

CONDOMINIUM PUBLIC REPORT

Prepared & Issued by:

Developer HAIKU ESTATE, LLC
Business Address P. O. Box 6368, Kaneohe, Hawaii 96744

Project Name (*): HAIKU ESTATES
Address: 46-312 Haiku Road, Kaneohe, Hawaii 96744

Registration No. 6718
Effective date: November 19, 2008
Expiration date: December 19, 2009

Preparation of this Report:

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

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

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

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

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

Type of Report:

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

X FINAL: (2nd Increment only) (white) The developer has legally created a condominium and has filed complete information with the Commission.
[X] No prior reports have been issued under this registration. SEE PAGE 2.
[] This report supersedes all prior public reports.
[] This report must be read together with

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

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

(*) Exactly as named in the Declaration

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

Disclosure Abstract: Separate Disclosure Abstract on this condominium project:

Required and attached to this report Not Required - disclosures covered in this report.

Summary of Changes from Earlier Public Reports:

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

No prior reports have been issued by the developer under this registration. See Special Note below.

Changes made are as follows:

SPECIAL NOTE

HAIKU ESTATES CONSISTS OF A TOTAL OF 5 UNITS AND IS BEING REGISTERED, MARKETED AND CONSTRUCTED IN INCREMENTS. The Developer previously issued a Preliminary Public Report for all 5 units in Haiku Estates and a Final Public Report for Units A and B under Registration No. 5481. Units A and B have been sold and the Final Public Report under Registration No. 5481 has been allowed to expire. The descriptions of Units C, D and E have changed since the issuance of the Final Public Report under Registration No. 5481.

The Preliminary Public Report under Registration No. 5481 has also expired. Concurrently with or subsequent to the issuance of this Final Public Report, the Developer will issue a Supplementary Public Report under Registration No. 5481 to update information contained in the Preliminary Public Report and to reactivate the Preliminary Public Report. The Preliminary Public Report, as reactivated, will cover only Unit E.

THIS FINAL PUBLIC REPORT IS ISSUED UNDER A SEPARATE REGISTRATION. Although this Final Public Report for the second increment (Units C and D) of Haiku Estates describes all 5 units and all common and limited common elements constructed or to be constructed as part of Haiku Estates, **ONLY UNITS C AND D ARE COVERED BY THIS FINAL PUBLIC REPORT.** The Developer will subsequently issue a third final public report under a new registration for Unit E. **PLEASE SEE SECTION V.C.1 ON PAGE 20 BELOW.**

SPECIAL ATTENTION

THIS IS A CONDOMINIUM PROJECT, NOT A SUBDIVISION. It does not involve the sale of individual subdivided lots. The land area immediately underlying and surrounding each unit is designated a **LIMITED COMMON ELEMENT** and not a legally subdivided lot. The drawings on the Condominium Map indicating the boundaries and disclosing the approximate number of square feet in each limited common element land area are for illustrative purposes only and should not be construed to be the property lines of legally subdivided lots. This public report does not constitute approval of the Project by the Real Estate Commission, or any other government agency. **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 real property. To create a condominium in Hawaii, the requirements of the Condominium Property Act, Chapter 514A, Hawaii Revised Statutes, must be complied with. In addition, certain requirements and approvals of the County in which the project is located must be satisfied and obtained.

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

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

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

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

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

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

Operation of the Condominium Project

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

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

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

I. PERSONS CONNECTED WITH THE PROJECT

Developer: HAIKU ESTATE, LLC Phone: (808) 226-7788
Name* (Business)
P. O. Box 6368
Business Address
Kaneohe, Hawaii 96744

Names of officers and directors of developers who are corporations; general partners of a partnership; partners of a Limited Liability Partnership (LLP); or manager and members of a Limited Liability Company (LLC) (attach separate sheet if necessary):

The sole member-managers of HAIKU ESTATE, LLC, are Rodger Benz and Maria Y. K. Benz

Real Estate Broker*: Island Heritage Realty, Inc. Phone: (808) 941-7773
Name (Business)
1400 Kapiolani Blvd., Ste. A-1
Business Address
Honolulu, Hawaii 96814

Escrow: Old Republic Title & Escrow of Hawaii, Ltd. Phone: (808) 266-0150
Name (Business)
116 Hekili Street, Suite 7
Business Address
Kailua, Hawaii 96734

General Contractor*: Benz Construction, Incorporated Phone: (808) 226-7788
Name (Business)
P. O. Box 6368
Business Address
Kaneohe, Hawaii 96744

Condominium Managing Agent*: N/A (Project will be self-managed by AOA) Phone: N/A
Name (Business)
N/A
Business Address
N/A

Attorney for Developer: Brooks Tom Porter & Quitiquit, LLP Phone: (808) 526-3011
Name (Business)
841 Bishop Street, Suite 2125
Business Address
Honolulu, Hawaii 96813
Attn: Edward R. Brooks, Esq., and Jeffrey D. Watts, Esq.

* For Entities: Name of corporation, partnership, Limited Liability Partnership (LLP), or Limited Liability Company (LLC)

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

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

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

The Declaration for this condominium is:

Proposed
 Recorded - Bureau of Conveyances: Document No. _____
Book _____ Page _____
 Filed - Land Court: Document No. 3148296

The Declaration referred to above has been amended by the following instruments [state name of document, date and recording/filing information]: First Amendment of Haiku Estates Declaration of Condominium Property Regime and Condominium Map No. 1659, dated March 12, 2008, recorded as Land Court Document No. 3722101.

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

The Condominium Map for this condominium project is:

Proposed
 Recorded - Bureau of Conveyances Condo Map No. _____
 Filed - Land Court Condo Map No. 1659

The Condominium Map has been amended by the following instruments [state name of document, date and recording/filing information]: First Amendment of Haiku Estates Declaration of Condominium Property Regime and Condominium Map No. 1659, dated March 12, 2008, recorded as Land Court Document No. 3722101.

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

The Bylaws for this condominium are:

Proposed
 Recorded - Bureau of Conveyances: Document No. _____
Book _____ Page _____
 Filed - Land Court: Document No. 3148297

The Bylaws referred to above have been amended by the following instruments [state name of document, date and recording/filing information]: First Amendment of Bylaws of the Association of Unit Owners of Haiku Estates, dated March 12, 2008, recorded as Land Court Document No. 3722102.

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

The House Rules for this condominium are:

Proposed Adopted Developer does not plan to adopt House Rules

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

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

| | <u>Minimum Set by Law</u> | <u>This Condominium</u> |
|-----------------------------|-------------------------------|-------------------------|
| Declaration (and Condo Map) | 75%* | <u>75%</u> |
| Bylaws | 67%** | <u>67%**</u> |
| House Rules | N/A | <u>N/A</u> |

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

** See the disclosures in Section V.C.7 on page 20a of this Public Report.

2. **Developer:**

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

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

At any time prior to the first recording of a conveyance or transfer (other than for security) of an Apartment and its appurtenances to a party not a signatory to the Declaration, the Developer may amend the Declaration (including all exhibits), the Bylaws and the Condominium Map in any manner, without the consent or joinder of any Apartment purchaser or any other party. Notwithstanding the lease, sale or conveyance of any of the Apartments, the Developer may amend the Declaration and the Condominium Map to file the "as-built" verified statement required by Section 514A-12 of the Act. For so long as the Developer retains any interest in an Apartment in the Project, the Developer shall have the right (but not the obligation) to amend the Declaration and the Bylaws (and the Condominium Map, if appropriate) without the consent or joinder of any Apartment Owner, lienholder or other person or entity, for the purpose of meeting any requirement imposed by (i) any applicable law, (ii) the Real Estate Commission of the State of Hawaii, (iii) any title insurance company issuing a title insurance policy on the Project or any of the Apartments, (iv) any institutional lender lending funds on the security of the Project or any of the Apartments, or (v) any other governmental or quasi-governmental agency including, without limitation, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the U.S. Department of Housing and Urban Development or the Veterans Administration; provided, however, that no amendment which would change the common interest appurtenant to an Apartment or substantially change the design, location or size of an Apartment shall be made without the consent of all persons having an interest in such Apartment. Prior to the election of the first Board of Directors, the Developer may amend the Rules and Regulations in any manner without the joinder, consent or approval of any other party. The Developer has also reserved various other rights, as more particularly disclosed on page 20 of this public report and in Exhibit "G".

III. THE CONDOMINIUM PROJECT

A. Interest to be Conveyed to Buyer:

- Fee Simple: Individual apartments and the common elements, which include the underlying land, will be in fee simple.
- Leasehold or Subleasehold: Individual apartments and the common elements, which include the underlying land will be leasehold.

Leases for the individual apartments and the underlying land usually require that at the end of the lease term, the lessee (apartment owner/tenant) deliver to the lessor (fee property owner) possession of the leased premises and all improvements, including improvements paid for by the lessee.

Exhibit _____ contains further explanations regarding the manner in which the renegotiated lease rents will be calculated and a description of the surrender clause provision(s).

Lease Term Expires: _____ Rent Renegotiation Date(s) _____

Lease Rent Payable: Monthly Quarterly
 Semi-Annually Annually

Exhibit _____ contains a schedule of the lease rent for each apartment per: Month Year

For Subleaseholds:

Buyer's sublease may be canceled if the master lease between the sublessor and fee owner is: Canceled Foreclosed

As long as the buyer is not in default, the buyer may continue to occupy the apartment and/or land on the same terms contained in the sublease even if the master lease is canceled or foreclosed.

- Individual Apartments in Fee Simple; Common Interest in the Underlying Land in Leasehold or Sub-leasehold:

Leases for the underlying land usually require that at the end of the lease term, the lessees (apartment owners/tenants) deliver to the lessor (fee property owner) their interest in the land and that they either (1) remove or dispose of the building(s) and other improvements at the lessee's expense; or (2) convey the building(s) and improvements to the lessor, often at a specified price.

Exhibit _____ contains further explanations regarding the manner in which the renegotiated lease rents will be calculated and a description of the surrender clause provision(s).

Lease Term Expires: _____ Rent Renegotiation Date(s) _____

Lease Rent Payable: Monthly Quarterly
 Semi-Annually Annually

Exhibit _____ contains a schedule of the lease rent for each apartment per: Month Year

Other:

IMPORTANT INFORMATION ON LEASEHOLD CONDOMINIUM PROJECTS

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

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

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

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

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

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

B. Underlying Land:

Address: 46-312 Haiku Road, Kaneohe, HI 96744 Tax Map Key (TMK): (1) 4-6-12-35

Address TMK is expected to change because _____

Land Area: approx. 50,794 [X] square feet acre(s) Zoning: R 7.5

5. Special Use Restrictions:

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

Pets: Dogs, cats and other generally recognized household pets permitted in reasonable numbers, with prior approval of the Board. See the Bylaws.

Number of Occupants: _____

Other: _____

There are no special use restrictions.

6. Interior (fill in appropriate numbers):

| | | | | | |
|------------------------|------------------------|---|------------------------------|----------------------------|------------------------|
| Elevators: <u>0</u> | | Stairways: <u>Units A, B & C: 1;</u> <u>Unit D: 0;</u> <u>Unit E: 2</u> | | Trash Chutes: <u>0</u> | |
| <u>Apt. Type</u> | <u>Quantity</u> | <u>BR/Bath</u> | <u>Net Living Area (sf)*</u> | <u>Net Other Area (sf)</u> | <u>(Identify)</u> |
| <u>SEE EXHIBIT "A"</u> | <u>SEE EXHIBIT "A"</u> | <u>SEE EXHIBIT "A"</u> | <u>SEE EXHIBIT "A"</u> | <u>SEE EXHIBIT "A"</u> | <u>SEE EXHIBIT "A"</u> |
| _____ | _____ | _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ | _____ | _____ |

Total Number of Apartments: 5 SEE EXHIBIT "A"

***Net Living Area shown in Exhibit "A" is the floor area of the unit measured from the interior surface of the unit's perimeter walls. The Net Garage, Storage, Covered Entry and Covered Lanai areas shown in Exhibit "A" are the floor areas of the respective spaces measured from the interior surfaces of perimeter walls and doors (for the garages and storage areas) and from interior surfaces of perimeter walls to a railing (for lanais with railings) or to the outer edge of flooring material (for lanais and entry areas that do not have railings).**

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

Boundaries of Each Apartment:

SEE EXHIBIT "B"

Permitted Alterations to Apartments:

SEE EXHIBIT "C"

Apartments Designated for Owner-Occupants Only:

Fifty percent (50%) of **residential** apartments must be so designated; developer has a right to substitute similar apartments for those apartments already designated. Developer must provide this information either in a published announcement or advertisement as required by section 514A-102, HRS; or include the information here in this public report and in the announcement.

Developer has elected to provide the information in a published announcement or advertisement.

7. Parking Stalls:

Total Parking Stalls: 10

| | <u>Regular</u> | | <u>Compact</u> | | <u>Tandem</u> | | <u>TOTAL</u> |
|-----------------------------|----------------|-------------|----------------|-------------|----------------|-------------|--------------|
| | <u>Covered</u> | <u>Open</u> | <u>Covered</u> | <u>Open</u> | <u>Covered</u> | <u>Open</u> | |
| Assigned (for each unit) | <u>10*</u> | <u> </u> | <u> </u> | <u> </u> | <u> </u> | <u> </u> | <u>10</u> |
| Guest | <u> </u> | <u> </u> | <u> </u> | <u> </u> | <u> </u> | <u> </u> | <u> </u> |
| Unassigned | <u> </u> | <u> </u> | <u> </u> | <u> </u> | <u> </u> | <u> </u> | <u> </u> |
| Extra for Purchase | <u> </u> | <u> </u> | <u> </u> | <u> </u> | <u> </u> | <u> </u> | <u> </u> |
| Other: <u> </u> | <u> </u> | <u> </u> | <u> </u> | <u> </u> | <u> </u> | <u> </u> | <u> </u> |
| Total Covered & Open: | <u>10</u> | <u> </u> | <u> </u> | <u> </u> | <u> </u> | <u> </u> | <u>10</u> |

*Each unit will have the exclusive use of 2 parking stalls located in the unit's attached garage.

Commercial parking garage permitted in condominium project.

Exhibit "A" contains additional information on parking stalls for this condominium project.

8. Recreational and Other Common Facilities:

There are no recreational or common facilities.

Swimming pool Storage Area Recreation Area

Laundry Area Tennis Court Trash Chute/Enclosure(s)

Other: The Project includes a private park area of approximately 2,002 square feet, as shown on the Condominium Map. The Project also includes a private driveway serving all units.

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

There are no violations. Violations will not be cured.

Violations and cost to cure are listed below. Violations will be cured by _____
(Date)

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

N/A

11. Conformance to Present Zoning Code

a. No variances to zoning code have been granted.

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

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

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

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

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

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

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

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

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

described in Exhibit "D".

as follows:

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

There are no limited common elements in this project.

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

described in Exhibit "E".

as follows:

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

described in Exhibit _____.

as follows: Each unit has been assigned an undivided common interest of twenty percent (20%). The method used in assigning common interests was to assign to each Unit an equal share.

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

Exhibit "F" describes the encumbrances against the title contained in the title report dated August 20, 2008 and issued by Old Republic Title and Escrow of Hawaii, Ltd.

Blanket Liens:

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

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

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

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

| <u>Type of Lien</u> | <u>Effect on Buyer's Interest and Deposit if Developer Defaults or Lien is Foreclosed Prior to Conveyance</u> |
|---------------------|--|
| Mortgage | If the developer defaults before the unit is conveyed to the buyer, the mortgagee will have the right to decide whether to sell the unit to the buyer under the sales contract or to terminate the sales contract. If the mortgagee terminates the sales contract, the buyer's deposit will be refunded, less any escrow cancellation fee, and the buyer will have no further interest under the sales contract. |

F. Construction Warranties:

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

1. Building and Other Improvements:

The construction contract requires the general contractor to provide a one-year warranty, commencing upon the date of "Substantial Completion", or such other date as the architect specifies in the Certificate of Substantial Completion the architect delivers to the contractor and the Developer for the work that is under warranty. The contractor warrants that (a) the materials and equipment furnished for construction of the project will be of good quality and new, unless the construction contract requires or permits that the materials and equipment be otherwise; and (b) the construction and services required by the construction contract (including all labor, materials and equipment to be provided by the general contractor) will be free from defects, except for defects inherent in the quality of the construction and services required or permitted by the construction contract. Without incurring any legal liability, the developer will agree to cooperate with the buyer to try to have the general contractor perform all of the general contractor's warranties. (See section F.7 of the Sales Contract.)

2. Appliances:

The developer intends to transfer to the buyer any manufacturer's or dealer's warranties that are transferable and cover appliances sold with the apartments.

G. **Status of Construction and Date of Completion or Estimated Completion Date:**

Construction of Unit A was completed in October of 2004. Construction of Unit B was completed in January of 2005. Construction of Unit C was completed in August of 2008. Construction of Unit D was completed in September of 2008. The Developer estimates that construction of Unit E will commence in January of 2009, and will be completed in July of 2009.

H. **Project Phases:**

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

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

SEE PAGE 20 BELOW.
SEE ALSO EXHIBIT "G" ATTACHED.

V. MISCELLANEOUS

A. Sales Documents Filed With the Real Estate Commission:

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

- Notice to Owner Occupants
- Specimen Sales Contract
Exhibit "I" contains a summary of the pertinent provisions of the sales contract.
- Escrow Agreement dated December 15, 2003
Exhibit "I" contains a summary of the pertinent provisions of the escrow agreement.
- Other _____

B. Buyer's Right to Cancel Sales Contract:

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

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

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

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

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

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

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

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

2. Rights Under the Sales Contract: Before signing the sales contract, prospective buyers should ask to see and carefully review all documents relating to the project. If these documents are not in final form, the buyer should ask to see the most recent draft. These include but are not limited to the:
- A) Condominium Public Reports issued by the developer which have been given an effective date by the Hawaii Real Estate Commission.
 - B) Declaration of Condominium Property Regime, as amended.
 - C) Bylaws of the Association of Apartment Owners, as amended.
 - D) House Rules, if any.
 - E) Condominium Map, as amended.
 - F) Escrow Agreement.
 - G) Hawaii's Condominium Property Act (Chapter 514A, HRS, as amended) and Hawaii Administrative Rules, (Chapter 16-107, adopted by the Real Estate Commission, as amended).
 - H) Other Declaration of Restrictive Covenants (Private Park), dated March 12, 2008, recorded in the Land Court as Document No. 3721574; Cluster Housing Permit, dated September 22, 2006, attached to the First Amendment of the Declaration and also attached to this Public Report as Exhibit L.

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 514A, HRS) and the Administrative Rules (Chapter 107) are available online. Please refer to the following sites:

Website to access official copy of laws: www.capitol.hawaii.gov
Website to access unofficial copy of laws: www.hawaii.gov/dcca/hrs
Website to access rules: www.hawaii.gov/dcca/har

This Public Report is part of Registration No. 6718 filed with the Real Estate Commission on October 9, 2008.

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

YELLOW paper stock WHITE paper stock PINK paper stock

C. Additional Information Not Covered Above

1. Development in Increments. The five (5) units in the Project are being constructed in increments. The Developer originally issued a Preliminary Public Report covering all five (5) units under Registration No. 5481. The Developer subsequently issued a Final Public Report (1st Increment only) for Units A and B. The construction of Units A and B was completed and both units were sold, and the Final Public Report for those units was allowed to expire. The Preliminary Public Report under Registration No. 5481 has also been allowed to expire but will be reactivated concurrently with or subsequent to the issuance of this Final Public Report (see below).

THIS FINAL PUBLIC REPORT IS UNDER A NEW REGISTRATION AND COVERS THE SECOND CONSTRUCTION INCREMENT OF TWO (2) UNITS, DESIGNATED AS UNITS C AND D. Concurrently with or subsequent to the issuance of this Final Public Report, the Developer will issue a Supplementary Public Report under original Registration No. 5481 to update and reactivate the Preliminary Public Report covering remaining Unit E. When the Developer meets the requirements for a final public report on Unit E, the Developer will issue a Final Public Report for Unit E under a new registration. Until that time (and after issuance of an effective date for a Supplementary Public Report under Registration No. 5481), Unit E will continue to be covered by and marketed under Registration No. 5481 and all current public reports issued under that registration, and purchasers will only be able to enter into NONBINDING contracts for Unit E until a Final Public Report is issued for that unit under a new registration.

2. Developer's Reserved Alteration and Withdrawal Rights. In Paragraph 23 of the Declaration, the Developer has reserved the right to change the type, layout and dimensions of any unbuilt and unsold units and/or the limited common elements appurtenant thereto, and/or to remove and delete from the Project such units, together with certain portions of the limited common elements and common elements, including all or any portion of the land fronting Haiku Road and designated on the Condominium Map as "Reserved Land", all without being required to obtain the consent or joinder of any person or group of persons. For the Buyer's convenience, Exhibit "G" attached to this Public Report reproduces Paragraph 23 of the Declaration, as amended, in its entirety. **THE BUYER IS ENCOURAGED TO READ EXHIBIT "G" VERY CAREFULLY, AS THE EXERCISE OF THE DEVELOPER'S RIGHTS RESERVED IN PARAGRAPH 23 OF THE DECLARATION MAY HAVE A MATERIAL EFFECT ON THE BUYER'S INTEREST IN THE PROJECT.**

3. Individual Waste Water Systems. The Project will not be connected to a public sewer system. Instead, each Unit will be sold with its own individual waste water system, as permitted by and in accordance with applicable laws, rules, codes and ordinances. Each individual wastewater system will include a septic tank and absorption bed and must be operated and maintained, at the sole cost and expense of the buyer, in accordance with operation and maintenance instructions prepared by the Developer's individual wastewater system engineer (the "Operation and Maintenance Instructions"). Operation and maintenance requirements include (but are not limited to) annual inspection of the Unit's individual wastewater system and pumping of the septic tank if and when necessary, according to criteria set forth in the Operation and Maintenance Instructions. The Operation and Maintenance Instructions also disclose that odors may be present in connection with the individual wastewater system for the first six to eight weeks of system operation. Exhibit "J" attached to this Public Report includes an "approval of use" letter from the State of Hawaii Department of Health to the Developer's individual wastewater system engineer, and a copy of the engineer's Operation and Maintenance Instructions. **EACH BUYER SHALL BE REQUIRED BY LAW TO OPERATE AND MAINTAIN HIS OR HER UNIT'S INDIVIDUAL WASTEWATER MAINTENANCE SYSTEM IN ACCORDANCE WITH THE OPERATION AND MAINTENANCE INSTRUCTIONS AND ALL APPLICABLE LAWS, ORDINANCES, CODES, RULES AND REGULATIONS, INCLUDING (BUT NOT LIMITED TO) HAWAII ADMINISTRATIVE RULES, TITLE 11, CHAPTER 62, SUBCHAPTER 3, PERTAINING TO INDIVIDUAL WASTEWATER SYSTEMS.**

4. Private Park. The Project includes a common element landscaped area of approximately 2,002 square feet, designated on the Condominium Map and in the Declaration and Bylaws as "Private Park". The Private Park is subject to that certain Declaration of Restrictive Covenants (Private Park) dated March 12, 2008, recorded in the Land Court as Document No. 3721574 (the "Park Declaration"). The Park Declaration provides, among other things, that the Private Park shall be improved, maintained and used exclusively for private park, playground and recreational purposes by the occupants, owners or lessees of the Project's units. The Park Declaration also provides that if the Association fails to maintain the Private Park properly, the Director of Planning and Permitting of the City and County of Honolulu (the "Director") shall have the right to perform or cause to be

performed any necessary maintenance work on the Private Park, and to charge all costs and expenses of such work to the Association. In addition, the Director shall have, until all costs and expenses of such maintenance work have been fully paid, a lien upon the Project as may be permitted by law. A copy of the Park Declaration is attached to this Public Report as Exhibit "K". THE BUYER IS ENCOURAGED TO READ THE PARK DECLARATION AND THE PROVISIONS OF THE DECLARATION AND BYLAWS PERTAINING TO THE PRIVATE PARK VERY CAREFULLY.

5. Cluster Housing Permit. The Project is subject to and is being developed in accordance with the terms, conditions and restrictions set forth in that certain Cluster Housing Permit approved by the City and County of Honolulu on September 22, 2006. A copy of the Cluster Housing Permit is attached to and incorporated into the First Amendment of Haiku Estates Declaration of Condominium Property Regime and Condominium Map No 1659, dated March 12, 2008, recorded in the Land Court as Document No. 3722101 (the "First Declaration Amendment"). A copy of the Cluster Housing Permit is also attached to this Public Report as Exhibit "L". Among other things, the Cluster Housing Permit required the Developer to establish the Landscape Master Plan and the Wall Master Plan described below. The Cluster Housing Permit also required creation of the Private Park described above and recordation of the Park Declaration, also described above and attached to this Public Report. THE BUYER IS ENCOURAGED TO READ THE CLUSTER HOUSING PERMIT AND THE FIRST DECLARATION AMENDMENT VERY CAREFULLY AS BOTH DOCUMENTS CONTAIN IMPORTANT RESTRICTIONS AND CONDITIONS ON THE FUTURE DEVELOPMENT OF THE PROJECT'S UNITS AND COMMON ELEMENTS.

6. Landscape and Wall Master Plans. Under the terms of the Cluster Housing Permit and the First Declaration Amendment, the Project is required to comply with the Landscape Master Plan and the Wall Master Plan attached to and incorporated into the First Declaration Amendment. A reduced copy of the Landscape Master Plan is attached to this Public Report as Exhibit "M" and a reduced copy of the Wall Master Plan is attached to this Public Report as Exhibit "N". As provided in paragraph 29 of the Declaration, as amended by the First Declaration Amendment, all new fences or walls constructed at the Project, including fences or walls on common elements or limited common elements, shall comply with the Wall Master Plan, and all landscaping originally installed at the Project by the Developer shall be retained and maintained in a healthy visual condition, or replacement landscaping shall be provided in accordance with the Landscape Master Plan. Amendments to, modifications of or deviations from the Wall Master Plan and/or the Landscape Master Plan shall require the approval of the Department of Planning and Permitting of the City and County of Honolulu, together with the approval of a majority of the Unit Owners. THE BUYER IS ENCOURAGED TO REVIEW THE LANDSCAPE MASTER PLAN AND THE WALL MASTER PLAN TOGETHER WITH THE CLUSTER HOUSING PERMIT AND THE FIRST DECLARATION AMENDMENT TO DETERMINE WHAT OBLIGATIONS THEY IMPOSE ON THE UNIT OWNERS AND THE ASSOCIATION AND ALSO TO DETERMINE HOW THEY MIGHT AFFECT THE BUYER'S AND/OR THE ASSOCIATION'S ABILITY TO MAKE CHANGES TO THE PROJECT.

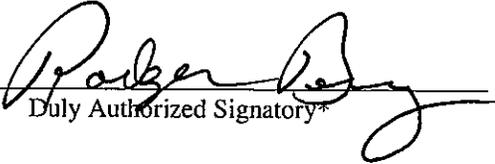
7. Enactment of New Condominium Law. The Project was created on August 4, 2004, by recordation of the Declaration, Bylaws and Condominium Map in accordance with the requirements of Chapter 514A of the Hawaii Revised Statutes ("HRS"). On July 1, 2006, a new condominium law, Chapter 514B, HRS, went into effect in the State of Hawaii. The new law governs and applies to all condominiums in Hawaii created on or after July 1, 2006. Although the Project was created before the new law went into effect and remains primarily subject to the terms of the prior law, some of the provisions of new Chapter 514B apply to all condominiums in Hawaii, regardless of when they were created. One provision of the new law that applies to all condominiums, including the Project, is Section 514B-108(e) pertaining to the general requirements for amending a condominium project's bylaws. Under the prior law, a condominium's bylaws could be amended by the vote or written consent of at least 65% of all unit owners (which means the owners of units to which at least 65% of the common interests are assigned). With some exceptions, the Project's Bylaws also say that they can be amended generally by the vote or written consent of at least 65% of the unit owners. However, new Section 514B-108(e) increased the percentage required for general bylaws amendments from 65% to 67%. Because new Section 514B-108(e) applies to all condominiums in Hawaii, including the Project, most amendments of the Project's Bylaws will now require the vote or written consent of at least 67% of the unit owners, notwithstanding that the Bylaws provide otherwise. EACH PROSPECTIVE PURCHASER IS ENCOURAGED TO BECOME ACQUAINTED WITH NEW CHAPTER 514B, HRS, AND ESPECIALLY WITH THOSE PARTS OF THE NEW LAW THAT APPLY TO ALL CONDOMINIUMS IN HAWAII, SINCE SOME OF THE APPLICABLE TERMS OF THE NEW LAW MAY BE DIFFERENT FROM SOME OF THE TERMS OF THE PROJECT'S CONDOMINIUM DOCUMENTS. IN THAT EVENT, THE TERMS OF THE NEW LAW MAY CONTROL.

8. Contractor Repair Act Notice. The Sales Contract contains the following notice:

CHAPTER 672E OF THE HAWAII REVISED STATUTES CONTAINS IMPORTANT REQUIREMENTS YOU MUST FOLLOW BEFORE YOU MAY FILE A LAWSUIT OR OTHER ACTION FOR DEFECTIVE CONSTRUCTION AGAINST THE CONTRACTOR WHO DESIGNED, REPAIRED, OR CONSTRUCTED YOUR HOME OR FACILITY. NINETY DAYS BEFORE YOU FILE YOUR LAWSUIT OR OTHER ACTION, YOU MUST SERVE ON THE CONTRACTOR A WRITTEN NOTICE OF ANY CONSTRUCTION CONDITIONS YOU ALLEGE ARE DEFECTIVE. UNDER THE LAW, A CONTRACTOR HAS THE OPPORTUNITY TO MAKE AN OFFER TO REPAIR AND/OR PAY FOR THE DEFECTS. YOU ARE NOT OBLIGATED TO ACCEPT ANY OFFER MADE BY A CONTRACTOR. THERE ARE STRICT DEADLINES AND PROCEDURES UNDER THE LAW, AND FAILURE TO FOLLOW THEM MAY NEGATIVELY AFFECT YOUR ABILITY TO FILE A LAWSUIT OR OTHER ACTION.

- D. The developer declares subject to the penalties set forth in section 514A-49(b) that this project is in compliance with all county zoning and building ordinances and codes, and all other county permitting requirements applicable to the project, pursuant to Act 251 (SLH 2000) [Section 514A-1.6] (The developer is required to make this declaration for issuance of an effective date for a final public report.)
- E. The developer hereby certifies that all the information contained in this Report and the Exhibits attached to this Report and all documents to be furnished by the developer to buyers concerning the project have been reviewed by the developer and are, to the best of the developer's knowledge, information and belief, true, correct and complete.

HAIKU ESTATE, LLC, a Domestic Limited Liability Company
 Printed Name of Developer

By:  October 2, 2008
 Duly Authorized Signatory* Date

Rodger Benz, member-manager
 Printed Name & Title of Person Signing Above

By:  October 2, 2008
 Duly Authorized Signatory* Date

Maria Y. K. Benz, member-manager
 Printed Name & Title of Person Signing Above

Distribution:

Department of Finance, City and County of Honolulu

Planning Department, N/A

****Must be signed for a: corporation by an officer; partnership or Limited Liability Partnership (LLP) by the general partner; Limited Liability Company (LLC) by the manager or member; and for an individual by the individual.***

DESCRIPTION OF UNITS

The Project contains five (5) Units identified in the Declaration and on the Condominium Map as Unit A, Unit B, Unit C, Unit D and Unit E. The Units are more particularly described as follows:

UNIT A:

Unit A is a free-standing building with two stories and includes four (4) bedrooms, four and one-half (4½) bathrooms, a kitchen, a dining room, a living room, a study, a family room, a laundry room, an entry foyer, an attached two-car garage, a covered exterior entry and a covered lanai (ground floor). The net living area of Unit A (excluding the garage, the covered entry and the covered lanai) is approximately 1,336.3 square feet on the ground floor and approximately 1,732.2 square feet on the second floor, for a total net living area of approximately 3,068.5 square feet. The net floor area of the garage (including storage area) is approximately 496.4 square feet, the net floor area of the covered entry is approximately 73.5 square feet and the net floor area of the covered lanai is approximately 166.27 square feet. The total combined net area of Unit A, including net living area and the net floor areas of the garage, covered entry and covered lanai, is approximately 3,804.67 square feet.

UNIT B:

Unit B is a free-standing building with two stories and includes four (4) bedrooms, three and one-half (3½) bathrooms, a kitchen, a pantry, a living room, a family room, a laundry room, an entry foyer, an attached two-car garage, a covered exterior entry and a covered lanai (second floor). The net living area of Unit B (excluding the garage and the covered entry) is approximately 1,812.9 square feet on the ground floor and (excluding the covered lanai) approximately 1,760.2 square feet on the second floor, for a total net living area of approximately 3,573.1 square feet. The net floor area of the garage (including storage area) is approximately 577.74 square feet, the net floor area of the covered entry is approximately 48.0 square feet and the net floor area of the covered lanai on the second floor is approximately 101.30 square feet. The total combined net area of Unit B, including net living area and the net floor areas of the garage, covered entry and covered lanai is approximately 4,300.14 square feet.

UNIT C:

Unit C is a free-standing building with two stories and includes four (4) bedrooms, three and one-half (3½) bathrooms, a kitchen, a pantry, a living room with an atrium, a family room, a laundry room, an entry foyer, an attached two-car garage, a covered exterior entry and a covered lanai (second floor). The net living area of Unit C (excluding the garage and the covered entry) is approximately 2,009.0 square feet on the ground floor and (excluding the covered lanai) approximately 1,539.6 square feet on the second floor, for a total net living area of approximately 3,548.6 square feet. The net floor area of the garage (including storage area) is approximately 578.3 square feet, the net floor area of the covered entry is approximately 55.1 square feet and the net floor area of the covered lanai on the second floor is approximately 89.0

square feet. The total combined net area of Unit C, including net living area and the net floor areas of the garage, covered entry and covered lanai, is approximately 4,271.0 square feet.

UNIT D:

Unit D is a free-standing building with one story and includes three (3) bedrooms, two and one-half (2½) bathrooms, a kitchen, a pantry, a dining room, a living room, a study, an entry foyer, an attached two-car garage and laundry room, a covered exterior entry and a covered lanai. The net living area of Unit D (excluding the garage and the adjacent laundry room, the covered entry and the covered lanai) is approximately 2,593 square feet. The net floor area of the garage (including storage area and the adjacent laundry room) is approximately 624 square feet, the net floor area of the covered entry is approximately 74 square feet and the net floor area of the covered lanai is approximately 49 square feet. The total combined net area of Unit D, including net living area and the net floor areas of the garage, covered entry and covered lanai, is approximately 3,340 square feet.

UNIT E:

Unit E is a free-standing building built on a slope and has three stories or “levels”, one of which is partly below ground level. Unit E includes four (4) bedrooms (one of which is designated on the Condominium Map as “Master Suite 2”), four and one-half (4½) bathrooms, a prep kitchen, a full kitchen, a juice bar/wet bar, a pantry, a living room, a dining room, a family room, a laundry room, an entry foyer, an adjacent entry area, a lounge area, an interior storage room, an attached two-car garage, a covered exterior entry and two covered lanais (upper level). The net living area of Unit E (excluding the garage, the covered entry and the covered lanais) is approximately 1,299.0 square feet on the lower level, and approximately 1,980.7 square feet on the middle level, and approximately 2,068.0 square feet on the upper level, for a total net living area of approximately 5,347.7 square feet. The net floor area of the garage (including storage area) is approximately 506.8 square feet, the net floor area of the covered entry is approximately 39.0 square feet and the aggregate net floor area of the covered lanais (upper level) is approximately 178.35 square feet. The total combined net area of Unit E, including net living area and the net floor areas of the garage, covered entry and covered lanais, is approximately 6,071.85 square feet.

BOUNDARIES OF APARTMENTS

Except as otherwise provided in the Declaration, each Unit shall be deemed to consist of the entire Building in which the Unit is located, including:

- (a) the outside surfaces of the Building (including the roof), the bottom surfaces of the footing of the Building, the entire foundation and/or concrete slab (if any) underlying the Building, all exterior stairways, eaves, awnings, rain gutters and other physical components of the Building, including covered lanais and entryways;
- (b) all stairways and crawl spaces, all perimeter and interior walls and partitions, both load-bearing and non-load-bearing;
- (c) all doors and door frames, windows and window frames comprising part of the Building;
- (d) the air space within the Building's perimeter walls, floor, and ceilings, including the air space between the ceiling and roof;
- (e) all ducts, pipes, wires and conduits within the Building that serve only that Building; and
- (f) all fixtures installed within the Building.

The Units shall be deemed not to include:

- (a) any pipes, wires, ducts, conduits or other utility or service lines running through the Unit that are utilized by or serve more than one Unit;
- (b) the paved driveway adjacent to each Unit's garage (said driveways being limited common elements as provided in the Declaration); and
- (c) the uncovered ground floor lanai appurtenant to Unit B (said uncovered lanai being a limited common element as provided in the Declaration).

Should the descriptions and divisions set forth in the Declaration conflict with the depictions and divisions shown on the Condominium Map, the Condominium Map shall control. The Condominium Map, however, is intended to show only the layout, location, Apartment numbers and dimensions of the Apartments and elevations of the buildings and is not intended and shall not be deemed to contain or make any other representation or warranty.

The approximate areas of the Units are set forth in Exhibit "A" of this Public Report and in the Declaration, and are based on measurements taken from the interior surface of all perimeter walls (or railings, in the case of second floor lanais, and the outer edge of affixed floor surfaces, in the case of covered ground floor lanais without railings and covered entryways),

except that no reduction is made to account for interior walls, ducts, vents, shafts, and the like located within the perimeter walls. The areas set forth in Exhibit "A" and in the Declaration are not exact but are approximations based on the floor plans of each of the Units.

PERMITTED ALTERATIONS

Alterations and Additions to Units and Limited Common Elements.

Section 8.3 of Article VIII of the Bylaws provides that each Unit Owner shall have the right, upon obtaining the prior written consent of the Board (which consent shall not be unreasonably withheld or delayed) and the holders of all mortgages affecting such Owner's Unit, to improve, renovate, remodel, make additions to, enlarge, remove, replace or restore the Unit or portions thereof, or to make alterations or additions to the Unit's limited common elements (collectively, the foregoing are referred to as "changes"), subject to the following conditions:

(a) No changes shall be made except in strict compliance with all of the terms, conditions and restrictions set forth in the Cluster Housing Permit, the Declaration and these Bylaws.

(b) All building plans for any such changes shall be prepared by a licensed architect or professional engineer and shall conform with County building and zoning laws and all other applicable City and County ordinances and permits, including (but not limited to) the Cluster Housing Permit, and no change for which a building (or other) permit is required shall be made without the required permit first having been obtained.

(c) No change to a Unit or its limited common elements will be made outside the boundaries of the limited common element land area appurtenant to and surrounding the Unit as shown on the Condominium Map, nor shall any change be made in the portions of Limited Common Element D and Limited Common Element E designated on the Condominium Map as "Set-back"; no change will affect any common element or limited common element other than limited common elements appurtenant to such Unit, unless the Owner first obtains the written consent of the Board of Directors and unless the change does not violate the Cluster Housing Permit or the Park Declaration; no change will reduce the distance between the Buildings to less than what it was originally as shown on the Condominium Map unless the Owners of all Units affected consent; and no change to a Unit will be made if the effect of such change would be to exceed the Unit's proportionate share of the allowable floor area or lot area coverage for the Land, as defined by the zoning ordinance of the City and County of Honolulu in effect when the change is to be made. The proportionate share of allowable floor area or lot area coverage for each Unit shall be 18.4% for Unit A, 18.1% for Unit B, 17.2% for Unit C, 21.8% for Unit D and 24.5% for Unit E.

(d) All such changes (and the preparation of all required plans and the obtaining of all required permits for such changes) shall be at the expense of the Unit Owner making the change and shall be expeditiously made and in a manner that will not unreasonably interfere with the other Unit Owners' use of their Units or appurtenant limited common elements.

(e) During the entire course of construction, the Unit Owner making such change will cause to be maintained at such Owner's expense builder's all-risk insurance in

an amount not less than 100% of the estimated cost of construction. The Association, at its request, and any Unit mortgagee who so requires shall be named as additional insureds and, upon the request of the Association, evidence of such insurance shall be deposited with the Association or its managing agent, if any.

(f) Prior to commencement of the construction of a change, and as a condition thereto, the Unit Owner making such change shall give reasonable assurance to the Association of the Owner's financial ability to complete and to pay for the change.

(g) Subject to the terms of the Cluster Housing Permit, the Owner of the changed Unit shall have the right to utilize, relocate and realign existing and/or to develop additional central and appurtenant installations for services to the Unit affected by such change for electricity, sewer and other utilities and services and, when applicable, to 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 that the same shall not cause any interruption in the service of such utilities to any other part of the Project without the prior consent of the Owners thereby affected, which consent shall not be unreasonably withheld.

(h) Promptly upon completion of any changes permitted under this Section 8.3, the Owner of the changed Unit, at such Owner's sole cost and expense and without the consent or joinder of any other person except the holders of all mortgages affecting the Unit (if the mortgages require mortgagee consent), shall duly record an amendment to the Declaration and the Condominium Map reflecting the changes to such Owner's Unit, together with a certificate made by a registered architect or professional engineer certifying that the sheet or sheets amending the Condominium Map and filed in the Land Court concurrently with recordation of the Declaration amendment fully and accurately depict the layout, location, Unit number and dimensions of the changed Unit as approved by the City and County officer having jurisdiction over the issuance of permits for the construction of buildings and as built. All existing Unit Owners and all future Unit Owners and their mortgagees, by accepting an interest in a Unit, shall be deemed to have given each Unit Owner a Power of Attorney to execute an amendment to the Declaration and the Condominium Map solely for the purpose of describing the changes to such Owner's Unit so that each Unit Owner shall hereafter have a Power of Attorney from all the other Unit Owners to execute such amendment to the Declaration and the Condominium Map. This Power of Attorney shall be deemed coupled with each Owner's interest in his or her Unit (including the Unit's appurtenant common interest) and shall be irrevocable.

(i) Each and every conveyance, lease and mortgage or other lien made or created on any Unit and all common interests and other appurtenances thereto shall be subject to the provisions of this Section 8.3.

Alterations and Additions to Common Elements.

Section 8.4 of Article VIII of the Bylaws provides as follows:

(a) Except as otherwise provided in the Bylaws or in the Declaration, additions, alterations, repairs or improvements to the common elements of the Project may be made only by or at the direction of the Board of Directors.

(b) Except as otherwise provided in the Bylaws or in the Declaration, no Owner may, without the prior written approval of the Board, (i) make any alteration, addition, repair or improvement to his or her Unit which may affect the common elements, or (ii) make any alteration, addition, repair or improvement to any of the common elements (except the limited common elements located within the limited common element yard area appurtenant to such Owner's Unit), including common elements within, encompassing or adjacent to his Unit.

(c) Whenever in the judgment of the Board, the common or limited common elements shall require additions, alterations, repairs, replacements or improvements with a total cost of less than FIVE THOUSAND DOLLARS (\$5,000.00), the Board may proceed with such additions, alterations, repairs, replacements or improvements and shall assess the cost thereof as a common expense, except that the cost of any such work performed on any limited common elements shall be charged to the Owners of Units to which such limited common elements are appurtenant. Any additions, alterations, repairs or improvements costing in excess of FIVE THOUSAND DOLLARS (\$5,000.00) may be made by the Board only after obtaining approval of a majority of Unit Owners; except that such approval shall not be required (i) for any repairs or replacements covered by available insurance proceeds held in the name of the Association, or (ii) for any additions, alterations, repairs, replacements or improvements required by law or to insure public health or safety, or (iii) in the event of an emergency threatening immediate and substantial damage to person or property, or (iv) for any additions, alterations, repairs, replacements or improvements anticipated in the Association's budget and for which reserve funds have been allocated in accordance with the requirements of these Bylaws, the Act and all applicable administrative rules relating to budgets and reserves for condominium property regimes. If such approval shall be obtained, the cost of such additions, alterations, repairs, replacements or improvements to the common elements shall constitute part of the common expense. The dollar amounts set forth in this subsection may be increased or decreased from time to time by the vote or written consent of a majority of the Unit Owners and any amendment of these Bylaws to effect the same shall require the vote or written consent of only a majority of the Unit Owners.

(d) Except as otherwise provided herein or in the Declaration, restoration, replacement of or modifications to the common elements different in any material respect from what is depicted on the Condominium Map shall be undertaken by the Association only pursuant to an amendment of the Declaration and the Condominium Map, duly executed by or pursuant to the affirmative vote or written consent of seventy-five percent (75%) of the Unit Owners and accompanied by the written consent of the holders of all liens affecting any of the Units affected by such changes, and in accordance with complete plans and specifications therefore first approved in writing by the Board, and all building (or other) permits required by law for such changes; and promptly upon completion of such restoration, replacement or modifications, the Association shall duly record such amendment together with a set of plans reflecting such

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alteration certified by a registered architect or professional engineer to accurately depict the layout, location, Unit numbers and dimensions of the Units as built. Without limiting the generality of this subsection 8.4(d), the construction or modification of all fences or walls on the common elements shall be done in compliance all requirements in the Declaration for the construction or modification of fences or walls, and in compliance with the Fence Master Plan attached to the Declaration.

Exemptions for Persons with Disabilities.

Section 8.5 of Article VIII of the Bylaws provides that, notwithstanding anything to the contrary contained in the Bylaws, the Declaration or the Rules and Regulations (if any), Owners with disabilities shall be permitted to make reasonable modifications to their Units and/or common elements, at their expense (including the cost of obtaining any bonds required by the Declaration, the Bylaws or the Act), if such modifications are necessary to enable them to use and enjoy their Units and/or the common elements, as the case may be, provided that any Owner with a disability desiring to make such modifications shall make such request, in writing, to the Board of Directors. That request shall set forth, with specificity and in detail, the nature of the request and the reason that the requesting party needs to make such modifications. The Board of Directors shall not unreasonably withhold or delay their consent to such request, and any such request shall be deemed to be granted if not denied in writing, within forty-five (45) days of the Board's receipt thereof, or within forty-five (45) days of the Board's receipt of additional information reasonably required in order to consider such request, whichever shall last occur. Nothing contained in Section 8.5 of the Bylaws, however, shall exempt an Owner from making all amendments to the Bylaws, the Declaration or the Condominium Map necessitated by any changes permitted under that Section.

Article VIII of the Bylaws contains additional information regarding alterations to the Units, the common elements and the limited common elements.

COMMON ELEMENTS

The common elements consist of all portions of the Project other than the Units, including specifically, but not limited to:

- (a) The Project's land (the "Land"), in fee simple;
- (b) The limited common elements described in paragraph 5 of the Declaration and in Exhibit "E" attached to this Public Report;
- (c) All pipes, wires, conduits, or other utility or service lines located outside of the Units;
- (d) All pipes, wires, conduits or other utility or service lines running through a Unit that serve more than one Unit;
- (e) All utility meters, boxes, transformers and other utility or service mechanisms, structures or apparatus wherever located at the Project that serve more than one Unit;
- (f) All drainage swales, ditches or culverts and retaining walls located anywhere at the Project;
- (g) The common element driveway (including the rounded turnaround area shown on the Condominium Map) providing access from Haiku Road to the Units and their limited common element driveways and land areas, and to the Private Park described below;
- (h) The landscaped open area located at the end of the common element driveway and adjacent to Unit E's limited common element driveway, designated on the Condominium Map as "Private Park" and containing an area of approximately 2,002 square feet. The Private Park is more particularly described in the Park Declaration;
- (i) The strip of land fronting Haiku Road along the northwest boundary of the Project's land with an area of approximately 642 square feet, designated on the Condominium Map as "Reserved Land"; and
- (j) All landscaping, fences, gates, mailboxes, walls and other parts of the Project that are not part of any of the Units.

LIMITED COMMON ELEMENTS

The limited common elements set aside and reserved for the exclusive use of the Apartments to which they are assigned are as follows:

(a) **Unit A.** The limited common elements appurtenant to and for the exclusive use of Unit A are as follows:

(i) The entire land area surrounding and underlying Unit A and designated on the Condominium Map as "Limited Common Element A", including a yard area with a pool, a concrete driveway and an entry walkway, and any fences or walls located entirely within Limited Common Element A, and containing an area (including the portion underlying Unit A) of approximately 7,214 square feet; subject, however, to any easements and/or setbacks as shown on the Condominium Map or as now or hereafter designated on any map(s) filed in the Land Court and covering all or any portion of the Project's Land, including Limited Common Element A.

(ii) The mail box, if any, wherever located and for the exclusive use of Unit A.

(b) **Unit B.** The limited common elements appurtenant to and for the exclusive use of Unit B are as follows:

(i) The entire land area surrounding and underlying Unit B and designated on the Condominium Map as "Limited Common Element B", including a yard area, a concrete driveway and an uncovered lanai, and any fences or walls located entirely within Limited Common Element B, and containing an area (including the portion underlying Unit B) of approximately 7,122 square feet; subject, however, to any easements and/or setbacks as shown on the Condominium Map or as now or hereafter designated on any map(s) filed in the Land Court and covering all or any portion of the Project's Land, including Limited Common Element B.

(ii) The mail box, if any, wherever located and for the exclusive use of Unit B.

(c) **Unit C.** The limited common elements appurtenant to and for the exclusive use of Unit C are as follows:

(i) The entire land area surrounding and underlying Unit C and designated on the Condominium Map as "Limited Common Element C", including a yard area, a concrete driveway and an uncovered lanai, and any fences or walls located entirely within Limited Common Element C, and containing an area (including the portion underlying Unit C) of approximately 6,752 square feet; subject, however, to any easements and/or setbacks as shown on the Condominium Map or as now or hereafter designated on any map(s) filed in the Land Court and covering all or any portion of the Project's Land, including Limited Common Element C.

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(ii) The mail box, if any, wherever located and for the exclusive use of Unit C.

(d) **Unit D.** The limited common elements appurtenant to and for the exclusive use of Unit D are as follows:

(i) The entire land area surrounding and underlying Unit D and designated on the Condominium Map as "Limited Common Element D", including a yard area, a concrete driveway and an entry walkway, and any fences or walls located entirely within Limited Common Element D, and containing an area (including the portion underlying Unit D) of approximately 8,547 square feet; subject, however, to any easements and/or setbacks as shown on the Condominium Map or as now or hereafter designated on any map(s) filed in the Land Court and covering all or any portion of the Project's Land, including Limited Common Element D.

(ii) The mail box, if any, wherever located and for the exclusive use of Unit D.

(e) **Unit E.** The limited common elements appurtenant to and for the exclusive use of Unit E are as follows:

(i) The entire land area (which is located on a slope) surrounding and underlying Unit E and designated on the Condominium Map as "Limited Common Element E", including a yard area with a pool, outdoor stairways connecting upper and lower levels, a concrete driveway and an uncovered lanai, and any fences or walls located entirely within Limited Common Element E, and containing an area (including the portion underlying Unit E) of approximately 9,631 square feet; subject, however, to any easements and/or setbacks as shown on the Condominium Map or as now or hereafter designated on any map(s) filed in the Land Court and covering all or any portion of the Project's Land, including Limited Common Element E.

(ii) The mail box, if any, wherever located and for the exclusive use of Unit E.

(f) Any other common element of the Project that is rationally related to less than all of the Units shall be deemed a limited common element appurtenant to and for the exclusive use of the Unit or Units to which such common element is rationally related.

(g) Notwithstanding the foregoing, the strips of land approximately 7 feet wide abutting the rounded end of the common element driveway and comprising a portion of Limited Common Element D and Limited Common Element E, and designated on the Condominium Map as "Set-back," are subject to a nonexclusive perpetual easement designated and granted in paragraph 8.10 of the Declaration and are to be available for use at all times as a turnaround area for service and emergency vehicles. Accordingly, these Set-back areas may not be obstructed at any time by any structures or vehicles (except for temporary obstruction by vehicles using the areas for their intended purpose or entering or leaving Limited Common Elements E and D) and

may be improved or landscaped only with ground cover capable of sustaining vehicular weight and transit.

ENCUMBRANCES AGAINST TITLE

Those certain Preliminary Reports dated **August 20, 2008**, issued by Old Republic Title & Escrow of Hawaii, Ltd., disclose that the land of the Project is subject to the following encumbrances:

1. Real Property taxes as may be due and owing. Refer to the City and County of Honolulu Director of Finances for further information.
2. Title to all minerals, and metallic mines reserved to the State of Hawaii.
3. Easement "641"
As shown on Map 205
As set forth by Land Court Order No. 69446, filed April 13, 1984
4. Any rights, interests or claims which may exist or arise by reason of the facts shown on a survey plat prepared by DENNIS K. HASHIMOTO, Licensed Professional Land Surveyor, Certificate No. 5688, on September 12, 2002, designated Job No. 02988, as follows:
 - A) The South boundary is evident by:

Concrete wall which is on the property line inside the subject parcel by 0.85 ft. for 40.5 ft. and inside parcel 2 by 0.15 ft. for 40.5 ft.

As noted by Deed dated February 3, 2004, recorded February 9, 2004 in the Office of the Assistant Registrar of the Land Court, State of Hawaii, as Document No. 3066093.
5. Any rights, interests or claims which may exist or arise by reason of the facts shown on a survey plat prepared by DENNIS K. HASHIMOTO, Licensed Professional Land Surveyor, Certificate No. 5688, on September 12, 2002, designated Job No. 02988, as follows:
 - A) The East boundary is evident by:

Hollow tile wall which extends into the subject parcel by 0.45 ft., to 0.0 ft. for 45 ft.
 - B) The West boundary is evident by:

Concrete sidewalk and conc. curb that extend into the subject parcel for 0.3 ft.
 - C) The West boundary is evident by:

Electric pole which extends into the subject parcel 1.2 ft.

FURTHER NOTE: The matters shown above would appear to fall within the definition of a “de minimus structure position discrepancy” pursuant to HRS Section 669-A, however, no assurance is provided regarding the accuracy of the survey nor the interpretation of said statute.

As noted by Deed dated February 3, 2004, recorded February 9, 2004 in the Office of the Assistant Registrar of the Land Court, State of Hawaii, as Document No. 3066093.

6. Condominium Map No. 1659, filed in the Office of the Assistant Registrar of the Land Court, State of Hawaii.

[DEVELOPER’S NOTE: The foregoing Condominium Map was amended by instrument dated March 12, 2008, recorded in the Office of the Assistant Registrar of the Land Court, State of Hawaii, as Document No. 3722101.]

7. Matters in an instrument:

Entitled : Declaration of Condominium Property Regime
Recorded : August 6, 2004, in the Office of the Assistant Registrar of the Land Court, State of Hawaii, as Document No. 3148296

[DEVELOPER’S NOTE: The foregoing Declaration was amended by instrument dated March 12, 2008, recorded in the Office of the Assistant Registrar of the Land Court, State of Hawaii, as Document No. 3722101.]

8. Bylaws of the Association of Unit Owners of Haiku Estates, recorded August 6, 2004 in the Office of the Assistant Registrar of the Land Court, State of Hawaii, as Document No. 3148297.

[DEVELOPER’S NOTE: The foregoing Bylaws were amended by instrument dated March 12, 2008, recorded in the Office of the Assistant Registrar of the Land Court, State of Hawaii, as Document No. 3722102.]

9. An easement affecting that portion of said land and for the purposes stated herein and incidental purposes as provided in the following:

Instrument : GRANT OF EASEMENT
Granted To : HAWAIIAN ELECTRIC COMPANY, INC., a Hawaii corporation
and VERIZON HAWAII INC., a Hawaii corporation
For : An easement for utility purposes
Dated : May 12, 2005
Recorded : May 23, 2005 in the Office of the Assistant Registrar of the Land Court, State of Hawaii, as Document No. 3271413

10. Terms, provisions and conditions as contained in the Apartment Deed and the effect of any failure to comply with such terms, provisions and conditions.

[DEVELOPER'S NOTE: No Apartment Deeds have yet been recorded affecting Unit C or Unit D.]

11. Any and all easements encumbering the apartment herein mentioned, and/or the common interest appurtenant thereto, as created by or mentioned in said Declaration, as said Declaration may be amended from time to time in accordance with the law and/or in the Apartment Deed, and/or as delineated on said Condominium Map.
12. Mortgage to secure an indebtedness of the amount stated below and any other amounts payable under the terms thereof, with power of sale and assignment of rents.

Amount : \$193,000.00
Mortgagor : HAIKU ESTATE, LLC, a Hawaii limited liability company
"Mortgagor", and ROGER DALE BENZ and MARIA YIM KING
BENZ "Guarantor"
Mortgagee : MICHAEL HIROSHI NEKOBA and DARYLE SACHIYE
HIRANO NEKOBA, husband and wife
Dated : March 23, 2006
Recorded : April 5, 2006 in the Office of the Assistant Registrar of the Land
Court, State of Hawaii, as Document No. 3413015

(BESIDES OTHER PROPERTIES)

And as modified by an instrument, executed by HAIKU ESTATE, LLC, a Hawaii limited liability company, RODGER DALE BENZ and MARIA YIM KING BENZ, husband and wife and MICHAEL HIROSHI NEKOBA and DARYLE SACHIYE HIRANO NEKOBA, husband and wife, recorded September 28, 2007 in the Bureau of Conveyances, State of Hawaii, as Document No. 2007-173445, and in the Office of the Assistant Registrar of the Land Court, State of Hawaii, as Document No. 3662096.

13. ABSOLUTE ASSIGNMENT OF RENTALS AND LESSOR'S INTEREST IN LEASES

ASSIGNOR : HAIKU ESTATE, LLC, a Hawaii limited liability company
ASSIGNEE : MICHAEL HIROSHI NEKOBA and DARYLE SACHIYE
HIRANO NEKOBA, husband and wife
Dated : March 23, 2006
Recorded : April 5, 2006 in the Bureau of Conveyances, State of Hawaii, as
Document No. 2006-064046

(BESIDES OTHER PROPERTY)

(NOT NOTED ON TRANSFER CERTIFICATE OT TITLE)

14. Financing Statement (UCC-1) as follows:

Debtor : HAIKU ESTATE, LLC
Mailing Address : 900 Fort Street, #1730, Honolulu, HI 96813
Secured Party : NEKOBA, MICHAEL HIROSHI
NEKOBA, DARYLE SACHIYE HIRANO
Recorded : April 5, 2006 in the Bureau of Conveyances, State of Hawaii, as Document No. 2006-064047

(BESIDES OTHER PROPERTY)

(NOT NOTED ON TRANSFER CERTIFICATE OF TITLE)

15. Mortgage to secure an indebtedness of the amount stated below and any other amounts payable under the terms thereof, with power of sale and assignment of rents.

Amount : \$124,000.00
Mortgagor : HAIKU ESTATE, LLC, a Hawaii limited liability company
"Mortgagor", and ROGER DALE BENZ and MARIA YIM KING
BENZ "Guarantor"
Mortgagee : MORTGAGE CAPITAL GROUP, LLC, a Hawaii limited liability
company
Dated : March 23, 2006
Recorded : April 5, 2006 in the Office of the Assistant Registrar of the Land
Court, State of Hawaii, ad Document No. 3413016

(BESIDES OTHER PROPERTIES)

And as modified by an instrument, executed by HAIKU ESTATE, LLC, a Hawaii limited liability company, RODGER DALE BENZ and MARIA YIM KING BENZ, husband and wife and MORTGAGE CAPITAL GROUP, LLC, a Hawaii limited liability company, recorded September 28, 2007 in the Bureau of Conveyances, State of Hawaii, as Document No. 2007-173446, and in the Office of the Assistant Registrar of the Land Court, State of Hawaii, as Document No. 3662097.

16. ABSOLUTE ASSIGNMENT OF RENTALS AND LESSOR'S INTEREST IN LEASES

ASSIGNOR : HAIKU ESTATE, LLC, a Hawaii limited liability company
ASSIGNEE : MORTGAGE CAPITAL GROUP, LLC, a Hawaii limited liability
company
Dated : March 23, 2006
Recorded : April 5, 2006 in the Bureau of Conveyances, State of Hawaii, as Document No. 2006-064048

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(BESIDES OTHER PROPERTY)

(NOT NOTED ON TRANSFER CERTIFICATE OF TITLE)

17. Financing Statement (UCC-1) as follows:

Debtor : HAIKU ESTATE, LLC
Mailing Address : 900 Fort Street, #1730, Honolulu, HI 96813
Secured Party : MORTGAGE CAPITAL GROUP, LLC, a Hawaii limited liability company
Recorded : April 5, 2006 in the Bureau of Conveyances, State of Hawaii, as Document No. 2006-064049

(BESIDES OTHER PROPERTY)

(NOT NOTED ON TRANSFER CERTIFICATE OF TITLE)

18. Mortgage to secure an indebtedness of the amount stated below and any other amounts payable under the terms thereof, with power of sale and assignment of rents.

Amount : \$432,000.00
Mortgagor : HAIKU ESTATE, LLC, a Hawaii limited liability company "Mortgagor", and ROGER DALE BENZ and MARIA YIM KING BENZ "Guarantor"
Mortgagee : MORTGAGE CAPITAL GROUP, LLC, a Hawaii limited liability company
Dated : May 23, 2006
Recorded : May 25, 2006 in the Office of the Assistant Registrar of the Land Court, State of Hawaii, ad Document No. 3433209

(BESIDES OTHER PROPERTIES)

And as modified by an instrument, executed by HAIKU ESTATE, LLC, a Hawaii limited liability company, RODGER DALE BENZ and MARIA YIM KING BENZ, husband and wife and MORTGAGE CAPITAL GROUP, LLC, a Hawaii limited liability company, recorded September 28, 2007 in the Bureau of Conveyances, State of Hawaii, as Document No. 2007-173447, and in the Office of the Assistant Registrar of the Land Court, State of Hawaii, as Document No. 3662098.

19. ABSOLUTE ASSIGNMENT OF RENTALS AND LESSOR'S INTEREST IN LEASES

ASSIGNOR : HAIKU ESTATE, LLC, a Hawaii limited liability company
ASSIGNEE : MORTGAGE CAPITAL GROUP, LLC, a Hawaii limited liability company
Dated : May 23, 2006

Recorded : May 25, 2006 in the Bureau of Conveyances, State of Hawaii, as Document No. 2006-098418

(NOT NOTED ON TRANSFER CERTIFICATE OF TITLE)

20. Mortgage to secure an indebtedness of the amount stated below and any other amounts payable under the terms thereof, with power of sale and assignment of rents.

Amount : \$124,000.00
Mortgagor : HAIKU ESTATE, LLC, a Hawaii limited liability company, RODGER DALE BENZ and MARIA YIM KING BENZ, husband and wife
Mortgagee : MORTGAGE CAPITAL GROUP, LLC, a Hawaii limited liability company
Dated : January 5, 2007
Recorded : January 11, 2007 in the Office of the Assistant Registrar of the Land Court, State of Hawaii, ad Document No. 3539148

[DEVELOPER'S NOTE: The Project is also subject to that certain DECLARATION OF RESTRICTIVE COVENANTS (PRIVATE PARK) dated March 12, 2008, recorded in the Office of the Assistant Registrar of the Land Court, State of Hawaii, as Document No. 3721574. A copy of the foregoing instrument is attached to this Public Report as Exhibit "K".]

DEVELOPER'S RESERVED ALTERATION AND WITHDRAWAL RIGHTS

Paragraph 23 of the Declaration provides as follows:

23. Reservation to Change Units, Withdraw Land and/or Units and Reconfigure the Project.

23.1 Any other provision in this Declaration to the contrary notwithstanding, the Developer shall have the right (but shall not be obligated) in its sole discretion under this paragraph 23, without being required to obtain the consent or joinder of any person or group of persons, including the Association, any Unit Owner, or any mortgagee, lien holder, Unit purchaser, or any other person who may have an interest in the Project or in any Unit, to change the type, layout and dimensions of any unbuilt and unsold Unit and/or the limited common elements appurtenant thereto, and/or to remove and delete from the Project and from the effect of this Declaration and the Act unimproved portions of the Land, all or any portion of the Land fronting Haiku Road and designated on the Condominium Map as "Reserved Land", all or any unbuilt and unsold Units and any related unbuilt or unimproved common elements and limited common elements; provided, however, that the right to withdraw shall not apply to the common element driveway or any walkways, landscaped areas, easements or any other part of or interest in the Project actually utilized by or serving any Unit owned by any person other than the Developer at the time of such withdrawal. For purposes of this paragraph 23, "unsold Unit" shall mean a Unit owned by the Developer and for which no sales contract for the purchase and sale of the Unit has become binding upon both the seller and the buyer under the contract.

23.2 Upon such removal and deletion as set forth in this paragraph 23, and with no further action required, no Unit Owner, mortgagee, lien holder, Unit purchaser or any other person (other than the Developer and the holder of any blanket mortgage covering the unsold portion of the Project) who may have an interest in the Project or any Unit shall have any legal or equitable interest in the portion of the Land and the Units so removed and deleted (it being the intent hereof that upon such removal and deletion, fee simple title to the Land and Units so removed and deleted will be vested solely in the Developer). If deemed necessary to effect the intent of this Paragraph 23, each Unit Owner, mortgagee, lien holder and any other person who may have an interest in the Project or any Unit shall, if requested by the Developer, unconditionally quitclaim and/or release its interest (if any) in that portion of the Land and common elements so removed and deleted to the Developer.

23.3 In the exercise of the rights reserved in this paragraph 23, the Developer may (but shall not be required to) at any time (i) file and process to final approval an application with the City and County of Honolulu for the legal subdivision of that portion of the Project to be withdrawn, (ii) file or record supporting file plans, maps or other instruments in the Land Court, (iii) record one or more amendments to this Declaration in the Land Court containing an amended description of the Land and/or Units covered by this Declaration and deleting therefrom that portion of the Land and/or the Units removed and deleted from the Project (if any), and amending the common interests appurtenant to the remaining Units (by increasing such common interests if necessary) so that the aggregate common interest appurtenant to all

remaining Units equals 100%, (iv) file in the Land Court an amended Condominium Map reflecting the changes to the Units and/or the removal and deletion of the withdrawn Land and/or Units, and (v) if deemed appropriate, apply for and obtain from the Real Estate Commission of the State of Hawaii a Supplementary Public Report describing the changes made in the Project pursuant to the terms of this paragraph 23. Any changes to the Units and/or the common interests and/or removal and deletion of any portion of the Land and/or Units made pursuant to this paragraph 23 shall be deemed effective for all purposes upon the recordation in the Land Court of the amendment(s) to this Declaration and Condominium Map referenced herein.

23.4 The Developer shall have the absolute right, notwithstanding the lease, sale or conveyance of any Unit, and without being required to obtain the consent or joinder of any Unit Owner, lien holder or other persons, to effect the changes to the Units and/or limited common elements and/or the removal and deletion of portions of the Project in accordance with this paragraph 23, and to execute, record and/or file the herein described application, amendments, quitclaims, releases and any and all other instruments necessary or appropriate for the purpose of effecting the changes and/or removal and deletion of portions of the Land and/or Units as contemplated hereby. Any such action shall be deemed taken by the Developer as the true and lawful attorney-in-fact of the respective Unit Owners and lien holders. Each and every person acquiring an interest in any Unit, the Project or the Land covered by this Declaration, by such acquisition, consents to such changes (including an increase in the common interest appurtenant to any Unit owned by such person and a concomitant increase in such person's ownership interest in the Project's remaining common elements), deletion and/or removal and to the recordation of such documents as may be necessary to effect the same; agrees to execute such documents and do such other things as may be necessary or convenient to effect the same; and appoints the Developer his, her or its attorney-in-fact with full power of substitution to execute such documents and do such other things on his, her or its behalf, which grant of such power, being coupled with an interest, is irrevocable and shall not be affected by the disability of any such person.

23.5 The rights of the Developer under this paragraph 23 shall extend to the Developer and its respective successors and assigns.

23.6 Notwithstanding any provision herein to the contrary, this paragraph 23 may not be amended without the written consent and joinder of the Developer for so long as the Developer retains an ownership interest in any Unit in the Project.

**ESTIMATE OF INITIAL MAINTENANCE FEES
AND
ESTIMATE OF MAINTENANCE FEE DISBURSEMENTS
FOR
HAIKU ESTATES CONDOMINIUM**

Estimate of Initial Maintenance Fees:

| UNIT | Monthly Fee | X 12 Months | = Yearly Total |
|------|-------------|-------------|----------------|
| A | \$82.90 | | \$994.80 |
| B | \$82.90 | | \$994.80 |
| C | \$82.90 | | \$994.80 |
| D | \$82.90 | | \$994.80 |
| E | \$82.90 | | \$994.80 |

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

A unit owner shall not be obligated for the payment of the owner's share of the common expenses until such time as the Developer files with the Real Estate Commission and delivers to the owner a disclosure statement providing that, commencing upon a date certain stated in the disclosure statement, the owner shall become obligated to pay his share of the common expenses.

[Continued on the next page]

Estimate of Maintenance Fee Disbursements: For maintenance and service of the Common Elements only.

| | Monthly Fee | X 12 Months | = Yearly Total |
|--|-----------------|-------------|----------------|
| Utilities and Services | | | |
| Electricity | \$0 | | \$0 |
| Gas | \$0 | | \$0 |
| Refuse Collection | \$0 | | \$0 |
| Telephone | \$0 | | \$0 |
| Water | \$10 | | \$120 |
| Maintenance, Repairs and Supplies | | | |
| Common Elements | \$50 | | \$600 |
| Grounds (private park) | \$50 | | \$600 |
| Management | | | |
| Management Fee | \$0 | | \$0 |
| Payroll and Taxes | \$0 | | \$0 |
| Office Expenses | \$100 | | \$1,200 |
| Insurance | | | |
| Liability (common elements) | \$62.50 | | \$750 |
| Directors' and Officers' Liability | \$0 | | \$0 |
| Reserves (*) (for common element driveway) | \$42 | | \$504 |
| Taxes and Government Assessments | \$5 | | \$60 |
| Audit Fees | \$45 | | \$540 |
| Other | \$50 | | \$600 |
| | | | |
| TOTAL | \$414.50 | | \$4,974 |

(*) Pursuant to §514B-148, HRS, a new association need not collect estimated replacement reserves until the fiscal year which begins after the association's first annual meeting. In arriving at the figure for "Reserves" shown above, the Developer did not conduct a reserve study in accordance with §514B-148, HRS, and the replacement reserve rules, Subchapter 6, Title 16, Chapter 107, Hawaii Administrative Rules, as amended. The amount shown for "Reserves" was calculated based on the estimated life of the Project's common element driveway, the estimated cost to repair or replace the driveway at the end of its estimated life, and the amount that must be collected monthly and annually in order to pay the estimated cost to repair or replace the driveway at the end of its estimated life.

Hawaiiana Management Company, Ltd., will not be managing agent for the Project. The Project will be self-managed. Hawaiiana Management Company, Ltd., certifies that the above estimates of initial maintenance fee assessments and maintenance fee disbursements were prepared in accordance with generally accepted accounting principles and according to information and assumptions provided by the Developer.



 Emory Bush, President
 Hawaiiana Management Company, Ltd.

9-208

 Date

SUMMARY OF SALES CONTRACT AND ESCROW AGREEMENT

The Sales Contract provides for the sale of a condominium unit (the "Unit") by the Seller to a Buyer. The Escrow Agreement provides how the funds paid by the Buyer under the Sales Contract to Escrow are to be held and released. Both the Sales Contract and Escrow Agreement contain many important provisions which are not set out here and should be carefully reviewed by every prospective Buyer.

The Sales Contract provides for the number, amount and timing of payments the Buyer is to make to Escrow. The Escrow Agreement provides that Escrow is to collect these payments and hold them in accounts with banks or savings institutions in Hawaii at the prevailing interest rates. The Sales Contract and Escrow Agreement provide who gets to keep interest that may be earned on the funds with Escrow.

If the Sales Contract is signed before the Real Estate Commission has issued an effective date for a Final Public Report covering the Unit and before certain other things have happened (as described in the Sales Contract), the Sales Contract shall not be binding on the Buyer or the Seller, and either of them may cancel it at any time before it becomes binding. After the Sales Contract becomes binding, it may be cancelled by the Seller, among other reasons, if the Buyer is obtaining financing and fails to obtain a lender commitment within a certain time period specified in the Sales Contract, or if the Buyer is a cash buyer and fails to furnish satisfactory evidence of ability to pay within other time periods. In certain cases, the Buyer may be responsible for cancellation fees.

The Escrow Agreement provides for the closing or settlement of the sale. Escrow collects all payments and other amounts owed under the Sales Contract, including closing costs which are shared between the Seller and the Buyer as set forth in the Sales Contract.

If the Buyer defaults under the Sales Contract after the Sales Contract has become binding, the Buyer may lose all of the Buyer's deposits with Escrow and the Seller, at its option, may pursue other legal remedies. If the Seller defaults under the Sales Contract after it becomes binding, the Buyer shall, as the Buyer's sole remedy, have the right to cancel the Sales Contract. If the Buyer cancels the Sales Contract because of the Seller's default, the Seller shall repay to the Buyer all sums the Buyer has paid to the Seller or to Escrow under the Sales Contract, and the parties shall thereafter be released from all liabilities and obligations under the Sales Contract.

The Sales Contract limits the Buyer's right to assign the Sales Contract and provides that the Seller may require a consent fee for any transfer. The Sales Contract provides for "pre-closing." "Pre-closing" means that Escrow may set a time for the Buyer to sign all of the documents Escrow asks the Buyer to sign, including the Unit Deed and other closing documents, and the Buyer will pay the Buyer's share of the closing costs, as estimated by Escrow, even though the Buyer's Unit may not be ready for occupancy. Buyer's share of closing costs include one-half of Escrow's fee, all recording fees, real property taxes and other prorations, the Buyer's notary fees, a sum equal to up to four (4) months' maintenance start-up fees (which become the

Seller's property at Closing, but which can be used only for certain purposes specified in the Sales Contract), the cost of drafting and recording the Unit Deed, title report and title insurance fees, conveyance tax, and fees charged by a lender if the Buyer is financing the purchase of his Unit with a loan. Escrow then handles the closing and the transfer of title in accordance with the Escrow Agreement.

The Sales Contract confirms that the Buyer has had the opportunity to read and approve certain important legal documents for the Project, including the Declaration and the Bylaws. The Sales Contract also provides that the rights of any construction lender with a mortgage against the Project will be superior to the rights of the Buyer under the Sales Contract. However, under Hawaii law the Unit must be conveyed to the Buyer free and clear of any blanket liens, such as mortgages covering more than one unit.

The Sales Contract provides that prior to the "Effective Date" of the Sales Contract (as defined in the Sales Contract), Seller has the right to change the Project and to modify the Project's documents in any way, including (but not limited to) the right to change the Purchase Price or to cancel or terminate the Project. If the Seller elects to cancel the Project and the Buyer is not in default under the Sales Contract, the Buyer will be entitled to a refund of all sums paid by the Buyer under the Sales Contract.

The Sales Contract also provides that the Seller has the right to change the Project and the Project documents in certain ways after the Effective Date, provided that such changes do not (1) increase the Purchase Price, (2) substantially increase the Buyer's share of common expenses, (3) reduce the obligations of the Seller for common expenses for unsold units (unless such units are withdrawn from the Project, as permitted in paragraph 23 of the Declaration and as disclosed in the Public Report), or (4) result in a substantial physical change to the Buyer's Unit without the Buyer's prior written consent. Some of the changes the Seller may make after the Effective Date include changes to the Project documents that may be required by law, the Real Estate Commission of the State of Hawaii, a title insurance company, an institutional mortgagee or any governmental agency.

The Seller also has the right under the Sales Contract (and the Project's documents) to modify the Project documents and the Project in accordance with the exercise of other rights reserved to the Seller in the Project documents, as more particularly disclosed in the Sales Contract and elsewhere in the Public Report. These rights include (but are not limited to) the right to designate, grant, convey, transfer, cancel and otherwise deal with easements affecting the common elements (including the limited common elements) for any reasonable purpose, to withdraw portions of the Project's land and unbuilt and unsold units from the condominium property regime, to change the types, layouts and dimensions of (and the limited common elements appurtenant to) unbuilt and unsold units and to change the common interests appurtenant to some or all of the remaining Units if necessary to ensure that the total common interests for the Project equal 100%, and to amend the Project's documents accordingly.

The Sales Contract discloses and requires the Buyer to acknowledge that the Project is subject to certain conditions and restrictions, including (but not limited to) the following:

(1) The Project will not be connected to a public sewer system. Instead, each Unit will be sold with its own individual waste water system that will include a septic tank and absorption bed. The Unit's individual waste water system must be operated and maintained, at the sole cost and expense of the Buyer, in accordance with operation and maintenance instructions provided to the Buyer.

(2) The Project includes a common element landscaped area of approximately 2,002 square feet, designated in the Project documents as "Private Park". The Private Park is subject to a Declaration of Restrictive Covenants (Private Park) (the "Park Declaration") that provides, among other things, that if the Association does not properly maintain the Private Park, the Director of Planning and Permitting of the City and County of Honolulu (the "Director") shall have the right to perform any necessary maintenance work on the Private Park, and to change all costs and expenses of such work to the Association. In addition, the Director shall have a lien upon the Project as may be permitted by law for any unpaid costs and expenses the Director incurs in maintaining the Private Park.

(3) The Project is subject to the terms, conditions and restrictions of a Cluster Housing Permit, a copy of which is attached to the Public Report. The Cluster Housing Permit imposes certain conditions and restrictions on the future maintenance and alteration of some parts of the Project.

(4) The Project is subject to the terms and conditions of a Landscape Master Plan and a Wall Master Plan, reduced copies of which are attached to the Public Report. These Master Plans impose conditions and restrictions upon the construction of new walls or fences at the Project and all landscaping originally installed at the Project.

By signing the Sales Contract, the Buyer acknowledges that sales and construction activity at the Project by the Developer may continue after closing of the Buyer's purchase. By signing the Sales Contract, the Buyer also agrees to give the Seller a power of attorney to do certain things and to sign certain documents in connection with the exercise of the Seller's reserved rights under the Declaration.

The Escrow Agreement provides certain protections to Escrow in the event of a dispute between the Buyer and the Seller. These protections include the right to file an "interpleader" and the right to recover certain fees and costs. In an interpleader action the escrow deposit is given to the court to decide what action to take. The Escrow Agreement sets out escrow fees, escrow cancellation fees and the fees for certain policies of title insurance.

Section F.20 of the Sales Contract provides as follows:

F.20. CONTRACTOR REPAIR ACT NOTICE. Seller hereby gives Buyer the following notice in accordance with the requirements of Chapter 672E of the Hawaii Revised Statutes:

CHAPTER 672E OF THE HAWAII REVISED STATUTES CONTAINS IMPORTANT REQUIREMENTS YOU MUST FOLLOW BEFORE YOU MAY FILE A LAWSUIT OR OTHER ACTION FOR DEFECTIVE CONSTRUCTION AGAINST THE CONTRACTOR WHO DESIGNED, REPAIRED, OR CONSTRUCTED YOUR HOME OR FACILITY. NINETY DAYS BEFORE YOU FILE YOUR LAWSUIT OR OTHER ACTION, YOU MUST SERVE ON THE CONTRACTOR A WRITTEN NOTICE OF ANY CONSTRUCTION CONDITIONS YOU ALLEGE ARE DEFECTIVE. UNDER THE LAW, A CONTRACTOR HAS THE OPPORTUNITY TO MAKE AN OFFER TO REPAIR AND/OR PAY FOR THE DEFECTS. YOU ARE NOT OBLIGATED TO ACCEPT ANY OFFER MADE BY A CONTRACTOR. THERE ARE STRICT DEADLINES AND PROCEDURES UNDER THE LAW, AND FAILURE TO FOLLOW THEM MAY NEGATIVELY AFFECT YOUR ABILITY TO FILE A LAWSUIT OR OTHER ACTION.

THIS SUMMARY IS NOT COMPLETE AND WILL NOT CONTROL IN THE EVENT OF ANY CONFLICT WITH A PROVISION IN THE SALES CONTRACT OR THE ESCROW AGREEMENT. PROSPECTIVE BUYERS ARE CAUTIONED AND ENCOURAGED TO READ CAREFULLY THE SALES CONTRACT AND ESCROW AGREEMENT.

LINDA LINGLE
GOVERNOR OF HAWAII



CHIYOME LEIHAALA FUKINO, M.D.
DIRECTOR OF HEALTH

STATE OF HAWAII
DEPARTMENT OF HEALTH
P.O. Box 3378
HONOLULU, HAWAII 968013378

In reply, please refer to:
File:

June 22, 2004

Mr. Ron G. Neely, P.E.
Alanui Enterprises
P.O. Box 390628
Kailua-Kona, Hawaii 96739

Dear Mr. Neely:

Subject: Individual Wastewater System (IWS) Plans for
Roger Benz
Project Site: 46-1042 Haiku Road, Kaneohe, Oahu
TMK: (1) 4-6-012: 035
IWS File No.: 3766

We have received your Certification of Construction and As Built Plans for the above IWS. Information submitted to us indicates that the installed IWS meets applicable provisions of Hawaii Administrative Rules, Title 11, Chapter 62, entitled "Wastewater Systems."

As the professional engineer responsible for the Certification of Construction, please inform your client that the above IWS is approved for use. We strongly recommend that you discuss the necessary operation and maintenance of the individual wastewater system with your client. Emphasis should be placed on periodic inspections for scum and sludge accumulation as well as informing them not to dispose of materials that could affect the operation of the wastewater system.

As the professional engineer, you are also responsible for seeing that your client receives a copy of this Approval for Use letter. The owner will be required to give a copy of this letter to the County Building Inspector as a prerequisite to receiving final approval on the dwelling.

Should you have any questions, please feel free to contact the Wastewater Branch at 974-4000, extension x64294.

Sincerely,

HAROLD K. YEE, P.E.
Chief, Wastewater Branch

JO:lmh

OPERATION AND MAINTENANCE INSTRUCTIONS

FOR SEPTIC TANKS & ABSORPTION BEDS

1. SYSTEM SHALL BE INSPECTED ON AN ANNUAL BASIS. INSPECT SEPTIC TANK THROUGH CLEAN OUT TO GRADE. TANK SHALL BE PUMPED IF EITHER BOTTOM OF FLOATING SCUM LAYER WITHIN FOUR INCHES OF BOTTOM OF OUTLET TEE OR SETTLED SLUDGE LAYER WITHIN EIGHT INCHES OF BOTTOM OF OUTLET TEE. INSPECT DISTRIBUTION BOX THROUGH CLEAN OUT TO GRADE. IF SCUM OR SLUDGE PRESENT, IN DISTRIBUTION BOX TANK SHALL BE PUMPED.
2. PUMP TANK CONTENTS BY MEANS OF VACUUM PUMP TRUCK. ALLOW FOUR TO SIX INCH DEPTH OF RESIDUAL SLUDGE TO REMAIN FOR SEEDING PURPOSES. TANK CONTENTS TO BE DISPOSED OF AT AN APPROVED FACILITY.
3. ENTRY INTO THE SEPTIC TANK CONSTITUTES A CONFINED SPACE ENTRY AND SHOULD NOT BE ATTEMPTED BY UNTRAINED PERSONNEL. ENTRY INTO SEPTIC TANK SHALL BE ACCORDING TO CONFINED SPACE ENTRY PROCEDURES AS ESTABLISHED BY FEDERAL OSHA REGULATION.
4. TOXIC CHEMICALS SHOULD NOT BE FLUSHED INTO OR OTHERWISE INTRODUCED INTO THE SEPTIC SYSTEM. HOUSEHOLD DISINFECTANTS USED IN SMALL QUANTITIES WILL NOT ADVERSELY AFFECT THE SYSTEM.
5. ODORS MAY BE PRESENT FOR THE FIRST SIX TO EIGHT WEEKS OF SYSTEM OPERATION. IF ODORS PERSIST CONTACT THE DESIGN ENGINEER.
6. THE SEPTIC SYSTEM IS DESIGNED TO ACCEPT ONLY HUMAN WASTE AND TISSUE PAPER. INTRODUCTION OF OTHER TYPES OF PAPER OR PLASTIC PRODUCTS WILL LEAD TO FAILURE OF THE ABSORPTION BED OR SEEPAGE PIT.
7. AREA SURROUNDING ABSORPTION BED OR SEEPAGE PIT SHOULD NOT RECEIVE EXCESSIVE LANDSCAPE WATERING. EXCESSIVE LANDSCAPE WATER APPLICATION MAY LEAD TO HYDRAULIC OVERLOAD OF DISPOSAL SYSTEM.
8. IF SYSTEM EXHIBITS SIGNS OF FAILURE CONTACT THE DESIGN ENGINEER IMMEDIATELY.

ALANUI ENTERPRISES
P.O. BOX 390628
KAILUA-KONA, HI. 96739
(808) 329-6225

EXHIBIT "J"
Page 2 of 2

OM-1

OFFICE OF THE
ASSISTANT REGISTRAR, LAND COURT
STATE OF HAWAII
(Bureau of Conveyances)

The original of this document was
recorded as follows:

DOCUM Doc 3721574
DATE CTN AS LISTED HEREIN
MAR 12 2008 03:00 PM

Return by Mail () Pickup (X) To:

Brooks Tom Porter & Quitiquit, LLP
841 Bishop Street, Suite 2125
Honolulu, Hawaii 96813

Tax Map Key Nos. (1) 4-6-12-35
Total No. of Pages: 15

DECLARATION OF RESTRICTIVE COVENANTS (PRIVATE PARK)

THIS DECLARATION, made effective this 12th day of March, 2008, by HAIKU ESTATE, LLC, a Hawaii limited liability company organized and existing under the laws of the State of Hawaii, whose post office address is P.O. Box 6368, Kaneohe, Hawaii 96744 (the "Developer"), and BENJAMIN LARSEN ALFELOR, unmarried, and CHRISTINE WARD ALFELOR, unmarried, both of whose post office address is P.O. Box 6364, Kaneohe, Hawaii 96744 (the "Unit A Owner"), and JACOB LEE CHANG and JOLINE CHANG, husband and wife, whose post office address is P.O. Box 126, Kaneohe, Hawaii 96744 (the "Unit B Owner"), hereinafter referred to collectively as "Declarant",

WITNESSETH:

WHEREAS, Declarant is the owner of property at Heeia, District of Koolaupoko, City and County of Honolulu, State of Hawaii, which is more particularly described in Exhibit "A" attached hereto and incorporated by reference herein (the "Land"); and

WHEREAS, by Declaration of Condominium Property Regime dated August 4, 2004, recorded in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No. 3148296, noted on Transfer Certificates of Title No. 724,710, 739,024 and 683,857 (the "Condominium Declaration"), and related documents, the Developer created on the Land a fee simple condominium project named "Haiku Estates" (the "Project") which will include in its common areas certain park areas (the "Private Park"); and

WHEREAS, the Condominium Declaration also created the Association of Unit Owners of Haiku Estates (the "Association") to, among other things, maintain the common elements of the Project, which include the Private Park; and

WHEREAS, in connection with the development of the Project, Rule 10 of the Park Dedication Rules and Regulations of the City and County of Honolulu, Hawaii, adopted pursuant to Chapter 22-7, R.O. 1990 of the City and County of Honolulu, requires certain restrictive covenants to be declared;

NOW, THEREFORE, in furtherance thereof and in order to provide active and passive recreation for the occupants of the Project, Declarant makes the following declaration of restrictive covenants and hereby declares and agrees that the real property is held and shall be held, conveyed, mortgaged, encumbered, leased, rented, used, occupied and improved subject to said declarations, which declarations shall constitute covenants running with the land and shall be binding on and for the benefit of Declarant, its successors and assigns, and all subsequent owners, lessees or occupants of all or any part of the real property and their respective heirs, executors, administrators, successors, and assigns.

1. Master Plan. Attached hereto as Exhibit "B" (and incorporated by reference herein), is a plan of the Private Park.

2. Park and Recreational Areas. At all times during the term of this Restrictive Covenant, the area in Exhibit "B" (the "Private Park area") shall be improved, maintained and used exclusively for private park, playground and recreational purposes, by the occupants, owners or lessees of the real property.

3. Term. This Declaration shall continue in full force and effect in perpetuity and shall not be repealed, amended or altered in any way except by a majority vote of the owners of units in the Project with written approval of the Declarant and the Director of Planning and Permitting of the City and County of Honolulu (the "Director") or his and/or its successor.

4. Use. The use of the Private Park area is and shall be restricted for park and playground purposes for the use of all of the purchasers, lessees or occupants of units in the Project.

5. Obligations. All owners of units in the Project shall be required to be members of the Association and shall be obligated to perpetually maintain the Private Park.

6. Maintenance. The covenant to perpetually maintain the Private Park contained in paragraph 5 hereof may be enforced by the Director. In the event that the Association should fail to properly maintain the Private Park, the Director is hereby authorized to perform or to cause to be performed any necessary maintenance work on the Private Park. Upon the failure of the Association to properly maintain the Private Park, the Director shall collect the estimated costs and expenses from the Association which may be incurred by the Director in performing any such maintenance work. The Director shall have, until all costs and expenses of such maintenance work performed by the Director have been fully paid, a lien upon the land and

properties (Exhibit "A") of the Project and subject to this Declaration as may be permitted by law.

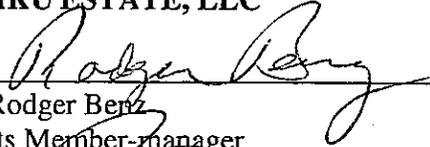
The Declarant shall indemnify the City and save it harmless from and indemnify it from any and all claims or demands by any person for actions, damages, liabilities and expenses in connection with the loss of life, personal injury or wrongful death, and/or damage to property arising from the use of the facility by any party and, including but not limited to, any and all claims in connection with the City's authority under Section 6 above. In case the City shall be made a party to any litigation commenced by or against the Declarant, then the Declarant shall protect and hold the City harmless and shall pay all costs, expenses, and reasonable attorney's fees incurred or paid by the City in connection with such litigation.

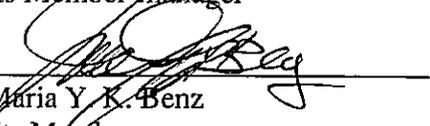
7. Enforcement. The Director shall have the right to enforce any and all of the restrictions imposed by this Declaration upon the Association, and the cost of enforcement, including court costs and attorneys' fees, as may be permitted by law, shall be paid by the Association, for violations of any of the restrictions herein contained.

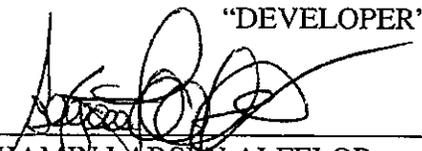
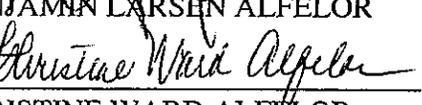
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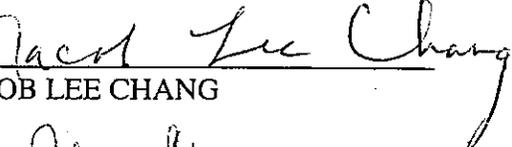
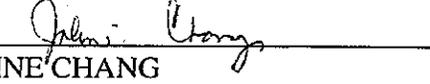
IN WITNESS WHEREOF, the Declarant has caused these presents to be duly executed effective as of the day and year first above written.

HAIKU ESTATE, LLC

By 
Rodger Benz
Its Member-manager

By 
Maria Y. K. Benz
Its Member-manager

"DEVELOPER"

BENJAMIN LARSEN ALFELOR

CHRISTINE WARD ALFELOR

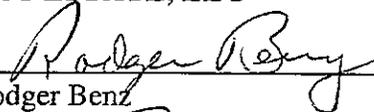
"UNIT A OWNER"

JACOB LEE CHANG

JOLINE CHANG

"UNIT B OWNER"

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.]

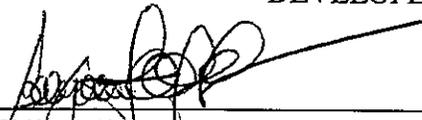
This is to certify that the above described Declaration of Restrictive Covenants shall be filed with the Land Court of the State of Hawaii.

HAIKU ESTATE, LLC

By 
Rodger Benz
Its Member-manager

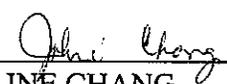
By 
Maria Y. K. Benz
Its Member-manager

“DEVELOPER”


BENJAMIN LARSEN ALFELOR

CHRISTINE WARD ALFELOR

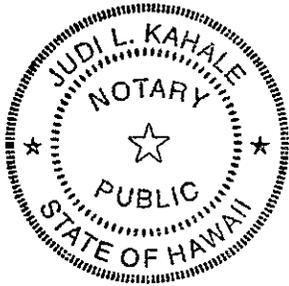
“UNIT A OWNER”


JACOB LEE CHANG

JOLINE CHANG

“UNIT B OWNER”

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

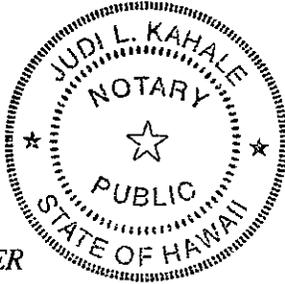
On this _____ day of AUG 27 2007, 2007, before me personally appeared RODGER BENZ, to me personally known, who, being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable in the capacity shown, having been duly authorized to execute such instrument in such capacity.



Judi L. Kahale
Judi L. Kahale
Notary Public, State of Hawaii
My Commission Expires: 03/12/2008
My commission expires:

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

On this _____ day of AUG 27 2007, 2007, before me personally appeared MARIA Y. K. BENZ, to me personally known, who, being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable in the capacity shown, having been duly authorized to execute such instrument in such capacity.



DEVELOPER

Judi L. Kahale
Judi L. Kahale
Notary Public, State of Hawaii
My Commission Expires: 03/12/2008
My commission expires:

EXHIBIT "K"

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

On this 12th day of March, ²⁰⁰⁸2007, before me personally appeared BENJAMIN LARSEN ALFELOR, to me personally known, who, being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable in the capacity shown, having been duly authorized to execute such instrument in such capacity.



DANIELLE K. N. AIU

Notary Public, State of Hawaii

My commission expires: July 02, 2009

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

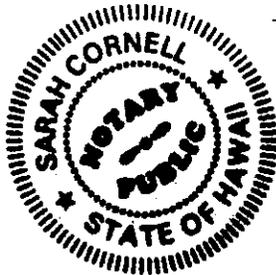
On this 29th day of AUGUST, 2007, before me personally appeared CHRISTINE WARD ALFELOR, to me personally known, who, being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable in the capacity shown, having been duly authorized to execute such instrument in such capacity.



Sarah Cornell

Notary Public, State of Hawaii

My commission expires: 11-20-09



UNIT A OWNER

EXHIBIT "K"

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

On this 28th day of August, 2007, before me personally appeared JACOB LEE CHANG, to me personally known, who, being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable in the capacity shown, having been duly authorized to execute such instrument in such capacity.



Notary Public, State of Hawaii

KATHLEEN PARESA, NOTARY PUBLIC
STATE OF HAWAII
My Commission Expires March 15, 2009

My commission expires:

L.S.

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

On this 28th day of August, 2007, before me personally appeared JOLINE CHANG, to me personally known, who, being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable in the capacity shown, having been duly authorized to execute such instrument in such capacity.



Notary Public, State of Hawaii

KATHLEEN PARESA, NOTARY PUBLIC
STATE OF HAWAII
My Commission Expires March 15, 2009

My commission expires:

UNIT B OWNER

L.S.

EXHIBIT "K"

EXHIBIT "A"

ALL OF THAT certain parcel of land situate at Heeia, District of Koolaupoko, City and County of Honolulu, State of Hawaii, described as follows:

LOT 1042-C, area 50,794 square feet, more or less, as shown on Map 205, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 1100 of the Trustees under the Will and of the Estate of Bernice Pauahi Bishop, deceased.

Being all of the land described in and covered by:

- (a) Transfer Certificate of Title No. **724,710** as to an undivided 20% interest appurtenant to Unit A in the Haiku Estates condominium; and
- (b) Transfer Certificate of Title No. **739,024** as to an undivided 20% interest appurtenant to Unit B in the Haiku Estates condominium; and
- (c) Transfer Certificate of Title No. **683,857** as to an undivided 60% interest appurtenant to Units C, D and E in the Haiku Estates condominium.

EXHIBIT "K"

Exhibit "A"

Page 1



PROPOSED 5 SINGLE FAMILY DWELLINGS
 HAIKU ESTATES PARKS PLANS
 46-312 HAIKU ROAD, KANEHOHE, HAWAII
 TAX KEY: 1-4-06-12:35



REVISIONS:

| | | |
|-----|---------------|------|
| No. | Description | Date |
| 1 | REV. 12/11/05 | |
| 2 | REV. 12/11/05 | |
| 3 | REV. 12/11/05 | |
| 4 | REV. 12/11/05 | |
| 5 | REV. 12/11/05 | |

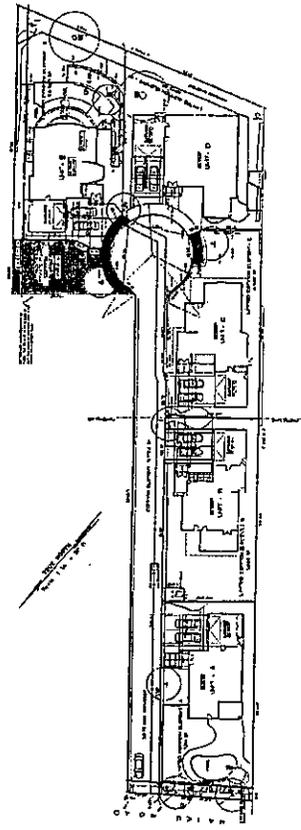
DESIGNED: JAMES B. BOWEN
 DRAWN: J.B.B.
 DATE: 12/11/05
 DRAWING NUMBER
A-0
 SHEET OF

HAIKU ESTATES PARK PLANS

46-312 HAIKU ROAD
 KANEHOHE, HAWAII 96817
 TAX MAP KEY: 1-4-06-12:35

SHEET INDEX:

- A-0 TITLE SHEET
- PROJECT DATA
- LOCATION MAP
- P-1 SITE PLAN
- P-2 LANDSCAPE PLAN
- P-3 PARK LANDSCAPE PLAN
- P-4 HARDSCAPE PLAN
- P-5 PLANTING AND AMENITIES DETAILS



CLUSTER SITE KEY PLAN

APPROVED: _____
 12/11/05
 DIRECTOR, DEPARTMENT OF PERMITS AND PERMITTING,
 (FOR COMPLIANCE WITH PARK DEVELOPMENT ORDINANCE, SECTION 15-7.004,
 ARTICLE 15 AND 15-7.005 ONLY)



OAHU MAP

PROJECT DATA:
 LOT AREA: 50,794.04 S.F.
 BUILDING LOT COVERAGE: 1/3 OF 16,742.8 S.F.
 LOT ZONING: B-1.5

EXISTING ZONING RESTRICTIONS:

PROPOSED NEW PROJECT PLAN: B-1.5, 16.7'

LOCATION MAP





PROPOSED 3 SINGLE FAMILY DWELLINGS
 HAKU ESTATES PARKS PLANS
 148-312 HAKU ROAD, KANEHOE, HAWAII,
 TRK 1-4-26-12, 35

ARCHITECT OF RECORD
 HAWAIIAN ARCHITECTURE
 148-312 HAKU ROAD, KANEHOE, HAWAII
 808-933-1234

| NO. | DESCRIPTION | DATE |
|-----|-------------|------|
| | | |
| | | |
| | | |

DESIGNED BY: JAMES W. ...
 DRAWN BY: JEF ...
 CHECKED BY: ...
 DATE: ...
P-2
 DRAWING NUMBER
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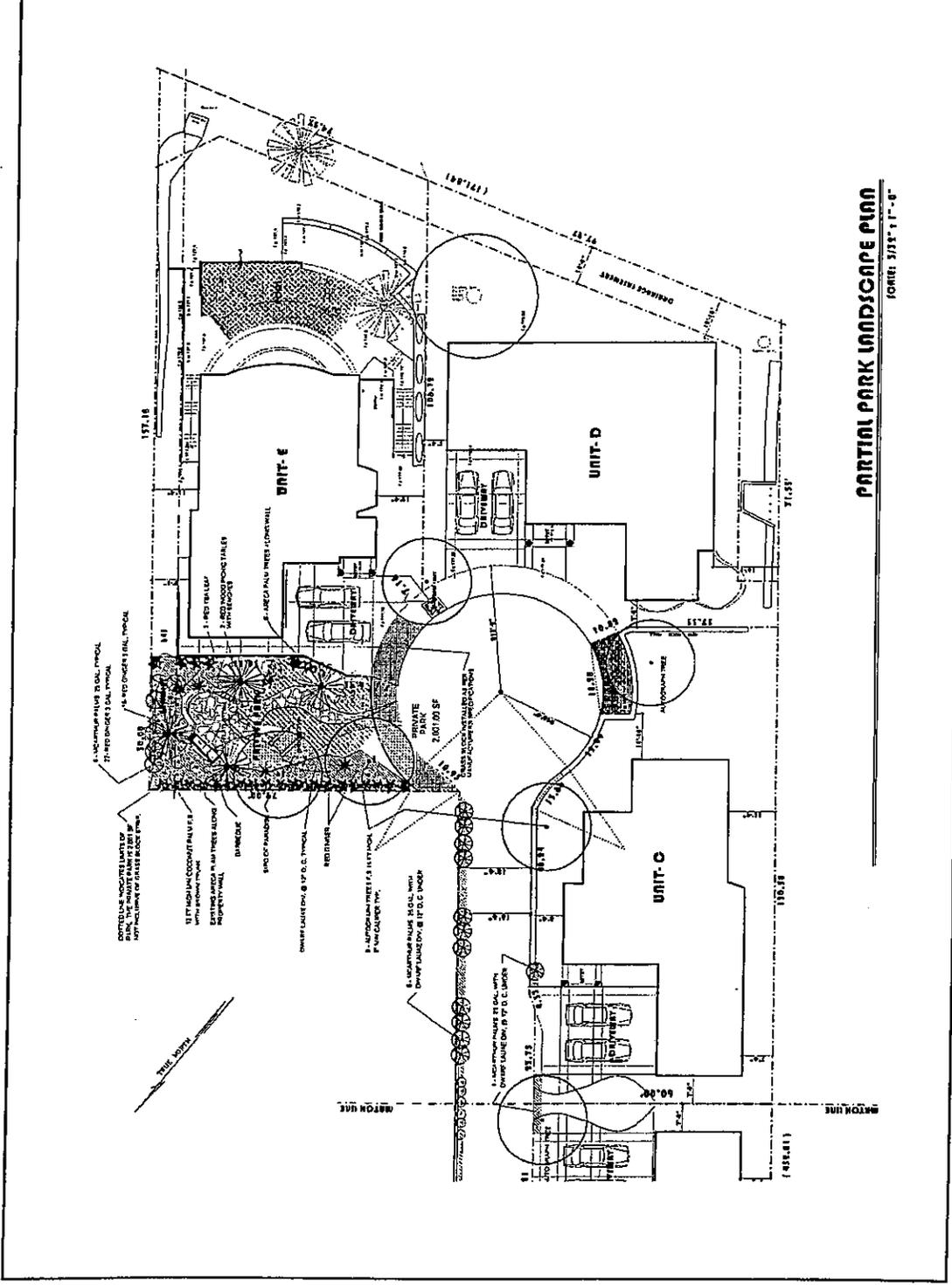


Exhibit B, page 3

EXHIBIT "K"

DEPARTMENT OF PLANNING AND PERMITTING
CITY AND COUNTY OF HONOLULU

650 SOUTH KING STREET, 7TH FLOOR • HONOLULU, HAWAII 96813
TELEPHONE: (808) 523-4432 • FAX: (808) 527-6743
DEPT. INTERNET: www.honolulu.gov • INTERNET: www.honolulu.gov



MUFU HANNEMAHN
MAYOR

HENRY ENG, FAICP
DIRECTOR

DAVID K. TANQUE
DEPUTY DIRECTOR

2006/CL-9 (lw)

| | |
|----------------|------------------------------|
| PERMIT: | CLUSTER HOUSING CL |
| File Number: | 2006/CL-9 |
| Project: | Haiku Estates Cluster |
| Location: | 46-312 Haiku Road -- Kaneohe |
| Tax Map Key: | 4-6-12: 35 |
| Zoning: | R-7.5 Residential District |
| Applicant: | Haiku Estates LLC |
| Date Received: | July 14, 2006 |
| Date Accepted: | July 28, 2006 |

APPROVAL is granted to the cluster housing project with five (5) single-family detached dwellings and appurtenant site improvements, in accordance with the application documents (plans date-stamped July 14, 2006 and July 31, 2006), subject to the following conditions:

1. The applicant, its successors, or assigns shall provide all improvements in conformity with approved revised plans (see Condition No. 4) and the conditions imposed herein. All structures, site improvements, underground utilities, and landscaping shall be completed prior to occupancy of any new dwelling.
2. Park dedication requirements shall be satisfied through the provision of a minimum 2,000 square-foot congregate open space for use as a private park. The private park shall be furnished with appropriate amenities (i.e. benches, barbecues) and field stock canopy form tree(s).
3. The applicant shall construct the Haiku Road widening improvements. These improvements shall include, but not be limited to, a 4-foot wide sidewalk, planter strip and street trees. Construction plans for the road widening improvements and building permit plans shall be submitted concurrently to the DPP for review and approval.
4. Prior to the submittal of building permit plans, the applicant shall submit the following REVISED PLANS for DPP approval:

EXHIBIT "L"

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Page 2

- a. A minimum 2,000 contiguous square feet of usable common area private park and a minimum 18-foot common area access way. The private park shall be located between Units C and D or fronting Unit E, be directly accessible to all units, and comply with Park Dedication Rules and Regulations relative to size, slope and facilities. The common area driveway shall contain an 18-foot wide all-weather surface material and landscaped planter on either side. The planters shall be of sufficient size to allow for the planting of screening material such as hedge material along the interior wall and tall screening hedge (such as panax or macarthur palms) along the adjoining parcel. A minimum 32-foot radius all-weather surface turnaround shall be provided at the end of the driveway;
 - b. Retaining wall sections showing existing (dashed) and proposed (solid) grades clearly shown and label on both sides of the retaining wall;
 - c. Partial site section through the new dwellings, clearly showing and labeling existing (dashed) and proposed (solid line) grades, and building height and envelopes as measured from the existing or finished grade, whichever is lower;
 - d. Revised dwelling floor plans, elevations, sections, building area and floor area calculations for Units D and E. The plan revisions must accommodate the required private park;
 - e. Landscape plan showing planter strips on either side of the access driveway, minimum two feet along the adjoining parcels and 18 inches along the interior walls up to Unit C, new and existing plants, including groundcover, hedges, and trees, with species, quantity, size and location, as well as taller landscaping above the height of the driveway fence/wall adjoining parcels 51 and 52; and
 - f. Fence Master Plan showing existing fences to remain, and proposed fences/walls including location, type and height of new fences. A setback shall be provided from the common access driveway and landscaped as required by Condition 4(e). In addition, the Haiku Road wall shall be repainted or finished with an earth tone to reduce its visual impact from the street. The applicant shall reconstruct the masonry wall adjoining Parcel 39 and stabilize existing grade in conjunction with the planned wall improvements for that edge of the project.
5. All work shall comply with all applicable Federal, State and County regulations, standards, statutes and ordinances unless otherwise stated. All requirements of, and plan approvals by pertinent agencies shall be complied with. These include but are not limited to the State Department of Health regulations relating to individual wastewater systems, Honolulu Fire Department requirements relating to the fire hydrant and access for emergency vehicles, DPP's Civil Engineering Branch's grading and drainage requirements, and DPP's Traffic Review Branch provisions relating to road widening improvements.

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Page 3

6. If, during construction, any previously unidentified archaeological sites or remains (such as artifacts, shell, bone, or charcoal deposits, human burials, rock or coral alignments, pavings, or walls) are encountered, the Applicant shall stop work and immediately contact the State DLNR Historic Preservation Division (SHPD) and the Oahu Burial Council in writing. Work in the immediate area shall be stopped until the SHPD is able to assess the impact and make further recommendations as to mitigative measures.
7. The applicant or owner shall incorporate this Cluster Housing Permit into the restrictive covenants, which run with the land, to serve as notice to all owners and tenants. A draft covenant shall be submitted for review and approval by the DPP. Upon approval of the covenant, a certified recorded copy shall be filed with the DPP, prior to the change in any ownership or the issuance of any permits. The homeowners association shall be responsible for administering covenants consistent with these requirements. The covenant shall include notice of the following:
 - a. The approved number of dwelling units (five) shall not be increased, and the project lot shall not be further subdivided;
 - b. All work shall comply with the applicable Land Use Ordinance (LUO) standard for the underlying zoning district, unless otherwise stated herein:
 - (1) A common element access driveway as required by Condition 4;
 - (2) A minimum 5-foot setback for structures shall be required from the common access drive;
 - (3) Within the project, required side and rear yards, and height setbacks of the underlying zoning district shall be measured from the limited common element (CPR) lines and property lines;
 - (4) Maximum building area shall not exceed forty percent (40%) of the original lot area of 50,074 square-feet. If the property is condominiumized, then, within each limited common element, the maximum building area shall not exceed fifty percent (50%) of the area for each limited common element.
 - c. All new work shall be compatible in design with the existing and surrounding structures. The Director may require the redesign of exterior entrances, stairways, bar areas, including plumbing and electrical systems, to ensure that the number of dwellings is not increased;
 - d. Each dwelling unit shall provide parking spaces in accordance with the LUO parking regulations. Individual driveways shall be no less than 16 feet to accommodate guest parking spaces. Parking shall not be permitted in the common access driveway. Parking spaces within carports or garages shall not be converted into usable floor area (including garage or carport storage areas);

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Page 4

- e. Walls and fences shall be constructed in accordance with the approved Fence Master Plan;
 - f. All landscaping existing, approved and required by this permit shall be retained and maintained in a healthy visual condition at all times, or replacement landscaping shall be required;
 - g. All exterior lighting shall be subdued or shielded to prevent glare and light spillage on surrounding lots and public rights-of-way. Where appropriate, full-cutoff fixtures or cutoff shields may be required. Mercury vapor and low/high pressure sodium lamps shall not be permitted; and
 - h. All private common elements, including the roadways, park, utilities, landscaping, and drainage patterns shall be maintained by the homeowner's association and/or individual homeowners.
8. The applicant or owner(s) shall submit a draft copy of the revised Condominium Property Regime (CPR) map and documents to the DPP for our review. The CPR map shall be in accordance with the revised site plan noted in item no. 4, and all future additions and renovations must be in accordance with the conditions of the existing use permit. Future work subsequent to the creation of a CPR may require approval from the homeowners association prior to the start of work. If the Cluster Permit is incorporated into the CPR documents, a separate declaration of restrictive covenants is not required.
9. Building permit plans shall include:
- a. All revised and approved plans described under Condition No. 4;
 - b. A certified recorded copy of the restrictive covenant described under Condition No. 7 or the revised CPR map and documents described under Condition No.8;
 - c. All new retaining walls and resultant grades; and
 - d. All new utilities to service the project to be placed underground. All transformers which exceed 30 inches in height and trash enclosures shall be screened from the street and surrounding lots with a minimum four-foot high landscape hedge.
10. **The applicant shall obtain all necessary building permits within 3 years from the date of this approval or the Cluster Housing Permit shall lapse.** For good cause, the applicant may request to extend the time limit. The request for an extension must be submitted in writing, prior to the expiration of the Cluster Housing Permit, and include justification for the extension. The cluster permit shall automatically lapse if the applicant fails to submit such a request for extension.

2006/CL-9
Page 5

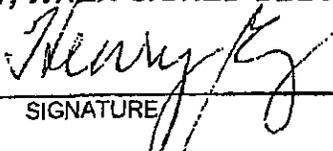
- 11. The DPP will review violations of the Permit conditions. If the applicant, homeowners' association, or individual homeowner does not comply with any of the said conditions, the DPP shall take appropriate action necessary: (1) to prevent further non-compliance; and/or (2) to compel compliance with the conditions.
- 12. Any modification to the application documents and conditions stated herein shall be subject to approval by the DPP. In no case shall any modification change the general intent of the design concept and the environmental character of the project. For good cause, the Director may impose additional requirements and/or amend the above conditions.

HE:nt

Attachment

Doc480202

THIS COPY, WHEN SIGNED BELOW, IS NOTIFICATION OF THE ACTION TAKEN.

| | | |
|---|----------|--------------------|
|  | Director | September 22, 2006 |
| SIGNATURE | TITLE | DATE |

This approval does not constitute approval of any other required permits, such as building or sign permits.

EXHIBIT "L"

ATTACHMENT A
2006/CL-9 Haiku Estates Cluster

I. GENERAL INFORMATION

A. Proposal

The applicant requests a cluster housing permit to add three (3) new single-family detached dwellings to two (2) existing single-family detached dwellings for a total of five (5) single-family dwellings.

The three front units along the access driveway (Units A, B and C) have two stories with four (4) bedrooms, three (3) baths, and floor areas ranging from 2,803 square feet to 3,037 square feet. The two units in the rear, Units D and E, are single-story and three-story, respectively. Unit D has three (3) bedrooms, two baths and floor area of 2,773 square-feet, and Unit E has five (5) bedrooms, four (4) baths, and floor area of 5,367 square feet. Except for Unit E which has a 4-car garage, all the units have 2-car garages. The dwellings are to have slab-on-grade foundations, a hybrid of masonry block, steel stud and wood truss construction, EIFS exterior finish and Monier roof tiles.

Appurtenant site improvements include extension of an existing 325-foot-long, 18-foot clear pavement width access driveway; a new 33-foot radius turnaround; a 615-square-foot private park; and landscaping. There are retaining walls on two sides of Unit D, and a new rock retaining wall is proposed between Unit E and the adjacent lot. Eight-foot road widening improvements along Haiku Road frontage are also proposed.

The project has been condominiumized and the new dwellings will be sold in fee as part of a Condominium Property Regime (CPR). The access driveway and appurtenant site improvements are common elements to be maintained by the development's Association of Apartment Owners (AOAO).

B. BACKGROUND – LAND USE APPROVALS

The DPP responded to a request for 21-day conceptual review of the proposed project. In its response dated August 26, 2003, the Department of Planning and Permitting (DPP) recommended retention of existing large trees, planting of landscape materials to screen the CMU walls along Haiku Road and the access driveway, reduction of proposed fence/walls from five (5) feet to 30 inches, and clear pavement width of 20 feet or 18 feet with minimum 2-foot landscaped planter along the access driveway.

The applicant submitted a cluster permit application (2005/CL-2) which closely resembles the above-mentioned proposal. The DPP rejected the application because it was incomplete, and noted that replacement trees and larger park space may be required to offset the removal large trees from the site. The department recommended that the application include a revised park plan showing the minimum park size as required by the Park Dedication Rules and Regulations. (While Park Dedication Rules and Regulations allows for 50 square feet of park area per dwelling unit, the minimum usable park size to function for recreational purposes has been determined to be 2,000 square-feet.)

The applicant submitted the subject application showing a site plan with five (5) dwellings and a 615-foot private park, along with the required additional information noted in the rejection letter. The application stated that the deep swale in the southern rear portion of the site has been filled and a 2-foot diameter drainage pipe has been installed. It included a grading permit (No. GP2006-02-0114) that is supposed to reflect the site modifications that has been performed by the applicant. It also noted that preliminary approvals were received from the following agencies: Department of Health for construction of five individual wastewater systems (IWSs); Board of Water Supply regarding availability of water; and Honolulu Fire Department (HFD) for the installation of the on-site fire hydrant, the proposed turnaround, and the narrowing of the access driveway clear pavement width from 18 feet to 16 feet in front of Dwelling C before the turnaround.

The applicant obtained building permits for the two front units (Dwellings A and B), which were completed and sold in fee as part of the above-mentioned Condominium Property Regime (CPR). A portion of the access driveway has also been constructed to provide access to the two dwellings. The applicant has since constructed Dwelling C, the outer walls of Dwelling D, and a retaining wall without the proper permits. A notice of violation has been issued for the site. Required permits and approvals for the project to proceed include, but are not limited to, construction plans approval for the road widening improvements, inspection approvals for the IWSs, and building permits for the dwellings, retaining walls, and site improvements.

C. SITE AND SURROUNDING LAND USES

The site is 50,794 square feet, with 80 feet of frontage along Haiku Road. It is L-shaped and is relatively level with a deep swale along the width of the southern end, which has since been filled. A retaining wall was built in the middle of the rear portion (between proposed Dwellings D and E) without a building permit, and the site slopes from the retaining wall toward the property line where a new retaining wall is proposed. The front half portion of the site has been developed with a driveway and three single-family dwellings (one of which was built without a building permit). The site is surrounded by single-family homes.

II. ANALYSIS

The Director of Planning and Permitting has reviewed the project in accordance with the following criteria:

A. **The proposed project is permitted in the underlying zoning district and conforms to the requirements of the Land Use Ordinance (LUO).**

1. LUO Sections 21-8.50-1 and 21-8.50-2 – Cluster Housing

The project generally conforms to the Cluster Housing requirements of Section 8.50-1 (Intent of Cluster Housing) and with Section 8.50-2 (Cluster Site Design Standards) of the Land Use Ordinance (LUO), except those requirements which encourage open space and common amenities. In addition, the proposed driveway does not have the required setback from adjoining parcels.

Cluster housing is an optional development mechanism that provides design flexibility when site conditions become constraints to regular subdivision. In exchange for this flexibility, cluster projects should exhibit creative and efficient use of land, and maximize open space and common amenities.

The applicant proposes to meet park dedication requirements with payment of fees and the provision of 615 square-foot private park. However, no common amenities are provided for area residents, and landscaping appears to be limited to the private park and the planter strips along the driveway. While park dedication requirements may allow for payment of fees, the department prefers that cluster housing projects include congregate shared open space with passive and/or active recreation amenities toward compliance with objectives and intent of the cluster housing application. Similarly, while park dedication requirements establish a minimum park size of 5,000 square feet, the minimum usable park size to function for recreational purposes has been determined to be 2,000 square feet.

It is therefore reasonable to require that the site layout and new dwellings be revised to accommodate a minimum of 2,000 square-feet of contiguous recreational open space. The 2,000 square-feet of congregate open space required is intended to provide a private passive park for project residents, with appropriate amenities (i.e., benches, barbecue pits) and field stock canopy form tree(s) to replace those that were removed during construction. A revised project layout and the provision of a private park within the site to satisfy park dedication requirements should be made conditions of cluster housing approval.

While no setback is provided between the project's driveway and the adjoining parcel to the east, cluster provisions allow the construction of a wall, landscape buffering, or a wall/landscape combination in lieu of the minimum setback, subject to the approval of the director. A 6-foot high wall/fence runs along the existing driveway, and the landscape plan shows 2-foot planter strip on either side of the driveway. As a condition of approval, a minimum 24-inch wide planter strip should be provided along the wall for noise and visual buffering, and taller landscaping above the height of the fence/wall shall be required to provide screening and privacy.

The common element boundaries show a narrowing of the access driveway clear pavement width from 18 feet to 16 feet in front of the Dwelling C. As a condition of approval, these boundaries should be revised to show a minimum of 18 feet to the turnaround.

2. LUO Section 21-8.50-11 Director's Decision

The project, revised to include a 2,000-square-foot private park, would conform to subsections (a) through (d). To ensure compliance with subsection (e), the applicant should be required to comply with the pertinent government agencies outlined in Section B below.

3. LUO Section 21-3.70-1 R-7.5 Residential District Development Standards

The project generally complies with R-7.5 development standards. However, a revised site layout to accommodate a new 2,000-square-foot park may result in redesign of the new dwellings. Hence, as a condition of approval, the applicant should provide partial site section through the new dwellings with building height envelope and new dwelling floor plans including building area (lot coverage) and floor area calculations to verify compliance with LUO Section 21-3.70-1 prior to building permit application.

4. LUO Section 21-4.40 Retaining Walls

More accurate information on existing and proposed retaining walls are required to verify full compliance. The site plan shows three stand-alone retaining walls in the rear portion of the site: two within the required yards and one in the middle between Dwellings D and E. A site visit indicated that the walls have been constructed, but the department has no record of building permits for these walls. The grading permit shows the middle retaining wall and one within the side yard as new and within the height limit; however, building permits for retaining walls are required prior to grading activities. Hence, as a condition of approval, the applicant should provide sections of the retaining walls with existing (dashed) and proposed (solid) grades clearly shown and label on both sides of the retaining walls to verify compliance with height limits.

In addition, a site visit revealed a crumbling masonry wall on the northeast boundary of the site (adjoining parcel 39). As a condition of approval, the applicant should be required to reconstruct this wall and stabilize existing grade in conjunction with the planned wall improvements for that edge of the project.

5. LUO Section 21-6.10 through 6.140, Off-Street Parking and Loading Requirements

The project complies with the off-street parking requirements of the LUO based on the proposed floor area. Any revised floor plan for the new dwellings as a result of the revised site layout should include revised floor area and show parking spaces in compliance with the off-street parking requirements. No guest parking spaces are proposed; however individual driveways in access of 16 feet should be able to accommodate two guest parking spaces. As a condition of approval, individual driveway should be no shorter than 16 feet to accommodate guest parking, and parking shall not be permitted in the common access driveway. No loading spaces are required or proposed.

B. **The site is suitable for the proposed use considering size, location, topography, infrastructure and natural features.**

The project site exceeds the minimum lot size required in the R-7.5 Residential District, and can accommodate the existing and proposed improvements. There are no unique natural features on the site, nor are any public scenic views or open spaces anticipated to be negatively affected by the proposed project.

The Board of Water Supply (BWS) stated that the existing water system is presently adequate to accommodate the development; however, the final decision on water availability will be made at the time of building permit review.

The State Department of Health (DOH) approves the construction of five individual wastewater systems (IWSs) but has yet to complete final inspection of the systems.

The Honolulu Fire Department stated that the applicant has satisfied HFD's requirements for fire apparatus access and on-site fire hydrant. It is noted that although the turnaround is not complete, the applicant has submitted a timetable that is satisfactory to the chief.

As a condition of approval, the applicant will be required to comply with government agencies requirements prior to building permit approval.

The DPP's Civil Engineering Branch (CEB) noted that a grading permit (No. GP2006-02-0114) was issued for the site. According to the drainage report, runoff from the project will drain to the rear and be intercepted by two drain inlets, one at the end of the road at the cul-de-sac, and another where a new 12-inch drain will connect to the existing 24-inch main. The drainage plan shows two existing drainage outlet in the rear corners of the lot.

The grading permit shows half of the rear portion (where Unit D is proposed) has been filled and existing grades as sloping from the middle retaining wall in a easterly direction towards the adjacent lot (TMK: 4-6-12: 38), where a new rock retaining wall is proposed. If modified in accordance with the grading permit, the sloping portion would have modified to slope in a southerly direction towards Haiku Gardens in the back. However, a site visit indicated that the same area has been modified to accommodate a foundation pad and a swimming pool. It is not clear where existing and proposed grades are located. Hence, as a condition of approval, the applicant should be required to submit a grading plan that is consistent with previously approved grading permit and the grading proposed in this application as part of building permit application.

Access to the project is from Haiku Road via the common access driveway. The DPP's Traffic Review Branch commented that there is an 8-foot road widening along the Haiku Road frontage that should be constructed as part of this development. In addition, it is noted that the driveway grade at Haiku Road should not exceed five percent for a minimum of 35 feet from the new property line, and adequate vehicular sight to pedestrians and other vehicles should be provided and maintained at the driveway. Hence, as a condition of approval, the applicant will be required to construct the 8-foot road widening improvements along its Haiku Road frontage. A street tree plan showing the required small canopy form trees shall be required as part of the road widening improvements.

- C. The proposed use will not alter the character of the surrounding area in a manner substantially limiting, impairing, or precluding the use of surrounding properties for the principal uses permitted in the underlying zoning district.**

The project site is in R-7.5 Residential District, which provides for urban residential development, and is within an established residential neighborhood. The project will be compatible with the surrounding properties, and most of the dwellings will not be visible

from the road due to its L-shape configuration. Requiring more landscaping and screening of the CMU walls will ensure that the necessary buffering is provided to minimize the project's visual impacts on adjacent properties.

Doc 481819

EXHIBIT "L"



PROPOSED 5 SINGLE FAMILY DWELLINGS
 HAIKU ESTATES CONDO MAP
 46-312-A, B, C, D, E HAIKU ROAD, KANEHOE, HAWAII
 TK1-4-06-12-35



REVISIONS

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| 2 | As Issued | |
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 DATE: _____
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6-1
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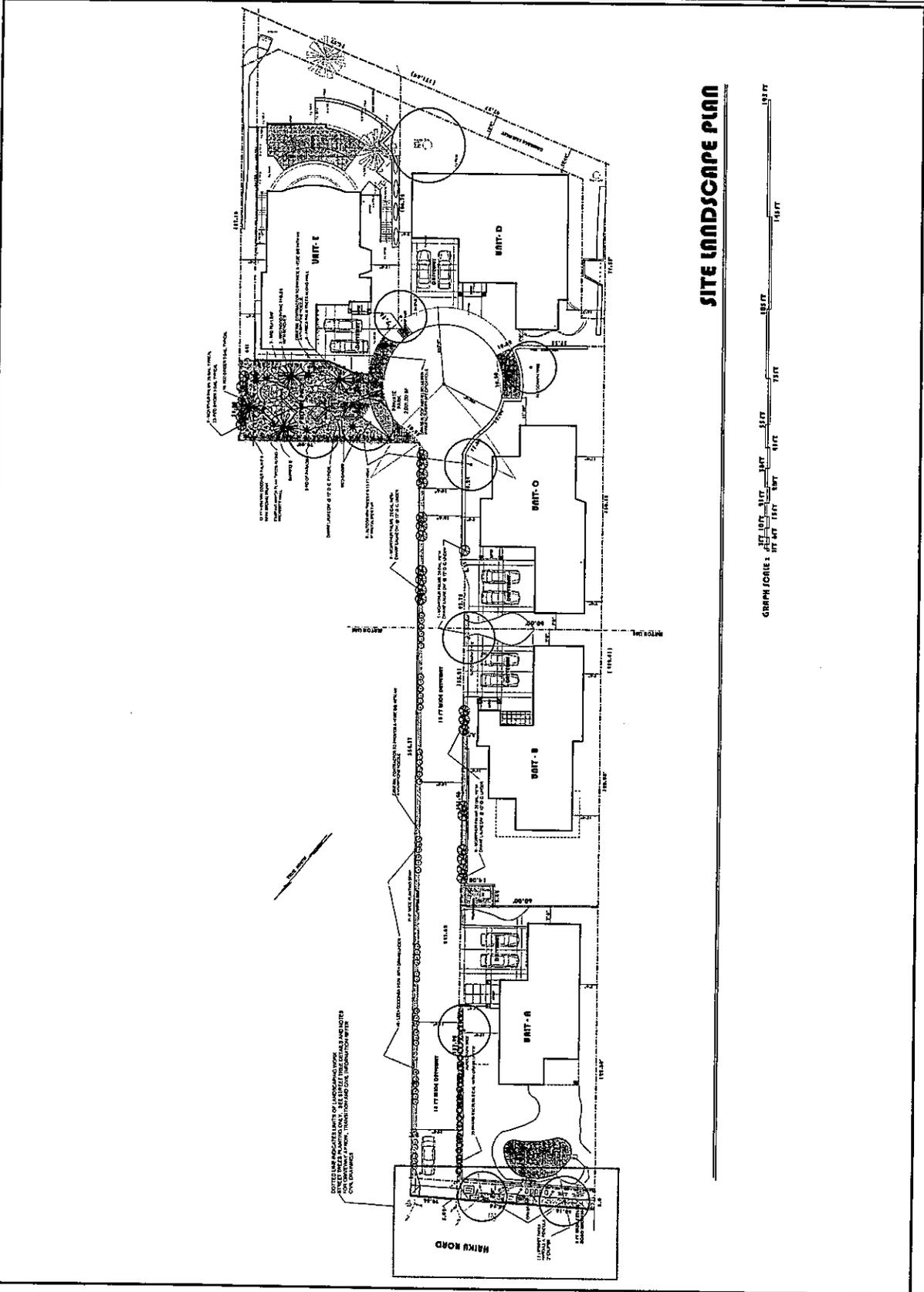


EXHIBIT "M"



PROPOSED 5 SINGLE FAMILY DWELLINGS
 HAUKU ESTATES CONDO MAP
 46-312-A, B, C, D, E HAUKU ROAD, KANEHOE, HAWAII
 TTK 1-4-06-12:35



REVISIONS

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| 7 | REVISIONS | |
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| 9 | REVISIONS | |
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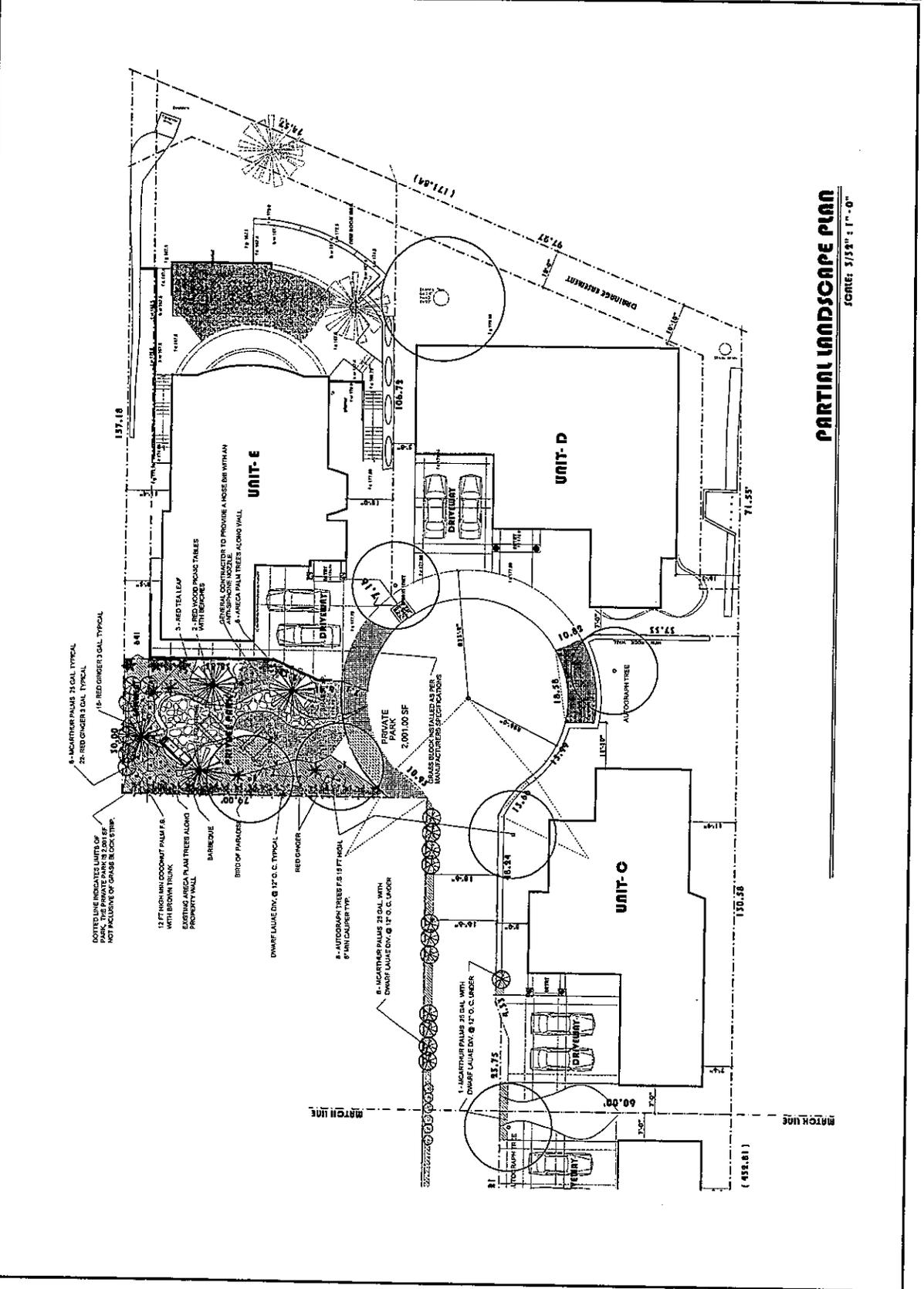


EXHIBIT "M"



PROPOSED 5 SINGLE FAMILY DWELLINGS
 HAIKU ESTATES
 46-312-A, B, C, D, E HAIKU ROAD, KANEHOE, HAWAII,
 TMK 1-4-06-12-35



REVISIONS

| No. | Description | Sh of Date |
|-----|----------------|------------|
| 1 | REVISED AS PER | 10/19/08 |
| 2 | REVISED AS PER | 10/19/08 |

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W-1
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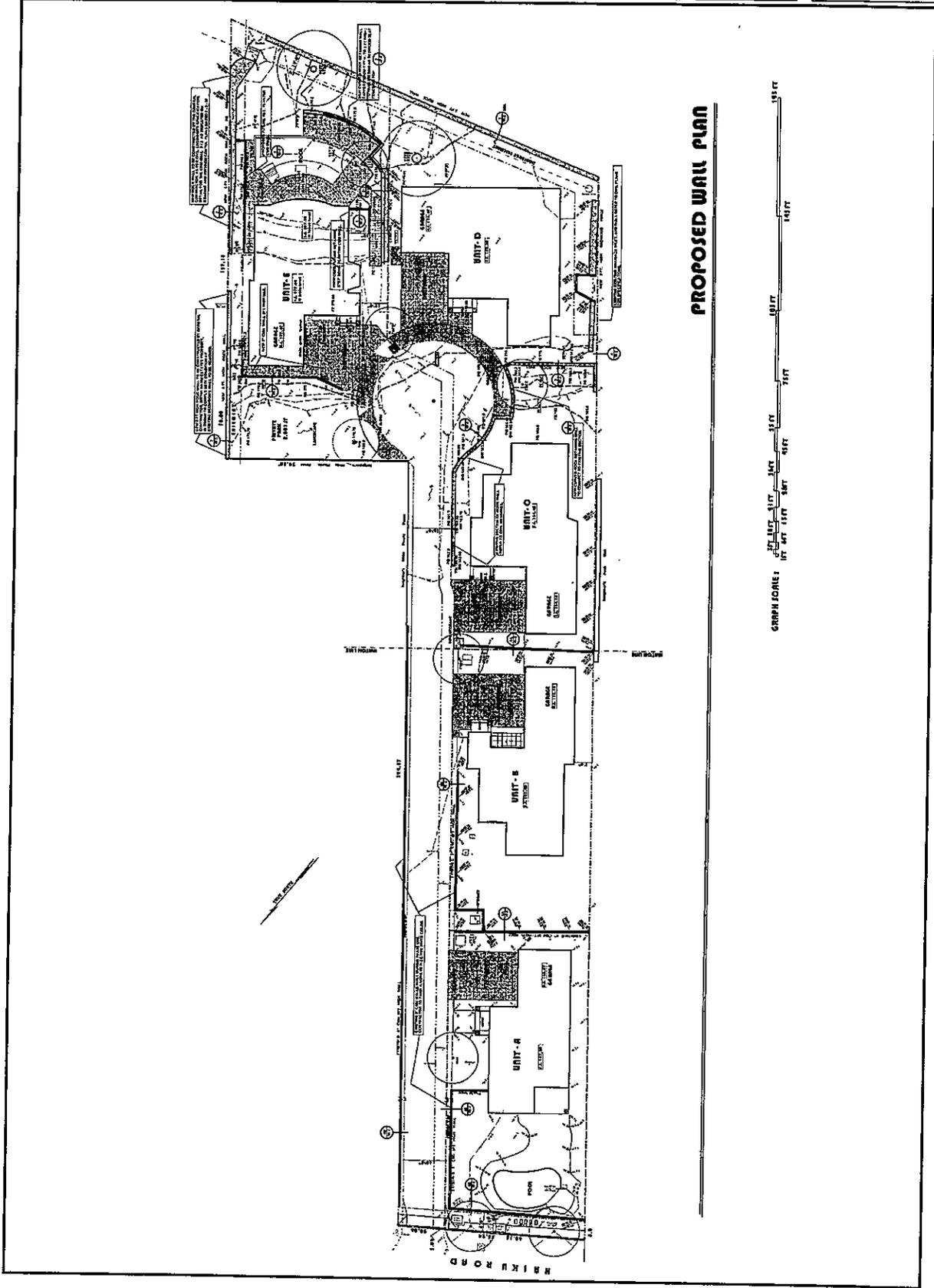


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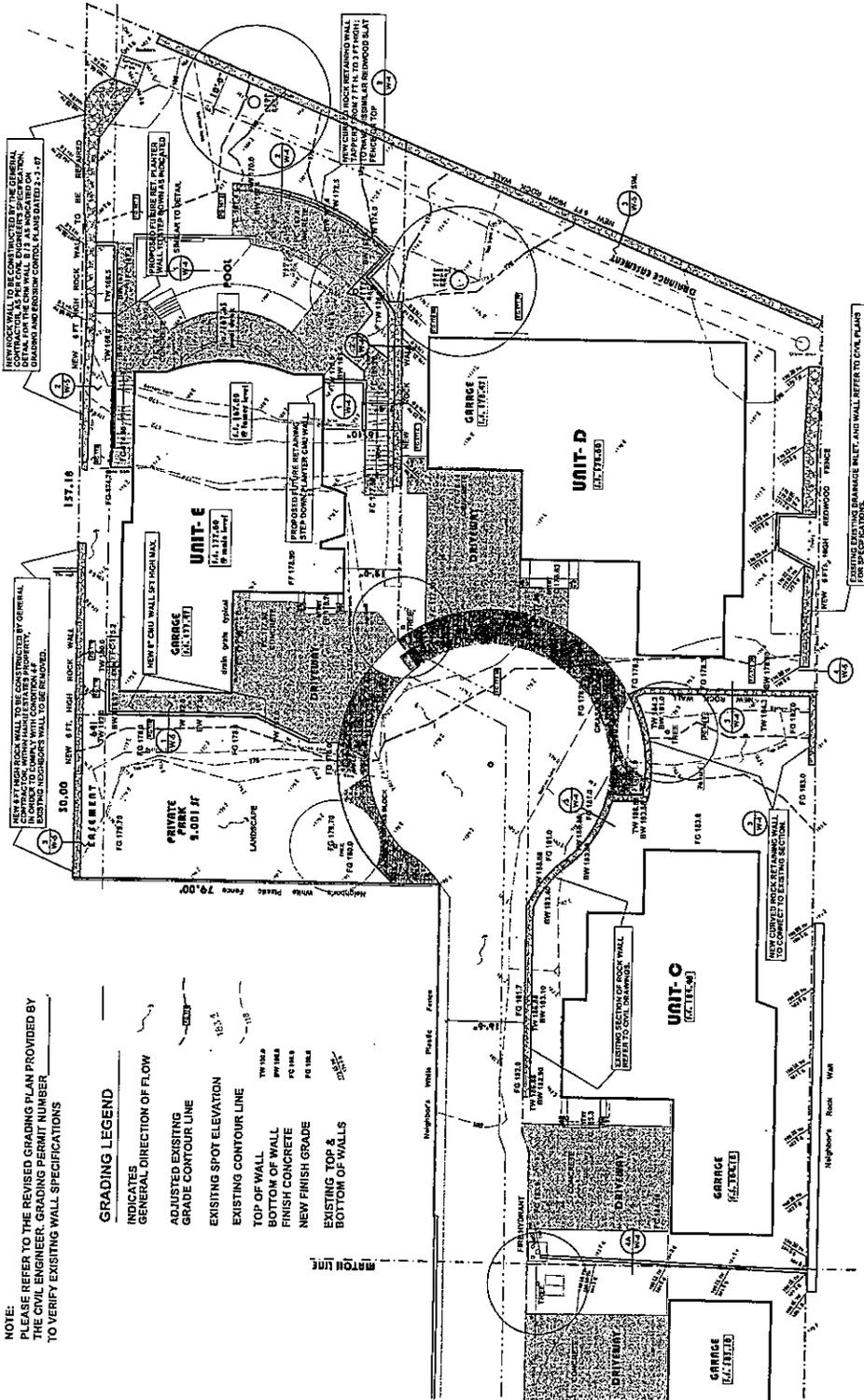
PROPOSED 5 SINGLE FAMILY DWELLINGS
HAIKU ESTATES
 46-312-A, B, C, D, E HAIKU ROAD, KANEHOE, HAWAII
 TMK 1-4-08-12, 35



REVISIONS

| No. | Description | Sheet No. |
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| 2 | REVISION | 1 |
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| 4 | REVISION | 1 |
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| 9 | REVISION | 1 |
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NOTE:
 PLEASE REFER TO THE REVISED GRADING PLAN PROVIDED BY
 THE CIVIL ENGINEER. GRADING PERMIT NUMBER
 TO VERIFY EXISTING WALL SPECIFICATIONS

- GRADING LEGEND**
- INDICATES
 - GENERAL DIRECTION OF FLOW
 - ADJUSTED EXISTING GRADE CONTOUR LINE
 - EXISTING SPOT ELEVATION
 - EXISTING CONTOUR LINE
 - TOP OF WALL
 - BOTTOM OF WALL
 - FINISH CONCRETE
 - NEW FINISH GRADE
 - EXISTING TOP & BOTTOM OF WALLS

PARTIAL WALL PLAN
 SCALE: 3/32" = 1' - 0"



PROPOSED 5 SINGLE FAMILY DWELLINGS
 UNITS A, B, C, D, & E
 46-312 HAIKU ROAD/KANEHOE, HAWAII
 TK1-4-06-12-35



REVISIONS

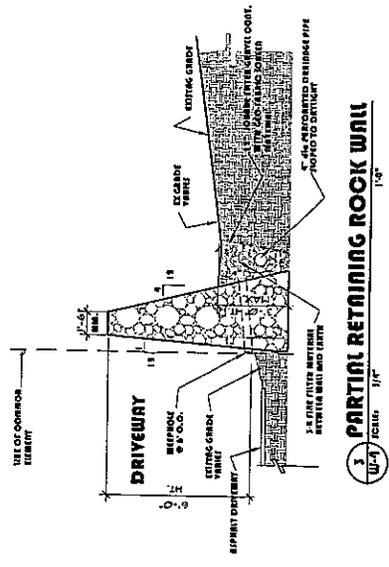
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DESIGNED: JUNE 2002
 DRAWN: JUNE 2002
 CHECKED: JUNE 2002
 DATE: JUNE 2002

DRAWING NUMBER
W-4
 SHEET ___ OF ___

ONE WALL FOREWORK

| HT | 1/2 (H.L.) |
|------------|------------|
| 0" - 4" 0" | 3.113 |
| 5" - 8" 0" | 4.113 |



3 PARTIAL RETAINING ROCK WALL
 1/4" SCALE

UP LENGTH OF VERT. REINF. IN CMU WALL

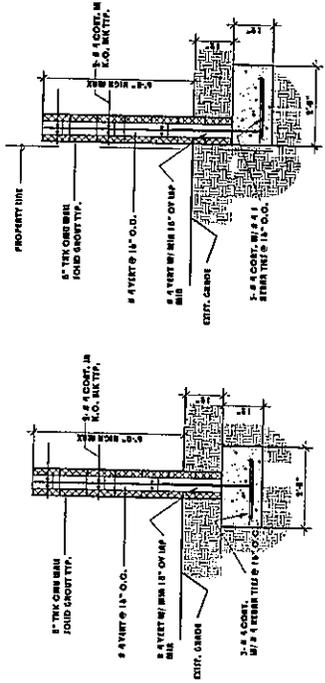
| WALL HT. | 1/2 (H.L.) |
|----------|------------|
| 0 - 4 | 3'-4" |
| 5 - 8 | 4'-4" |
| 9 - 12 | 5'-4" |

RETAINING WALL SCHEDULE

| HT | 1/2 (H.L.) | 1/4 (H.L.) | 1/8 (H.L.) |
|--------|------------|------------|------------|
| 0 - 4 | 3'-4" | 4'-4" | 5'-4" |
| 5 - 8 | 4'-4" | 5'-4" | 6'-4" |
| 9 - 12 | 5'-4" | 6'-4" | 7'-4" |

1 TYP. PROPOSED RETAINING WALL SECTION
 1/4" SCALE

NOTE: THESE WALLS WERE CONSTRUCTED DURING THE CONSTRUCTION OF THE FIRST TWO HOUSES. UNDER A SEPARATE PERMIT. SHEET 3 OF 4, REVISIONS DATED 3-3-07



WALL DETAIL
 1/4" SCALE

2 TYPICAL CMU TILE WALL DETAIL
 1/4" SCALE

NOTE: THIS WALL WAS CONSTRUCTED UNDER THE APPROVED OP NO. 2006-05-0114. THE REVISED PLANS INDICATE THE APPROVED ROCK WALL DETAIL ON SHEET 3 OF 4, REVISIONS DATED 3-3-07



2 TYP. ROCK RETAINING WALL WITH REDWOOD FENCE TOP
 1/4" SCALE

ONE WALL FOREWORK

| HT | 1/2 (H.L.) |
|------------|------------|
| 0" - 4" 0" | 3.113 |
| 5" - 8" 0" | 4.113 |



PROPOSED 5 SINGLE FAMILY DWELLINGS
 HAIKU ESTATES CLUSTER DEVELOPMENT
 UNITS A, B, C, D, E
 48-312 HAIKU ROAD KANEHOE, HAWAII
 TKK 1-4-06-12-35

WALL DETAIL 5
 THE HAWAIIAN HOME INDUSTRIES
 ARCHITECTURE
 1000 KALANANAKU AVENUE, SUITE 100
 HONOLULU, HAWAII 96813
 DATE: 12/12/06

| No. | Description | Shl of Date |
|-----|-------------|-------------|
| 1 | REVISIONS | |
| | | |
| | | |
| | | |

DESIGNED BY: [Signature]
 DRAWN BY: [Signature]
 CHECKED BY: [Signature]
 DATE: 12/12/06
 DRAWING NUMBER
W-5
 SHEET 01 OF 01

