

# CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

LAND USE COMMISSION  
STATE OF HAWAII

121 WAIANUENUE AVENUE

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HILO, HAWAII 96721-0686

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2008 APR 29 A 8:40

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059126-00001

April 28, 2008

Dan Davidson  
Executive Director  
Land Use Commission  
P. O. Box 2359  
Honolulu, Hawaii 96804-2359

Re: LUC Docket No. A81-525  
Annual Report by Kaloko Heights Associates, LLC,  
Tax Map Key Nos. (3) 7-3-009-019, nka (3) 7-3-009-019, 032, 057, 058, 059, 060, 061 and 062

Dear Mr. Maile:

This firm represents Kaloko Heights Associates, LLC ("KHA"), a Delaware limited liability company and successor in interest to Y-O Limited Partnership, a Hawaii limited partnership ("Y-O"). Y-O was the Petitioner in the Land Use Commission's (the "**Commission**") Findings of Fact, Conclusions of Law, and Decision and Order in State Land Use Commission Docket No. A81-525, filed on January 19, 1983 ("**Decision & Order**"), reclassifying from the State Land Use Agricultural District to the State Land Use Urban District approximately 213.473 acres, now located at TMK (3) 7-3-009: 032, 057 through 062 ("**Phase I**"), and granting incremental redistricting of approximately 195.246 acres, now located at TMK (3) 7-3-009-019 ("**Phase II**") all in Kaloko and Kohanaiki, North Kona, Island of Hawaii. Phase I and Phase II are hereinafter referred to as the "**Subject Property**." The Commission has issued various amendments to the aforementioned Decision & Order, including orders dated January 12, 1988,<sup>1</sup> November 17, 1992,<sup>2</sup> December 22, 1997<sup>3</sup> and December 5, 2002.<sup>4</sup> In compliance with Condition 4 of the Decision & Order, as amended, KHA hereby submits this annual report for 2005, 2006, 2007 and 2008.

<sup>1</sup> Order Approving Motion for Extension of Time to Apply for Redistricting of Phase II.

<sup>2</sup> Granting Motion for Second Extension of Time to Apply for Redistricting of Phase II and Amending Conditions of the Decision and Orders Dated January 20, 1983 and June 13, 1990.

<sup>3</sup> Order Granting Motion for Third Extension of Time to Apply for Redistricting of Phase II.

<sup>4</sup> Order Granting Petitioner's Motion for Forth Extension of Time to Apply for Redistricting of Phase II.

By letter dated December 1, 2004, a copy of which is enclosed herein as **Exhibit A**, Y-O informed the Commission of its sale of a portion of the Subject Property to KHA. KHA took title to approximately 402.9811 acres located at TMK Nos. (3) 7-3-009-032 (approximately 207.945 acres), 7-3-009-019 (approximately 193.9311 acres) and 7-3-009-020 (approximately 1.105 acres) by Limited Warranty Deed dated November 30, 2004, and recorded in the Bureau of Conveyances of the State of Hawaii as Document No. 2004-244541, a copy of which is enclosed herein as **Exhibit B**.

I. History of Project

Under County of Hawaii Ordinance No. 83-63, effective December 19, 1983, the Subject Property was rezoned from the Unplanned District to the Single Family Residential, Multiple Family Residential, Neighborhood Commercial and Open Districts. Y-O's original development proposal for the Subject Property entailed two phases of six increments each, for a total of 1,093 residential lots and 340 multi-family residential units, as follows:

<u>Y-O's Development Plan for the Subject Property (1,093 SF Lots + 340 MF Units)</u>					
<b>Phase I Development</b>	<b>RS-15 Lots</b>	<b>RS-10 Lots</b>	<b>RS-7.5 Lots</b>	<b>RM-3.0 Units</b>	<b>Acres</b>
Increment 1	106	75	N/A	N/A	74.495
Increment 2	N/A	36	129	80	49.0
Increment 3	54	73	N/A	260	83.38
<b>Total Phase I Lots</b>	<b>160</b>	<b>184</b>	<b>129</b>	<b>340</b>	
<b>TOTAL Phase I Lots: 813 (SF Lots: 473) (MF Units: 340)</b>					
Mauka-Makai Connector road					6.598

<b>Phase II Development</b>	<b>RS-15 Lots</b>	<b>RS-10 Lots</b>	<b>RS-7.5 Lots</b>	<b>RM-3.0 Units</b>	<b>Acres</b>
Increment 4	51	122	85	N/A	84.1
Increment 5	78	86	N/A	N/A	63.046
Increment 6	N/A	40	158	N/A	48.1
<b>Total Phase II Lots</b>	<b>129</b>	<b>248</b>	<b>243</b>	<b>N/A</b>	
<b>TOTAL Phase II Lots: 620 SF Lots</b>					

Y-O also proposed to develop a commercial area of approximately 5.5 acres to include an automobile service station, mini-supermarket and launderette.

II. KHA's Development Plans

KHA's development plans for the Subject Property are substantially the same as those of Y-O, but will entail a less dense development of the Subject Property. See Kaloko Heights' Conceptual Plan dated December 2007, a copy of which is enclosed herein as **Exhibit C**. For Phase I KHA proposes approximately 770 housing units, to be comprised of 459 single family residential lots and 311 multi-family residential units, a decrease from the 813 units proposed by Y-O for Phase I in the Decision & Order.<sup>5</sup> The KHA plan also includes a neighborhood commercial area of approximately 6.27 acres, planned to be developed with a grocery store, individual shops, fast food restaurants and possibly a gas station. Subject to development constraints, KHA also plans to include a neighborhood recreational community center. KHA intends to maintain an approximately 5 acre Open zoned area in the south-west portion of Parcel 032 as a park. In addition, KHA intends to maintain approximately 8.4 acres of land for archaeological preserve sites scattered throughout Phase I.

<u>KHA's Development Plan for Phase I of the Subject Property</u>						
Areas	RS-15 Lots	RS-10 Lots	RS-7.5 Lots	RM-3.0 Units	CN-20	Acres
D-1				219		22.165
A-1	165					80.114
D-2				92		6.50
B-1		67				22.01
C			123			29.202
B-2		104				31.086
G						6.27
H	Zoned Open					+/- 5.0
<b>TOTAL</b>	<b>165 Lots</b>	<b>171 Lots</b>	<b>123 Lots</b>	<b>311 Units</b>	<b>N/A</b>	<b>202.347</b>
Total MF Units	311					28.665
Total SF Lots	459					162.412
<b>Total SF Lots + MF Units = 770</b>						

<sup>5</sup> Under the Decision & Order the Y-O Phase I was planned to consist of 473 single-family, and 340 multiple-family, residential units.

A. Status and Timeline of KHA Development

Development of Phase I of the Subject Property has been delayed while KHA worked with the community and Kupuna groups to ensure proper maintenance of preservation of the Road to the Sea aka Trail to Sea Coast. That issue has been resolved and the Road to the Sea will be maintained as set forth in Stanford Carr Development, LLC's letter dated November 17, 2006, enclosed herein as **Exhibit D**. See also Item D-2, BLNR Minutes of June 8, 2007, a portion of which is enclosed herein as **Exhibit E**. KHA shall continue to consult with Na Ala Hele and Kupuna regarding any improvements to the Road to the Sea.

On December 5, 2002 the Commission filed its Order Granting Petitioner's Motion for Fourth Extension of Time to Apply for Redistricting of Phase II. Under this Order, KHA has until January 20, 2013 to substantially complete the infrastructure for Phase I and apply for incremental redistricting of Phase II. At this time much of the major infrastructure for the Subject Property is complete.

The construction of the mauka-makai collector road known as Hina-Lani Street fronting the Subject Property has been completed and dedicated to the County of Hawaii. In addition, the channelized intersections at both the Mamalahoa Highway and Hawaii Belt Road ends of Hina-Lani Street have been completed and approved by the State Department of Transportation, Highways Divisions. The County has approved KHA's construction plans for the "Loop Road," which runs within the Subject Property. A water reservoir site located within Phase II of the Subject Property was accepted for dedication by the County in 2001. KHA has reserved water commitments for 597,600 gallons per day (1,494 water units). KHA pays to the Department of Water Supply an annual commitment fee of \$150.00 per unit, or \$224,100.00. See **Exhibit F**, enclosed herein setting forth KHA's water commitment and water facilities payments through June 2007. KHA has also recently completed the construction of a 1.0 MG water reservoir that will service the Subject Property and adjacent lands, and KHA is in the process of conveying these improvements to the County Water Board.

The Commission's December 5, 2002 Order Granting Petitioner's Motion for Fourth Extension of Time to Apply for Redistricting of Phase II reported that the Office of Planning recommended that the Petitioner provide the Commission with a report on the conceptual plan and marketing strategy for Phases I and II. KHA has refined the development plans for the Subject Property to reflect the evolving policies of State and County agencies, as well as market demand. KHA obtained County final subdivision approval for seven bulk lots within Phase I, and has received Final Plan Approval for a 221-unit multiple-family residential project within Area D-1 as shown on the enclosed Conceptual Plan. See **Exhibit G**. KHA's current plan, which is subject to change based on market demands, is to proceed with development of the Subject Property in the following order, starting in 2008: (i) Area D-1, 219 multiple-family units; (ii) Area A-1, 165 single-family residential lots; (iii) Area D-2, 92 multiple-family units (iv) B-1, 67 single-family residential lots, (v) C, 123 single-family lots, (vi) B-2, 104 single-family residential lots. Area G and the neighborhood recreational center will be developed per market conditions. Development of Phase II of the Subject Property will be commenced upon the

satisfaction of the precondition noted in the Commission's D&O, and phased according to market demand. Regarding compliance with the conditions of the Decision and Order, as amended, KHA offers the following, listing in order the governmental "Condition" and KHA's "Response."

**Compliance with Conditions of Approval for Docket No. A81-525**

**Condition 1:** Petitioner shall provide housing opportunities for low and moderate income Hawaii residents prior to assigning or transferring its interest in the subject property, by offering for sale, on a preferential basis, on its own or in cooperation with either or both the Hawaii Housing Authority or the County of Hawaii, ten per cent (10%) of the lots or houses and lots to be developed on the subject property, to residents of the State of Hawaii of low and moderate family income as determined by the Hawaii Housing Authority of County of Hawaii from time to time. The preferential lots or houses and lots shall be offered for sale at prices not exceeding prices that enable such purchasers to qualify for and obtain state-assisted financing (e.g., Act 105 of Hula Mai) or federally-insured or assisted financing (e.g., FHA Section 245 Program) intended to encourage home ownership by low and moderate [sic] income families;

**Response:** Petitioner will satisfy this Condition. KHA is in discussions with the County of Hawaii Office of Housing and Community Development on satisfying the affordable housing requirements of Condition 1, and will satisfy the affordable housing requirements for the Subject Property. KHA intends to provide 58 affordable units within area D-1, which is the first area planned for development within the Subject Property.

**Condition 2:** Petitioner shall afford lot purchasers public access from the subject property to Queen Kaahumanu Highway and to Mamalahoa Highway by participating in the construction of a roadway connecting the two highways and running through the subject property, the location and standard of design and construction of such roadway to be approved and accepted by the County of Hawaii. The Petitioner shall be responsible for constructing such portions of the roadway within the subject property. The Petitioner's participation for the portions of the roadway outside the subject property may be by way of loans, loan guaranties, purchase of county obligations or otherwise.

**Response:** This Condition has been satisfied. Hina-Lani Street, which extends beyond the Subject Property and runs from Queen Kaahumanu Highway to Mamalahoa Highway, has been constructed and accepted by the County for dedication and is open for public use. In addition, the street lighting system and water transmission lines within the Subject Property have been completed and dedicated to the County. The channelized intersections at Mamalahoa Highway and Hina-Lani Street, and Queen Kaahumanu Highway and Hina-Lani Street are complete and have been accepted for dedication by the State Department of Transportation, Highways Division.

**Condition 3:** Petitioner shall dedicate to appropriate State and County agencies sufficient land for the provision of necessary public facilities.

Response: Petitioner will satisfy this Condition. On July 29, 2001 Y-O delivered to the Department of Water Supply a dedication deed, which was accepted by the Department, for an approximately 1.5875 acre parcel of land to be used as a water reservoir site. KHA intends to provide additional sites, such as park sites, for dedication to appropriate State and County agencies. KHA also intends to dedicate project roadways to the County.

**Condition 4:** Petitioner shall submit annual progress reports to the Commission, Office of State Planning and Hawaii County Planning Department as to its progress in satisfying these conditions.

Response: The delay in submittal of this annual report was due in part to the Petitioner's effort to reach agreement with Kupuna in the area on the development issues relating to the Road to the Sea, which conditions were approved by the BLNR on June 9, 2007. The Petitioner will comply with this Condition in the future. Petitioner submits this annual report to satisfy Condition 4 for 2005, 2006, 2007 and 2008.

**Condition 5:** The conditions may be fully or partially released by the Commission as to all or any portion of the subject properties upon timely motion and provisions of adequate assurance of satisfaction of these conditions by the Petitioner.

Response: Petitioner will comply with this Condition.

**Condition 6:** Petitioner shall develop the Property in substantial compliance with the representations made to the Commission. Failure to so develop the Property may result in reversion of the Property to its former classification, or change to a more appropriate classification.

Response: Petitioner will comply with this Condition. KHA intends to develop the Subject Property as shown on the Conceptual Plan dated December 2007, a copy of which is enclosed herein as Exhibit C, and in substantial compliance with the representations made to the Commission.

**Condition 7** Petitioner shall give notice to the Commission of any intent to sell, lease, assign, place in trust, or otherwise voluntarily alter the ownership interests in the Property, prior to development of the Property.

Response: Petitioner will comply with this Condition.

Thank you for the opportunity to present Kaloko Heights Associates, LLC's annual report for 2005 through 2008. Kaloko Heights Associates, LLC hopes this annual report sufficiently appraises the Land Use Commission of the present status of the Subject Property. Should you need more information, please do not hesitate to contact the undersigned. Thank you for your attention.

Dan Davidson  
April 28, 2008  
Page 7

Sincerely,

  
for Steven S.C. Lim

enclosures

xc: Office of State Planning  
County of Hawaii Planning Department  
P. Kay, Kaloko Heights Associates, LLC  
Jennifer A. Benck, Esq.

4839-3922-2274.1

Stephen J. Menezes  
ATTORNEY AT LAW

441 Kipuni Street Hilo, Hawaii 96720  
Tel (808)934-8916 Fax (808)934-8916  
e-mail: menezes@earthlink.net

December 1, 2004

VIA FAX: (808)587-3827

Anthony J. H. Ching  
Executive Officer  
Land Use Commission  
P.O. Box 2359  
Honolulu, HI 96804-2359

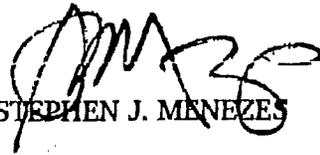
Re: Y-O Limited Partnership, LUC Docket No. A81-525

Dear Mr. Ching:

In accordance with condition no. 7 of the Decision and Order (as amended), this is to notify the Land Use Commission that Y-O Limited Partnership is selling its ownership interest in the real property that is the subject of the referenced docket. The sale is expected to close on December 2, 2004. The buyer is Koloko Heights Associates, LLC, a Delaware limited liability company, whose address is 150 California Street, 22<sup>nd</sup> Floor, San Francisco, California 94111.

Please contact me should you have questions regarding the sale.

Very truly yours,

  
STEPHEN J. MENEZES

xc: Y. Kotani  
G. Phillips

EXHIBIT A



R-454 STATE OF HAWAII  
 BUREAU OF CONVEYANCES  
 RECORDED  
 DEC 03, 2004 08:01 AM  
 Doc No(s) 2004-244541



/s/ CARL T. WATANABE  
 REGISTRAR OF CONVEYANCES

20 1/1 23

CONVEYANCE TAX: \$16250.00

Return by Mail (X) Pickup ( ) To:

MR. STANFORD SHIGEO CARR  
 KOLOKO HEIGHTS ASSOCIATES LLC.  
 745 FORT ST  
 STE 2110  
 HONOLULU, HI 96813

TGOH 200364654-5  
 TGES A3-101-6179  
 BARBARA PAULO

This document contains 11 pages

Tax Map Key Nos. (3) 7-3-009-032, -019 and -020

**LIMITED WARRANTY DEED**

KNOW ALL MEN BY THESE PRESENTS:

THIS LIMITED WARRANTY DEED is executed as of November 30, 2004, by Y-O LIMITED PARTNERSHIP, a Hawaii limited partnership, whose address is 624 S. Grand Avenue, Suite 2505, Los Angeles, CA 90017, hereinafter called the "Grantor", and KOLOKO HEIGHTS ASSOCIATES, LLC, a Delaware limited liability company, whose address is 150 California Street, 22<sup>nd</sup> Floor, San Francisco, CA 94111, hereinafter called the "Grantee."

WITNESSETH THAT:

The Grantor, in consideration of the sum of TEN DOLLARS (\$10.00) and other good and valuable consideration, the receipt of which by the Grantor is hereby acknowledged, does hereby grant, bargain, sell and convey unto the Grantee, its successors and assigns:

ALL of that certain parcel of land situate at Kaloko and Kahanaiki, District of North Kona, Island and County of Hawaii, State of Hawaii, more fully described in Exhibit "A" attached hereto and made a part hereof, subject however, to the encumbrances mentioned in said Exhibit "A";

AND the reversions, remainders, rents, issues and profits thereof, together with all improvements, tenements, rights, casements, development rights, privileges and appurtenances to

**EXHIBIT B**

the same belonging or appertaining or held and enjoyed therewith, including, without limitation, all development rights and privileges appurtenant to the real property described in said Exhibit "A", and all of the estate, right, title and interest of the Grantor both at law and in equity therein and thereto;

TO HAVE AND TO HOLD the same unto the Grantee, its successors and assigns, absolutely and in fee simple, subject to the encumbrances mentioned in said Exhibit "A", and further subject to the reservations hereinafter set forth.

AND the Grantor, for itself, its successors and assigns, hereby covenants with the Grantee, its successors and assigns: that the Grantor has good right to sell and convey the Property; that the Property is free and clear of and from all encumbrances made or suffered by the Grantor, except as set forth herein and in said Exhibit "A" and for the lien of real property taxes not yet required by law to be paid; and that the Grantor will warrant and defend the Property against any and all encumbrances made or suffered by the Grantor, except as aforesaid

AND the Grantee, for itself, its successors and assigns, hereby covenants and agrees that (i) the Grantee has inspected the Property and has reviewed all matters pertinent to the Grantee's decision to purchase the Property, and (ii) the Property is being sold to and is being accepted by the Grantee in "AS IS" condition without any representation or warranty by the Grantor, express or implied, with respect to the Property, subject to the limited warranties of title set forth above.

The terms "Grantor" and "Grantee", as and when used herein, or any pronouns used in place thereof, shall mean and include the masculine or feminine, the singular and plural number, or individuals, corporations, limited liability companies, partnerships or other entities, and each of their respective successors and assigns, according to the context thereof.

The parties agree that this Limited Warranty Deed may be executed in counterparts, each of which shall be deemed an original, and said counterparts shall together constitute one and the same instrument binding all of the parties hereto, notwithstanding that all of the parties may not have executed the original or the same counterparts. For all purposes, including without limitation, recordation, filing and delivery of this instrument, duplicate unexecuted and unacknowledged pages of the counterparts may be discarded and the remaining pages assembled as one document.

*[Remainder of page intentionally left blank, signature page follows.]*

IN WITNESS WHEREOF, the Grantor and the Grantee have executed this Limited Warranty Deed as of the day and year first above written.

Y-O LIMITED PARTNERSHIP,  
a Hawaii limited partnership

By Yanase International, Inc.,  
a California corporation,  
Its general partner

By   
Takahiro Inoue  
Its President

"Grantor"

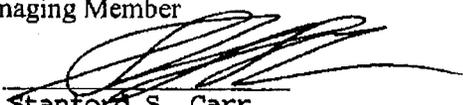
KOLOKO HEIGHTS ASSOCIATES, LLC,  
a Delaware limited liability company

BY SCD KOLOKO, LLC, a Hawaii limited liability company,  
its member

BY: Stanford Carr Development, LLC  
a Hawaii limited liability company,

Its Manager

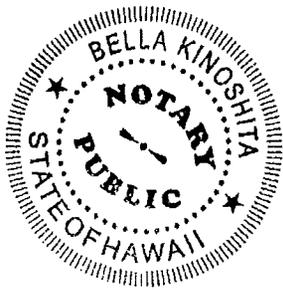
Its: Co-Managing Member

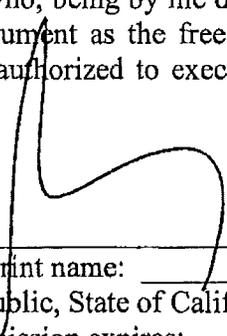
By:   
Name: Stanford S. Carr  
Title: Manager

"Grantee"

HAWAII  
STATE OF CALIFORNIA )  
HONOLULU ) SS.  
CITY: COUNTY OF ~~SAN FRANCISCO~~ )

On this 30th day of November, 2004, personally appeared Stanford S. Carr, 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 in the capacity shown, having been duly authorized to execute such instrument in such capacity.



  
Type or print name: \_\_\_\_\_

Notary Public, State of California

My commission expires: Bella Kinoshita

**Expiration Date: May 4, 2007**

JAPAN  
CITY OF TOKYO  
EMBASSY OF THE UNITED STATES OF AMERICA

KALOKO HEIGHTS ASSOCIATES, LLC

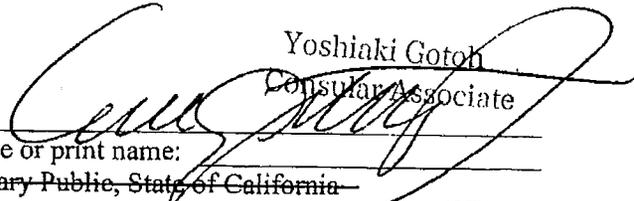
~~STATE OF CALIFORNIA~~

)  
) SS.

~~COUNTY OF SAN FRANCISCO~~

)

On this \_\_\_\_\_ day of NOV 26 2004, 2004, personally appeared Takahiro INOUE, 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 in the capacity shown, having been duly authorized to execute such instrument in such capacity.

  
Yoshiaki Gotoh  
Consular Associate

Type or print name: \_\_\_\_\_  
~~Notary Public, State of California~~  
My commission expires: INDEFINITE

EXHIBIT "A"

-PARCEL FIRST:-

All of that certain parcel of land situate at Kaloko and Kohanaiki, District of North Kona, Island and County of Hawaii, State of Hawaii, being LOT 1 of the "Y-O ROADWAY SUBDIVISION", as shown on File Plan Number 2092, filed in the Bureau of Conveyances of the State of Hawaii, and containing an area of 9,058,112 square feet, more or less.

-PARCEL SECOND:-

All of that certain parcel of land (being portion of the land(s) described in and covered by Royal Patent 8214, Land Commission Award 7715, Apana 11 to Lota Kamehameha) situate, lying and being on the westerly side of Hina Lani Street at Kaloko, District of North Kona, Island and County of Hawaii, State of Hawaii, being LOT 3-A and thus bounded and described as per survey prepared by Ronaldo B. Aurelio, Land Surveyor with Engineering Division, De:

Beginning at the southeast corner of this parcel of land, the coordinates of said point of beginning referred to Government Survey Triangulation Station "MOANUIAHEA" being 17,980.76 feet south and 9,827.20 feet west and running by azimuths measured clockwise from true South:

1.	75°	24'	06"	134.50	feet along Royal Patent 7587, Land Commission Award 11216, Apana 36 to Kekauonhi;
2.	67°	03'	45"	54.20	feet along same;
3.	82°	52'	45"	97.50	feet along same;
4.	76°	53'	15"	312.20	feet along same;
5.	79°	26'	45"	85.70	feet along same;
6.	58°	09'	45"	21.30	feet along same;
7.	90°	25'	45"	71.05	feet along same;

8.	79°	12'	25"	43.60	feet along same;
9.	67°	11'	25"	105.60	feet along same;
10.	79°	33'	45"	230.20	feet along same;
11.	69°	35'	45"	96.95	feet along same;
12.	82°	14'	45"	64.50	feet along same;
13.	100°	20'	45"	22.00	feet along same;
14.	76°	01'	05"	120.69	feet along same;
15.	88°	23'	45"	76.80	feet along same;
16.	83°	22'	15"	187.10	feet along same;
17.	85°	16'	35"	930.46	feet along same;
18.	162°	56'	05"	3,858.19	feet along the remainder of Royal Patent 214, Land Commission Award 7715, Apana 11 to Lota Kamehameha;

Thence along the southerly side of Hina Lani Street on a curve to the right with a radius of 2,960.00 feet, the chord azimuth and distance being:

19.	283°	50'	36"	1,958.79	feet;
20.	33°	41'		196.00	feet along Lot 3-B;
21.	303°	41'		315.00	feet along same;
22.	213°	41'		182.75	feet along same;
23.	308°	01'	35"	1,300.37	feet along the southerly side of Hina Lani Street;
24.	342°	56'	05"	1,892.98	feet along Kona Heavens Subdivision, Unit I, File Plan 1423 to the point of beginning and containing an area of 8,447,641 square feet or 193.9311 acres, more or less.

-PARCEL THIRD:-

All of that certain parcel of land (being portion of the land(s) described in and covered by Royal Patent Grant 2942 to Hulikoa) situate, lying and being at Kohanaiki, District of North Kona, Island and County of Hawaii, State of Hawaii, and thus bounded and described:

Beginning at a 1/2" pipe in concrete at the northeast corner of this parcel of land, the coordinates of said point of beginning referred to Government Survey Triangulation Station "MOANUIAHEA" being 12,504.16 feet south and 11,038.96 feet west and running by azimuths measured clockwise from true South:

1. 343° 02' 28" 240.23 feet along Grant 2030 to Kaiakoili;

Thence along the middle of a stonewall, same being along Lot 1 of Y-O Roadway Subdivision (F.P. 2092) for the next eight (8) courses, the direct azimuths and distances between points along said middle of stonewall being:

2. 93° 01' 8.80 feet;  
3. 345° 13' 30" 5.89 feet;  
4. 75° 05' 30" 29.30 feet;  
5. 76° 24' 30" 33.01 feet;  
6. 82° 21' 30" 45.45 feet;  
7. 70° 32' 25.05 feet;  
8. 64° 41' 19.06 feet;  
9. 51° 28' 30" 50.60 feet;  
10. 164° 45' 40" 252.51 feet Lot 1 of Y-O Roadway

Subdivision (F.P. 2092);

Thence along the middle of a stonewall, same being along Lot 1 of Y-O Roadway Subdivision (F.P. 2092) for the next three (3) courses, the direct azimuths and distances between points along said middle of stonewall being:

- |     |      |         |        |  |
|-----|------|---------|--------|--|
| 11. | 253° | 14'     | 52.58  | feet Lot 1 of Y-O Roadway Subdivision (F.P. 2092);   |
| 12. | 253° | 45'     | 25.67  | feet Lot 1 of Y-O Roadway Subdivision (F.P. 2092);   |
| 13. | 251° | 27' 50" | 120.74 | feet Lot 1 of Y-O Roadway Subdivision (F.P. 2092) to the point of beginning and containing an area of 1.105 acres, more or less. |

SUBJECT, HOWEVER, TO THE FOLLOWING:

1. Reservation in favor of the State of Hawaii of all mineral and metallic mines.

2. -AS TO PARCEL FIRST:-

Easement "A" (20 feet wide, area 2,092 square feet or 0.048 acre) for roadway and utility purposes in favor of PARCEL "A", being portion of Grant Number 2942, containing an area of 2.003 acres, bearing Tax Map Key: 7-3-009-011 (3), as set forth by and more particularly described in Decree dated ---, recorded in Liber 7980 at Page 252.

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

DECLARATION OF CONDITIONS dated July 21, 1983, recorded in Liber 17220 at Page 528 and REVISED DECLARATION OF CONDITIONS dated October 5, 1983, recorded in Liber 17375

at Page 591.

Said Declaration was amended by Second Amended Declaration of Conditions dated October 5, 1990, recorded as Document No. 90-167186, by Third Amended Declaration of Conditions dated February 24, 1993, recorded as Document No. 93-038317. Said Third Amended Declaration was amended and restated by Amended and Restated Third Amended Declaration of Conditions dated March 23, 1993, recorded as Document No. 93-051522.

4. -AS TO PARCEL SECOND:-

(A) GRANT

TO : HAWAII ELECTRIC LIGHT COMPANY, INC.  
DATED : July 6, 1989  
RECORDED : Liber 23525 Page 312  
GRANTING : a perpetual right and easement for utility purposes, as shown on the map attached thereto

(B) DESIGNATION OF EASEMENT "1" (30 feet wide)

PURPOSE : for drainage  
SHOWN : on File Plan 2092

(C) DESIGNATION OF EASEMENT "2" through "4" and "6" through "12"

PURPOSE : underground electrical and telephone utility  
SHOWN : File Plan 2092

(D) The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in the following:

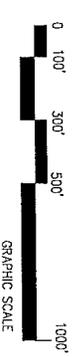
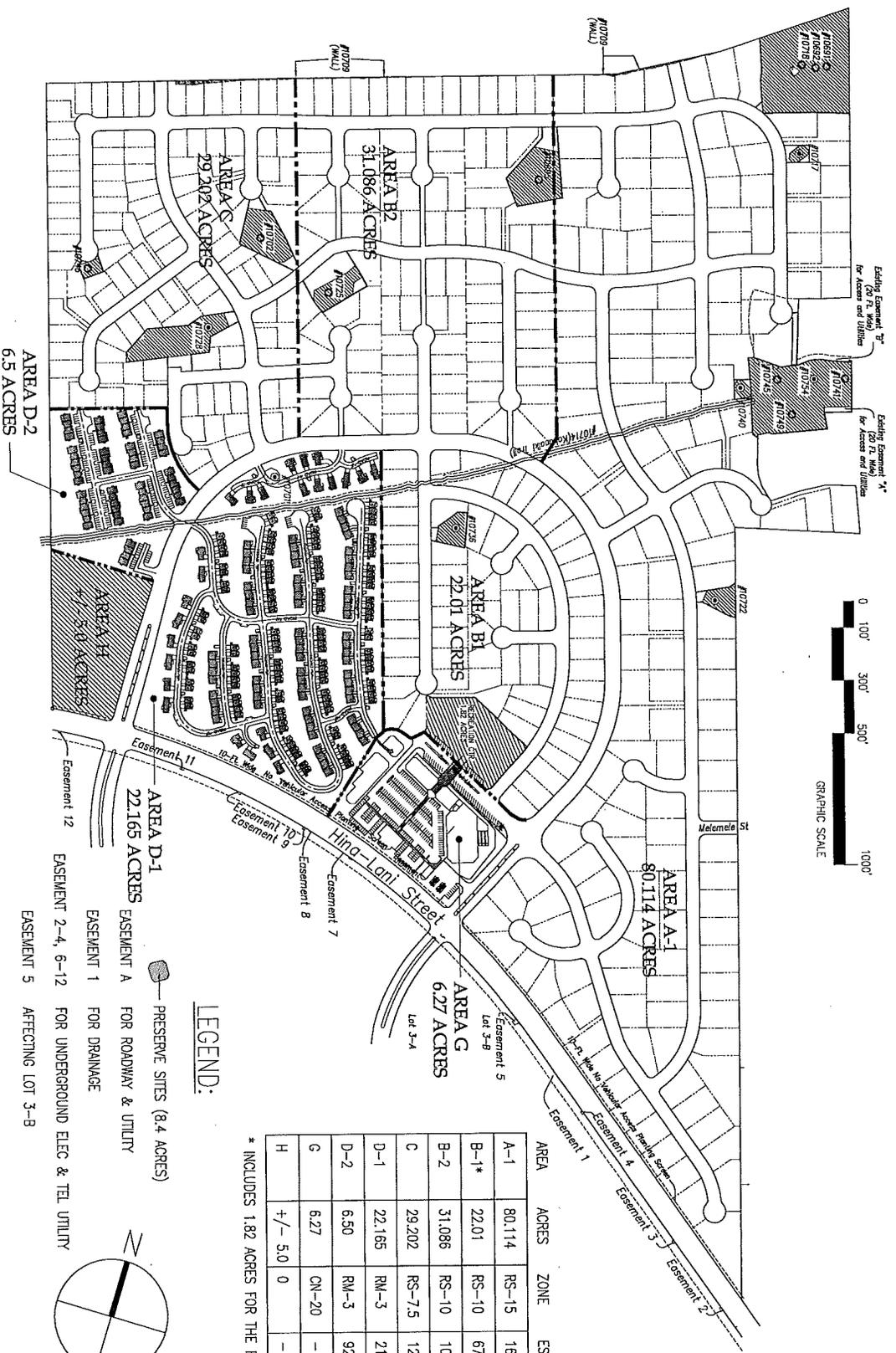
INSTRUMENT : ENCROACHMENT AGREEMENT AND LICENSE  
DATED : 0090307AG February 28, 2000  
RECORDED : Document No. 2000-030706  
PARTIES : Y-O LIMITED PARTNERSHIP (Licensor)  
and ASSAF POCKER and RUTH E. OREN

(Licensee)  
RE : Licensor grants Licensee a license to maintain on Licensor's property, within the Encroachment Area (Easement 13-A for fence and wall purposes, area 40.4 square feet) the portion of Licensee's rock wall and fence that encroach on Licensor's property

BEING THE PREMISES ACQUIRED BY Y-O LIMITED PARTNERSHIP, A HAWAII LIMITED PARTNERSHIP, BY THE FOLLOWING DEEDS:

1. DEED of YANASE & CO., LTD., a HJapan corporation, dated April 17, 1980, recorded in Liber 14725 at Page 785; and
2. DEED of KELEMENEKE MOKE HOOHULI, husband of Jacqueline Hoohuli, MAKANUI MOKE HOOHULI, husband of Alice K. Hoohuli, RALPH D. BLANCATO, unmarried, and PAULA A. JOHNSON, unmarried, dated --- (acknowledged May 4, 1983 and May 6, 1983), recorded in Liber 17096 at Page 130.

END OF EXHIBIT "A"

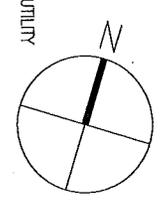


AREA	ACRES	ZONE	EST. # UNITS
A-1	80.114	RS-15	165
B-1*	22.01	RS-10	67
B-2	31.086	RS-10	104
C	29.202	RS-7.5	123
D-1	22.165	RM-3	219
D-2	6.50	RM-3	92
G	6.27	ON-20	-
H	+/- 5.0	0	-

\* INCLUDES 1.82 ACRES FOR THE REC. CTR.

**LEGEND:**

- PRESERVE SITES (8.4 ACRES)
- EASEMENT A FOR ROADWAY & UTILITY
- EASEMENT 1 FOR DRAINAGE
- EASEMENT 2-4, 6-12 FOR UNDERGROUND ELEC & TEL UTILITY
- EASEMENT 5 AFFECTING LOT 3-B



**KALOIKO HEIGHTS  
A MASTER PLANNED COMMUNITY**

**CONCEPTUAL PLAN**

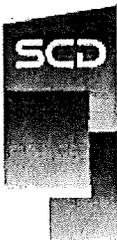
DEC. 2007

**EXHIBIT C**

**CDS INTERNATIONAL**

Architecture • Planning • Interior Design  
1001 Bishop Street • Paahala Tower, Suite 400 • Honolulu, HI 96813-3499  
Telephone: (808) 524-4200 • FAX: (808) 524-3766





STANFORD CARR DEVELOPMENT, LLC

November 17, 2006

Christopher Yuen, Planning Director  
County of Hawaii  
101 Pauahi Street, Suite 3  
Hilo, Hawaii 96720

**SUBJECT: Kaloko Heights Master Planned Community, TMKs 7-3-9: 19, 32, 57 - 62**

Dear Chris:

In regards to the subject project, the roadway and water improvement construction plans that had been submitted in connection thereto, and issues related to the Kohanaiki Trail ("Trail") that runs through the property, I wanted to apprise you of recent developments between ourselves and a community group consisting of certain ohana members from the area (the "ohana group").

On Tuesday November 14<sup>th</sup> we conducted a second meeting with the ohana group at which we presented illustrations of plans to incorporate and preserve the existing Trail alignment within the planned community. A consensus was reached, and following are the results:

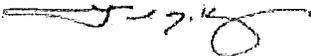
1. The original mauka-makai alignment ("footprint") of the Trail and public use and interests thereof shall be retained in perpetuity across the subject property.
2. The Trail will be at least 10-feet wide and will be bordered by perpetual open space buffers of at least 10-feet wide on each side. These buffers are intended to be sloped and otherwise modified as necessary to make grade adjustments. In combination with the buffers, the total width of this perpetual public right of way will be at least 30-feet throughout its length across the subject property.
3. In direct consideration of federal, state and county rules, regulations and laws relating to land use, subdivisions, streets and accessibility, and to further ensure a safer walking surface for the Trail user, vertical changes (that is, cutting and filling in comparison to the surrounding development) in the original Trail elevation may be necessary and will be allowed, as long as the horizontal alignment is kept the same. Such changes are to be kept to the minimum and, wherever possible and practical, the original Trail surface, rocks, and other cultural resources within the Trail, are to be set aside and re-incorporated and/or renaturalized as part of the Trail at its new elevation.
4. Wherever vertical changes are not required, the original Trail surface and other cultural resources located within the Trail, including, but not limited to, existing native trees, will be retained.
5. Whenever possible, cultural features found along the existing Trail (such as papamu/konane board) shall be retained and incorporated into the cultural landscape, in living celebration of and consistent with their cultural heritage and significance. Likewise, to the extent it is feasible and appropriate, significant cultural resources located outside the designated right of way and adjacent to the Trail, may be relocated within the right of way.
6. In further consideration of existing governmental rules and regulations pertaining to land use and requisite street and sidewalk requirements, the parties understand that it will be necessary to cross the existing Trail alignment at specific and limited points.
7. The proposed crossings of the trail are acceptable, as long as:

- a. pahoehoe from the project site, preferably from the Trail section that is being crossed, is embedded in the roadway paving as the means to mark where the original Trail footprint is located (similar to the "King's Trail" crossing the road to Anaehoomalu Bay); and
  - b. the number and width of such crossings are kept to an absolute minimum and, in no case, to exceed a maximum of four.
8. Other development-related items discussed and agreed upon:
- a. Whenever existing rock walls must be removed, the rocks from these walls will be set aside and reused in the construction of new screen, buffer and retaining walls built within the project.
  - b. Whenever possible, rocks from the subject property will be used for such walls (minimize importation of rock from offsite).
  - c. To promote and encourage traditional and customary cultural practices, the harvesting of native woods (such as alahee, elama, manele, iliahi and ulei) as well as other exotics like mango, from trees downed during the grubbing work or ones that must be removed during permitted land grading, will be allowed by ohana members and/or their designated representatives. If requested and where possible and practical, the landowner or his designated representative(s) will assist the ohana in the gathering and temporary storage of such woods. Such activities will be coordinated in advance with site personnel.
  - d. Members of the ohana group will assist the landowner in understanding and compiling oral histories related to the subject property and area, so these can be used within the new community (such as for neighborhood identities, street names, and the like -- initial suggestion was for use of names associated with the old homesteads).
  - e. With the vision of perpetuating the life of the land in that which is pono (righteous) and to promote better understanding and aloha among the parties and the larger community, the landowner and ohana group wish to continue to meet, consult and cooperate regarding the protection and incorporation of Hawaiian cultural perspectives, traditions and practices in appropriate areas and segments of this project, as well as related properties.

Curtis Tyler is a member of the ohana group, and he has agreed to distribute this letter to the other members.

Should you wish to discuss any aspect of the above, please feel free to contact me 325-2255.

Sincerely,



Paul J. Kay  
Vice President/Sr. Development Manager  
STANFORD CARR DEVELOPMENT, LLC

encl. Kaloko Heights Master Planned Community Site Plan, rev. 11/17/06

cc: Curtis Tyler  
Peter Young, DLNR  
Paul Conry, DOFAW  
Curt Cottrell, Na Ala Hele  
Irving Kawashima, Na Ala Hele  
Debbie Chang, Na Ala Hele Advisory Council  
Brad Kurokawa, Planning  
Daryn Arai, Planning  
Steve Lim, esq.  
Stanford Carr

**MINUTES FOR THE  
MEETING OF THE  
BOARD OF LAND AND NATURAL RESOURCES**

DATE: FRIDAY, JUNE 8, 2007  
TIME: 9:00 A.M.  
PLACE: KALANIMOKU BUILDING  
LAND BOARD CONFERENCE ROOM 132  
1151 PUNCHBOWL STREET  
HONOLULU, HI 96813

Interim Chairperson Allan Smith called the meeting of the Board of Land and Natural Resources to order at 9:05 a.m. The following were in attendance:

**MEMBERS**

Mr. Allan Smith	Mr. Rob Pacheco
Ms. Taryn Schuman	Mr. Jerry Edlao
Mr. Ron Agor	Mr. Samuel Gon III

**STAFF**

Ms. Charlene Unoki, LD	Mr. Paul Conry, DOFAW
Mr. Dan Quinn, SP	Mr. Dan Polhemus, DAR
Mr. Wayne Haight, DAR	Mr. Duane Rogers, DAR
Mr. Jeff Walters, DAR	

**OTHERS**

Mr. Colin Lau, A.G.'s Office	Mr. Dale Bonar, C-3
Senator Russell Kokubun, C-3	Senator Colleen Hanabusa, C-3
Mr. Alfredo Lee, C-3	Mr. Harry Yada, C-3
Ms. Stephanie Wayland, C-3	Mr. Dean Okimoto, C-3
Mr. Larry Yamamoto, C-3	Ms. Jill Olson, C-3
Ms. Frieda Fujita, C-3	Mr. Duane Okamoto, C-3
Ms. Sandra Kunimoto, C-3	Mr. Ivan Lui-Kwan, C-3
Mr. Joseph Phillips, D-4	Ms. Marti Townsend, F-2
Ms. Malia Nobriga, F-2	Mr. Wayne Kahooleipanoki, F-2
Ms. Heidi Guth, OHA	Mr. Curt Trafega,
Mr. Paul Jokiell, F-4	Mr. Robert Toonen, F-5
Mr. Carl Meyer, F-6	Mr. Matthew Craig, F-7
Mr. Brian Bowen, F-8	Ms. Keeley Belva, F-9
Mr. Shawn Corson, F-3	Mr. Michael Tosato, NOAA
Mr. William Aida, F-3	Mr. Dennis Niles, F-11
Mr. Don Pollaski, F-3	Mr. Carl Jellings, F-11

**EXHIBIT E**

Mr. Jeff Walters, F-1

{Note: language for deletion is [bracketed], new/added is underlined}

**Item A-1 Minutes of May 25, 2007**

Recused: Member Agor and Schuman. Member Gon missed the last 20 minutes. Attorney General's representative, Pam, stated he has to recuse.

**Deferred due to lack of quorum (Gon, Pacheco)**

**Item D-2 Grant to Four (4) Perpetual, Non-Exclusive Easements; Issuance of Management and Construction Right-of-Entry to Kaloko Heights Associates for Access and Utility Purposes Over the Road To The Sea Trail at Kaloko and Kohanaiki, North Kona, Hawaii, Tax Map Key: 3rd/ 7-3-09: portions of 32, 57, 58, 59, 61 and 62**

Member Schuman recused herself.

Ms. Charlene Unoki representing Land Division (LD) reported Kaloko Heights Associates had worked with the community to look realigning a portion of the road to the sea. As a result there are community agreements, members have a copy of a letter dated November 17, 2006 to Mr. Chris Yuen. Staff would like to grant an easement with construction right of entry and would like to add a condition to the easement document where the 11/17/06 letter is used for the grantee to comply with. Member Pacheco asked conditions stated in the letter will become the conditions? Ms. Unoki replied yes.

**Unanimously approved as amended (Pacheco, Gon)**

Add letter dated November 17, 2006 from Mr. Paul Kay, Vice President and Sr. Development Manager of Stanford Carr Development, LLC to Mr. Christopher Yuen, Planning Director for the County of Hawaii as a condition in the new easement document.

**Item C-3 Review of the Legacy Land Conservation Commission Recommendations and Approval of Projects for Funding under the Fiscal Year 2007 Legacy Land Conservation Program (Land Conservation Fund)**

Mr. Paul Conry, Administrator for Division of Forestry & Wildlife (DOFAW), reported this is the first fiscal year for the Department to implement this program. It is a conservation land acquisition program with a rough budget of 7.4 million dollars. This program established by the Legislature in 2006 and this year seeded the Commission. The Commission's duty is to review applications submitted by conservation



DEPARTMENT OF WATER SUPPLY • COUNTY OF HAWAII

345 KEKĪANAŌ'A STREET, SUITE 20 • HILO, HAWAII 96720  
TELEPHONE (808) 961-8050 • FAX (808) 961-8657

Mr. Stanford Carr  
Kaloko Heights Associates, LLC  
1100 Alakea Street, 27<sup>th</sup> Floor  
Honolulu, Hawaii 96813-2840

October 1, 2007

RE: TAX MAP KEY 7-3-009:019, 1494 KSA UNITS

Dear Mr. Carr:

In connection with an audit of the financial statements of the Department of Water Supply, County of Hawaii, as of June 30, 2007 and for the year then ended, our independent auditors wish to determine whether our water commitment record for your above referenced parcel agrees with your records. According to our records, our water commitment record on that date was as follows:

FACILITIES CHARGE (FC):

1,494 units @ \$5,500.00/unit ✓ \$8,217,000.00

CREDITS:

Credit of 37% towards the total prevailing FC, which is subject to change, for drilling, casing, and outfitting a production well through KSA II ✓ (\$3,040,290.00)

FC of 1,494 units @ \$1,800.00/unit (previously paid) ✓ (\$2,689,200.00)

Total WCD paid to date for 1,494 units, times 9 payments @ \$150.00/unit (\$2,016,900.00)

FACILITIES CHARGE BALANCE

\$470,610.00

*... Water brings progress...*

The Department of Water Supply is an Equal Opportunity provider and employer. To file a complaint of discrimination, write: USDA, Director, Office of Civil Rights, Room 326-W, Whitten Building, 14th and Independence Avenue, SW, Washington DC 20250-9410. Or call (202) 720-5984 (voice and TDD)

EXHIBIT F

Please compare the above information to your records, complete the statement below, and send this letter directly to our independent auditors, KPMG LLP, Pauahi Tower 1001 Bishop Street, Suite 2100, Honolulu, Hawaii 96813 Attention: Jennifer Uyeno. An addressed envelope is enclosed for your convenience. In addition, please fax a copy of your response to KPMG LLP (Attn: Jennifer Uyeno) at (808-441-0118).

Very truly yours,

  
Milton D. Pavao, P.E.  
Manager, Department of Water Supply

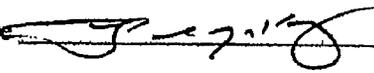
The information stated above is  correct.  
 not correct.

(Please give details of differences, if any.)

In addition, please provide the date, if one has been determined, of anticipated construction of this development.

Anticipated date of construction 2008

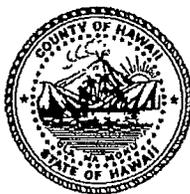
Company KALOKO HEIGHTS ASSOCIATES, LLC

Signature 

Title VP / Sr. Development Manager

Date 11/4/07

Harry Kim  
Mayor



Christopher J. Yuen  
Director  
Brad Kurokawa, ASLA, LEED™ AP  
Deputy Director

## County of Hawaii

### PLANNING DEPARTMENT

Aupuni Center • 101 Pauhi Street, Suite 3 • Hilo, Hawaii 96720  
Phone (808) 961-8288 • Fax (808) 961-8742

August 7, 2007

Mr. Michael Kujubu  
Alakea Design Group  
1100 Alakea Street  
Honolulu, Hawai'i 96813

Dear Mr. Kujubu:

FINAL PLAN APPROVAL (PLA-07-000289)  
Kaloko Heights "D-1" 219-unit Single-Family & Multiple-Family Residential project  
TMK: 7-3-009: 058, Kohanaiki, North Kona, Hawai'i

We have reviewed the above-described plans for the proposed 219-unit Kaloko Heights "D-1" residential project pursuant to FINAL PLAN APPROVAL. Enclosed is a copy of the FINAL PLAN APPROVAL dated August 7, 2007 for your files.

Please pay careful attention to the conditions and requirements listed on Page 2 of the Final Plat Approval form.

Should you have any questions, please feel welcome to contact Daryn Arai of this Department.

Sincerely,

  
CHRISTOPHER J. YUEN  
Planning Director

DSA:cd

O:\Plan Approvals\7\PLA-07-000289KalokoHeightsD-1@7-3-9-58Letter.doc

Encl PLA-07-000289

xc w/encl: West Hawaii Office with 1 set of drawings

*Hawai'i County is an Equal Opportunity Provider and Employer*

EXHIBIT G

**COUNTY OF HAWAII PLANNING DEPARTMENT**

**FINAL**  
**PLAN APPROVAL**  
**PLA-07-000289**

APPLICANT:  
Alakea Design Group, LLC

DATE APPROVED:  
August 7, 2007

LOCATION:  
Kohanaiki, North Kona

TAX MAP KEY:  
7-3-009: 058

PARCEL AREA:  
22.165 acres

ZONE:  
RM-3

PROPOSED USE:  
Kaloko Heights "D-1" 219-unit Single-Family & Multiple-Family Residential project

<u>As Shown on Plan</u>	<u>Comments</u>
Front Yard (Hina Lani): > 20 feet	OK, 20'-0" Minimum required
Front Yard (interior access): > 20 feet	OK, 20'-0" Minimum required
Side Yard (east): > 20 feet	OK, 12'-0" Minimum required
Ht. of Structure: 33± feet max height from lowest grade (3 story bldg)	OK, 45'-0" Maximum allowed
Access to parking: from interior subdivision loop access road	OK, Must comply with the requirements of the Department of Public Works.
Off-Street Parking: 389 stalls total 366 covered stalls 16 on-street stalls 7 accessible stalls	OK, 243 stalls for MF (41 4-plex/15 duplex) 194 MF units X 1.25 = 243 stalls 50 stalls for SF (25 units) 50 SF units X 2 = 50 stalls 7 accessible stalls TOTAL REQUIRED = 300 total stalls req'd
Loading and Unloading Space: 2 10' X 22' loading spaces	OK, 2 loading stalls req'd - 10' X 22'
Density: 219 units proposed	OK, 22.165 acres / 3,000 sf = 321 units maximum
Fencing and Walls: none shown on plans	
Material:	
Height:	
Location:	
Landscaping: plans by Miyabara Associates	OK, Complies with Rule No. 17 of the Planning Department's Rules of Practice and Procedure.

Others: Tax Clearance	OK, Per letter of tax clearance from RPT dated January 30, 2007
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Conditions:

1. Approved parking to be paved, striped, and appropriate signage installed prior to issuance of the Certificate of Occupancy.
2. On-street perpendicular parking stalls shall maintain a minimum dimension of 8.5 feet by 18 feet with curb-side parallel stalls maintaining a minimum length of 22 feet.
3. Construction drawings shall clearly identify an accessible pathway from accessible stalls to the main entrance of the applicable dwelling structure(s) in proximity to the respective accessible stall. Pursuant to Section 25-4-55 of the Hawaii County Code, an accessible building site shall have at least one accessible route within a building site from accessible parking spaces, passenger loading zones if provided, to an accessible building entrance. The accessible route shall connect a clear path of travel, a minimum clear width of thirty-six inches, in compliance with Chapter 5 of the Hawaii County Code.
4. Approved landscaping to be installed and maintained prior to issuance of the Certificate of Occupancy.
5. Buildings shall maintain a minimum distance of 15 feet from one another.
6. The applicant shall comply with all requirements and conditions of Ordinance No. 86-91, including the implementation of mitigation measures specified by the approved Data Recovery and Preservation Plans, both of which were prepared by Thomas Wolforth of Scientific Consultant Services, Inc.
7. The "Trail to Sea Coast", which bisects the project site, shall be managed in a manner as detailed by Stanford Carr Development, LLC in its letter dated November 16, 2006. The Applicant shall continue its consultation with the Na Ala Hele and its kupuna groups as it develops the lands adjoining this trail and any improvements to the trail itself.
8. Applicant shall comply with all other applicable laws, rules, regulations and requirements of Hawai'i County.

  
\_\_\_\_\_  
Planning Director

Date August 7, 2007  
PD 11/99 (MsWord)