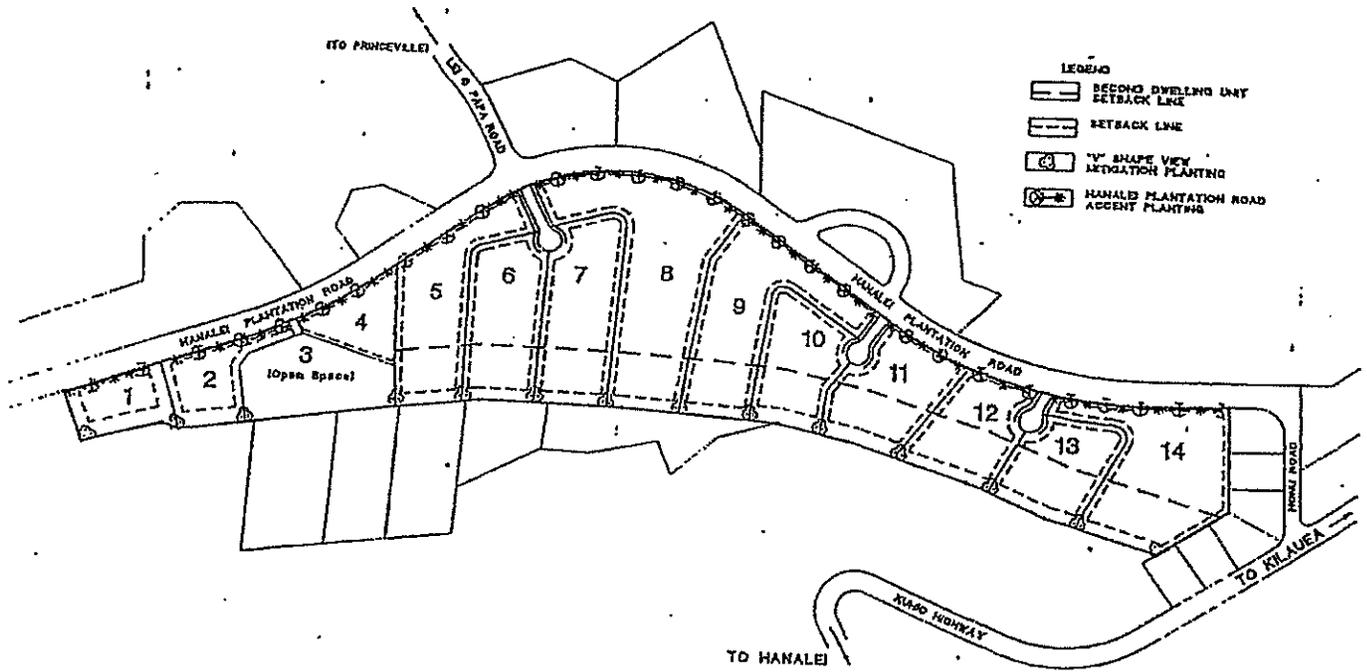
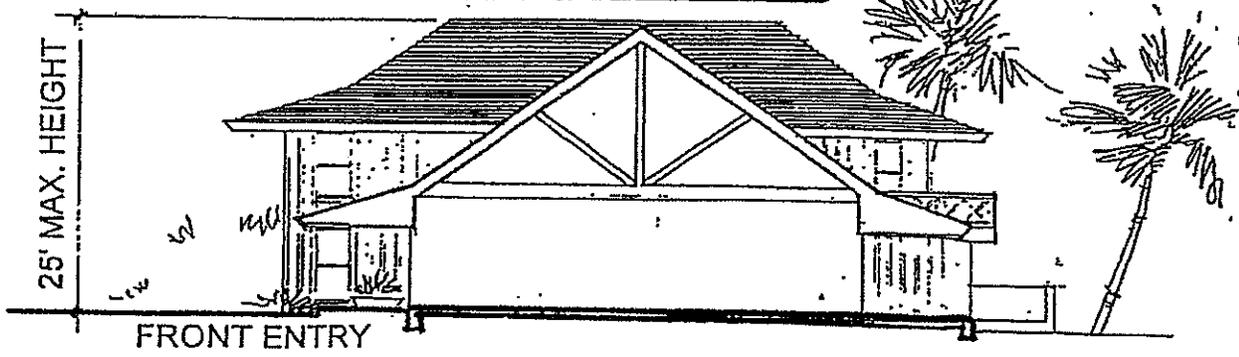


TABLE 2: INDIVIDUAL LOT CALCULATIONS

Lot No.#	Acres	Square Footage	Building Set Backs / Allowable Building Height			
			Front	Side	Rear	Height
	.71	31,120	10'	30'	40'	200 MSL
	.86	37,625	10'	20'	40'	205 MSL
3 (openspace)	1.39	60,730	NA	NA	NA	NA
	.76	33,158	10'	5'	10'	25'
	1.89	82,139	10'	15'	30'	25'
	1.65	71,670	10'	15'	30'	25'
	1.83	79,154	10'	15'	30'	25'
	3.10	134,892	10'	15'	30'	25'
	2.45	106,539	10'	15'	30'	25'
0	1.28	55,931	10'	15'	40'	25'
1	1.47	64,122	10'	15'	40'	25'
2	1.23	53,441	10'	15'	30'	25'
3	1.22	53,336	10'	15'	30'	25'
4	2.35	102,360	10'	15'	30'	25'
<b>Total Residential Area</b>	<b>*20.80</b>	<b>*905,487</b>				
<b>Average Lot Size</b>	<b>1.60</b>	<b>69,652</b>				
<b>Project Total</b>	<b>22.72</b>	<b>990,223</b>				

Does not include Lot #3, Open Space

OR FLAT LOTS



R LOTS WITH SLOPE TO REAR

