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GOVERNOR OF HAWAII



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DEPARTMENT OF LAND AND NATURAL RESOURCES

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HONOLULU, HAWAII 96809
OFFICE OF ENVIRONMENTAL
QUALITY CONTROL

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CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES

DEPUTY DIRECTOR
GILBERT S. COLOMA-AGARAN

AQUACULTURE DEVELOPMENT
PROGRAM
AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
CONSERVATION AND
ENVIRONMENTAL AFFAIRS
CONSERVATION AND
RESOURCES ENFORCEMENT
CONVEYANCES
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION PROGRAM
LAND MANAGEMENT
STATE PARKS
WATER AND LAND DEVELOPMENT

REF: BOR-PM/LC

June 9, 1995

TO: The Honorable Gary Gill, Director
Office of Environmental Quality Control

FROM: Michael D. Wilson, Chairperson *Gilbert S. Coloma-Agaran for*
Board of Land and Natural Resources

SUBJECT: NEGATIVE DECLARATION FOR MANELE BAY PASSENGER REST STOP
AT MANELE BOAT HARBOR, ISLAND OF LANA'I (TRILOGY
CORPORATION) - TMK: 4-9-17:06

In accordance with Act 241, SLH 1992, we have completed the formal environmental assessment 30-day review period for the subject development. Responses have been made to the comments that were received from the public and government agencies and copies are appended to the Final Environmental Assessment.

We have determined that no environmental impact statement will be required for the development. Based on the foregoing, we are filing this Negative Declaration.

Enclosed are the original and four copies of the Final Environmental Assessment and a completed OEQC form for publication in the OEQC Bulletin.

Should you have any questions, please contact Larry Cobb, Property Manager, at 587-1978.

Attachments

46

1995-06-23-MO-*FEA*-Manele Bay Passenger Rest Stop ~~1995~~ 1995

Final Environmental Assessment

**Trilogy Corporation's
Manele Bay Passenger Rest Stop
Manele Bay, Lana'i, Hawai'i**



Prepared for:

Mr. James Coon, President
Trilogy Corporation
P.O. Box 1118
Lahaina, Maui, Hawaii 96761

Prepared by:

Chris Hart & Partners
1955 Main Street
Wailuku, Maui, Hawaii 96793

Ph. 242-1955 (bus.) 242-1956 (fax.)

May, 1995

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APPENDIX A - COMMENTS AND RESPONSES

I. PROJECT OVERVIEW

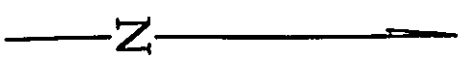
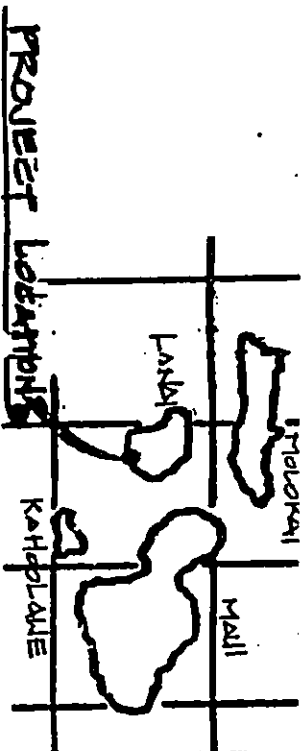
Applicant	Trilogy Corporation Mr. James Coon, President
Planning Consultant/Agent	Chris Hart & Partners 1955 Main Street Wailuku, Hawaii 96793
Land Owner	State of Hawaii
Tax Map Key (TMK)	4-9-17: 06
Accepting Agency	Division of Boating and Recreation Dept. of Land and Natural Resources 333 Queen Street, Suite 300 Honolulu, Hawaii 96813

A. PROJECT LOCATION, EXISTING USE, AND LAND OWNERSHIP

The proposed project is located within Manele Bay Small Boat Harbor on the island of Lanai's south coast, County of Maui, Hawaii (see Figure 1). The parcel, which is leased to the applicant by the State of Hawaii, comprises an area of 18,436 square feet and is identified as a portion of Tax Map Key No. 4-9-17:06. Manele Bay Small Boat Harbor is owned and operated by the State of Hawaii. The immediate vicinity of the proposed project is in harbor-related use. The project site is currently used as a rest stop and assembly area for the applicant's charter groups and passenger. Existing improvements consist of a temporary structure made of a galvanized pipe frame and shade cloth.

B. PROJECT NEED

At present, there is no permanent rest stop facility in the harbor area for harbor users. In recognizing the desirability of providing such an amenity, the State of Hawaii, Department of Land and Natural Resources, Division of Boating and Ocean Recreation, has authorized the applicant to develop a passenger rest stop and harbor service center. The passenger rest stop will provide an area in which the applicant's customers may assemble to be served



PACIFIC OCEAN

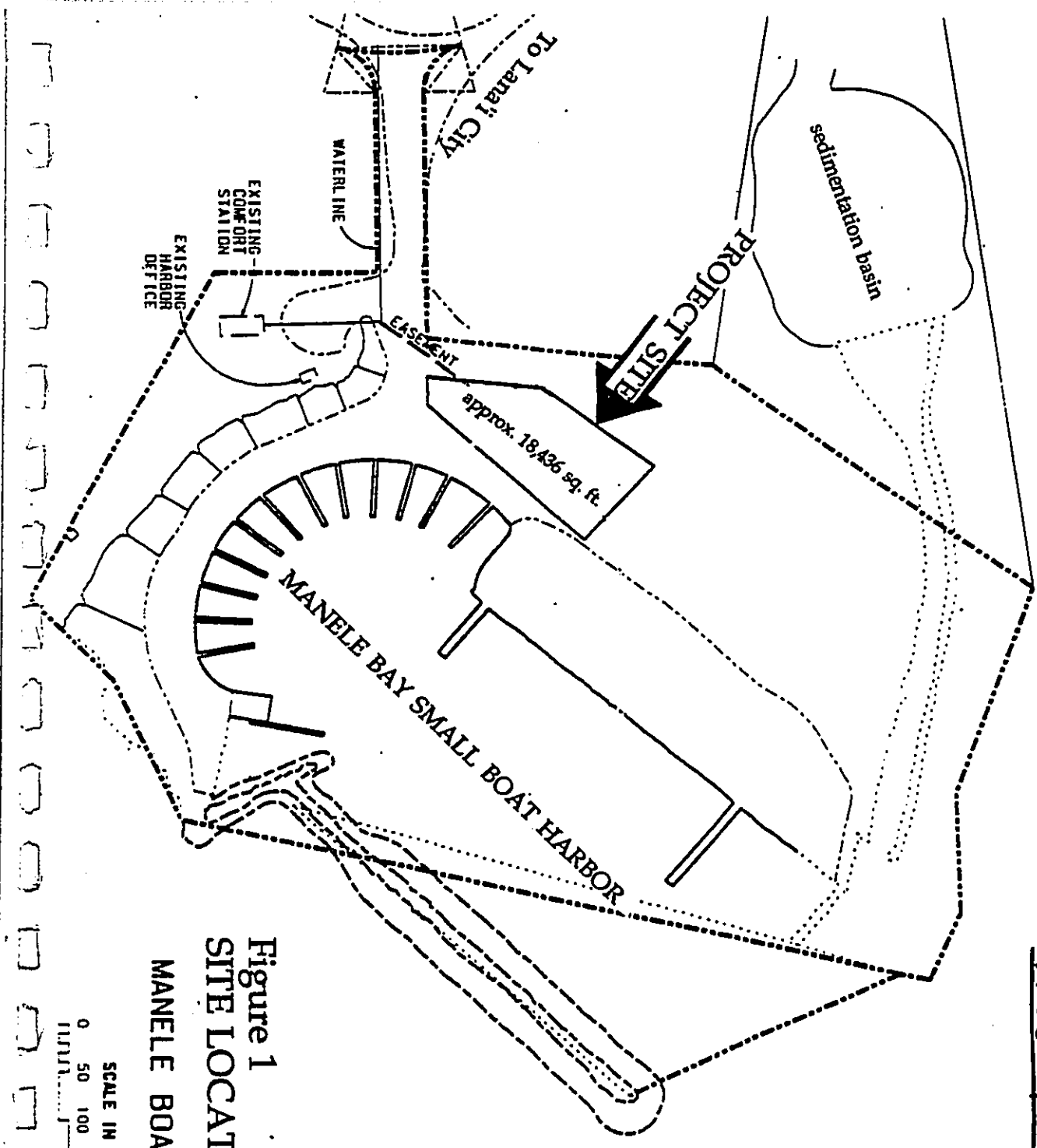


Figure 1
SITE LOCATION MAP
MANELE BOAT HARBOR

SCALE IN FEET
 0 50 100 200



meals, engage in recreational activities, entertainment activities, organize excursions, re-group for departure, etc. The facility could also service other tour operators, sea transit passengers and the general boating community using harbor facilities. In addition, the service center would provide refreshments and amenities for harbor users.

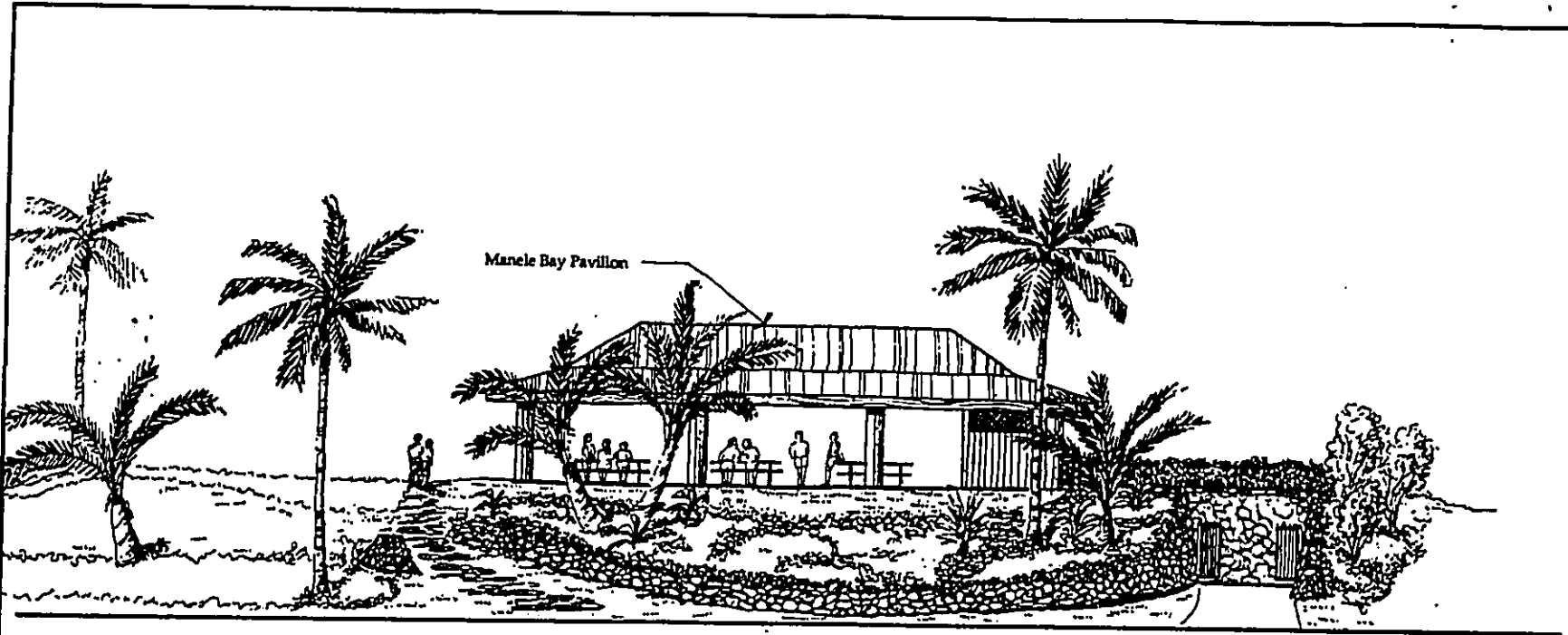
C. PROPOSED IMPROVEMENTS

The proposed project involves the construction of a passenger rest area pavilion with a basement for the harbor service center and storage as well as landscape improvements (see Figure 2). The pavilion would be mostly open except for the northeast section which would be enclosed and contain a sink and counter space as well as restroom facilities. The pavilion's total floor area would be 2400 square feet. The finish floor of the pavilion would be at approximately the same elevation as the existing natural grade (approximately 15.5 ft. above mean sea level). The basement would be built in an excavated area beneath the pavilion. The harbor service center will be located in a portion of the basement, and will consist of a small convenience/snack shop selling food and beverages, sundry items, fishing tackles, lures, ice and bait, etc.. The other portion of the basement will be used for storage.

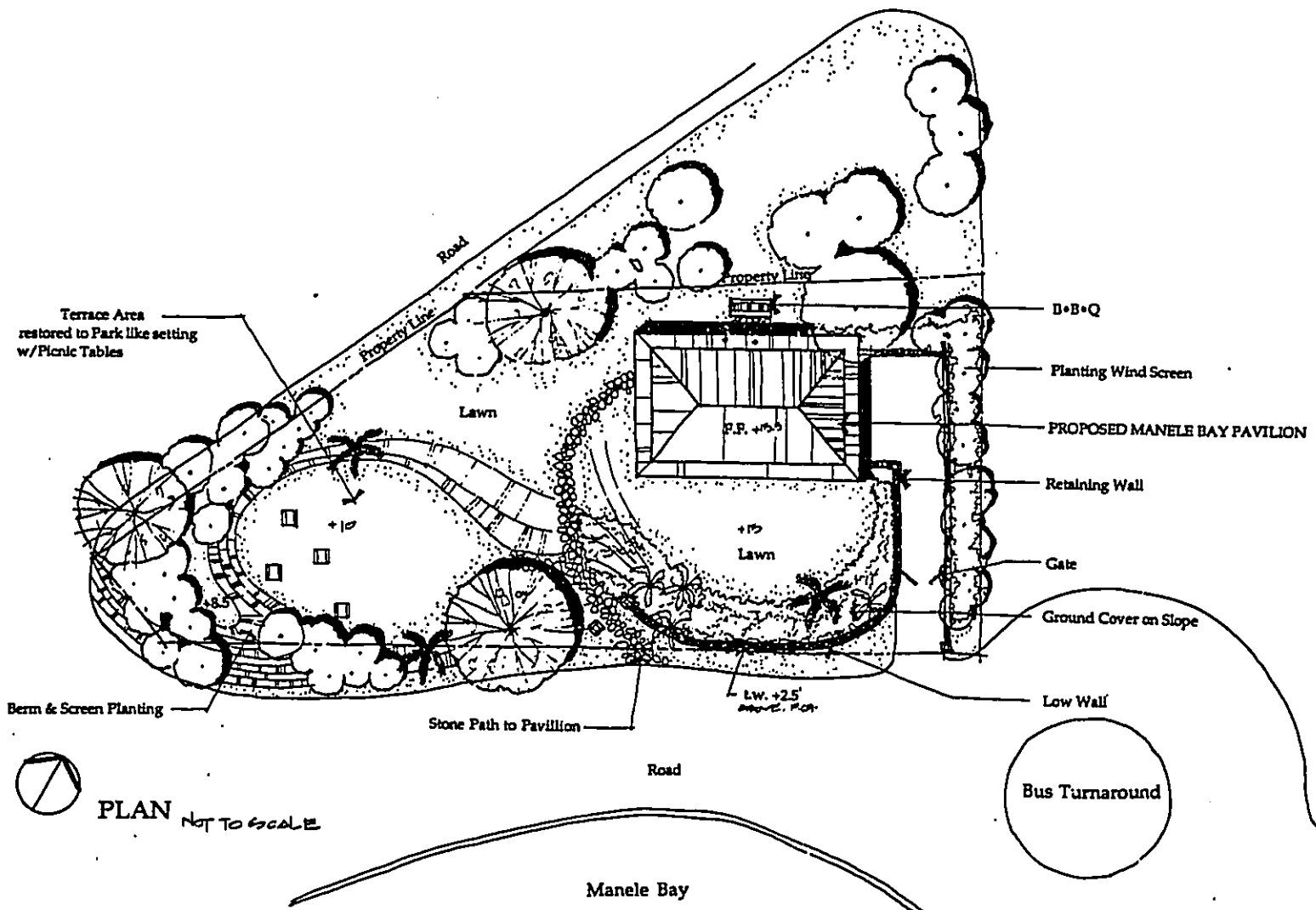
D. PROJECT ALTERNATIVES

The following alternatives were considered during formulation of the proposed project plans described above.

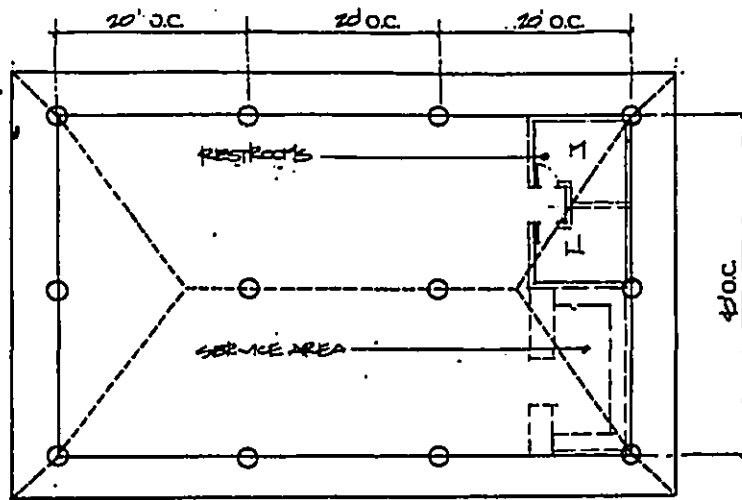
No action. This alternative involves making no improvements to the existing passenger rest area. At present, existing facilities consist of a temporary structure made of galvanized pipe frame and shade cloth. A significant portion of the 18,436 sq. ft. area which is currently leased is not landscaped and consists of original tailings from harbor dredging activities. A primary goal of the proposed action is to improve the visual character of the area by providing a permanent replacement of the existing facilities and a landscape planting plan. Another primary objective is to provide basic



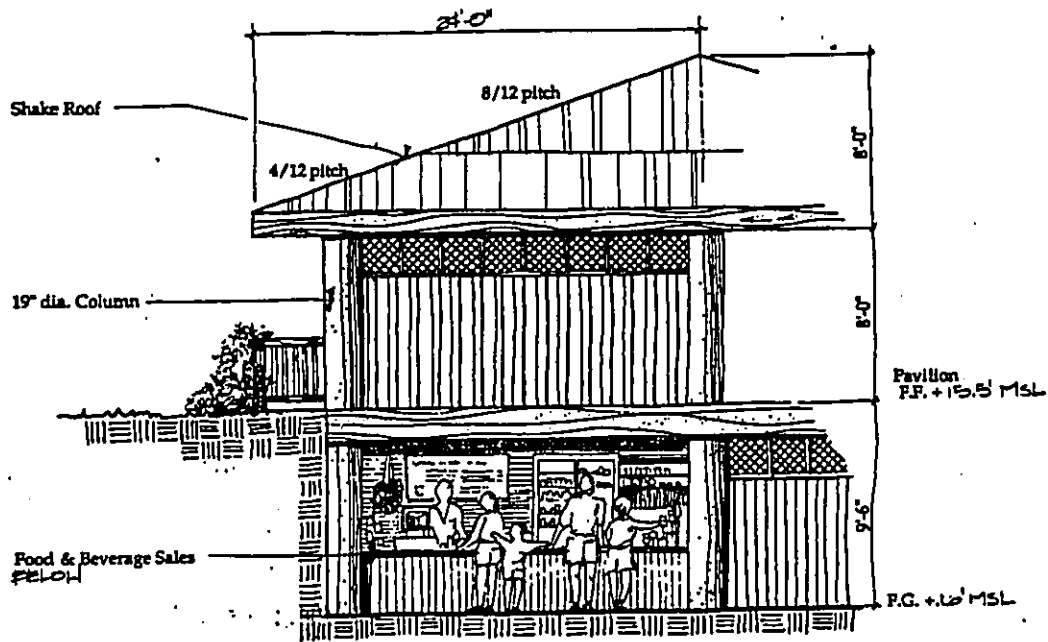
South Elevation
not to scale



MANE
 for: TRIL
 4-13-94



PAVILION LEVEL
NOT TO SCALE



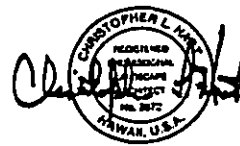
EAST ELEVATION
NOT TO SCALE

FIGURE 2

MANELE BAY PAVILION CONCEPT

for: TRILOGY
4-13-94

Harbor Service Center & Passenger Rest Stop.
REVISED 1-20-95



services for harbor users. The **no action** alternative would not meet these two primary objectives.

Alternative site within Manele Small Boat Harbor. An alternative site within the northeast section of the harbor was considered. This alternative was proposed by the Manele Harbor Advisory Committee and preliminarily agreed to by Trilogy Corporation, however, the State Division of Boating and Recreation's (DOBOR's) administrative offices rejected this site because it would not be centrally located for harbor users. The objective of the DOBOR is to provide a harbor service center which is accessible to the harbor users. The northeast section of the harbor is on the opposite side of the harbor from the boat ramp and mooring areas. This alternative would violate accepted best management practices for small boat harbors and marinas regarding siting of service facilities.

Passenger Rest Stop Pavilion without the Harbor Service Center. The inclusion of the Harbor Service Center in the project plans was in response to a Lana'i boaters survey conducted by DOBOR. Results of the survey are included as an appendix to the Manele Harbor Master Plan. The following percentage of survey respondents felt the associated services or improvements should be provided at Manele:

- 40.6% Fuel
- 25.0% Ice
- 62.5% More Park Area
- 40.6% Want Manele Harbor enhanced
- 65.5% Want fast food

Thus, DOBOR felt that inclusion of the harbor service center at Trilogy's passenger rest area was important and included it as a requirement of the lease agreement.

Alternative Site Plan. An earlier site plan had located the pavilion closer to the east (makai) property line, with the harbor service center along this east elevation. In this alternative, the harbor service center would be easily accessible and visible to harbor users and would be situated in a more open and friendly environment. In response to recommendations from the Manele Harbor Advisory Committee, however, the pavilion was moved to the rear (west) of the site and the harbor center moved to the north elevation, out of direct view from harbor users.

II. DESCRIPTION OF THE EXISTING ENVIRONMENT

A. PHYSICAL SETTING

1. Surrounding Land Use

The proposed project is located within the Manele Bay Small Boat Harbor. As such, surrounding land use relates to typical harbor functions. Berthing facilities for small boats and vehicular parking are located near the proposed pavilion.

2. Climate

Temperatures in the Manele area range from the upper 50s to low 60s in the early morning in winter to the low 90s during summer days. Rainfall tends to be associated with passing winter storms. Average rainfall at the project site is less than 15 inches per year.

3. Topography and Soil Characteristics

The site is slightly sloping with elevation ranging from approximately +6 feet to +16 feet MSL. Soil type in the vicinity is identified in the *Soil Survey of the Islands of Kauai, Oahu, Maui, Molokai, and Lanai, State of Hawaii* as Sandy alluvial land (rSL). It consists of recent stream deposits, and is subject to flooding during the rainy season. The soil association in the project area is Very stony land-Rock land association, characterized by gently sloping to steep rocky and stony land types. The project site itself is located

entirely atop material dredged from Manele Bay Small Boat Harbor. This "fast land" is composed primarily of silt and calcareous material.

4. Flood Hazard

The U.S. Federal Emergency Management Agency, Federal Insurance Administration has not prepared a flood insurance map of Lana'i, thus there is no flood hazard classification of the project vicinity. An improved drainage channel and silt basin exist to the north of the project site, this facility was constructed in order to lesson flooding and erosion impacts on the harbor.

5. Flora and Fauna

According to the Manele Golf Course and Golf Residential Project Environmental Impact Statement, the vegetation cover type within the vicinity of project site is kiawe-ilima forest. Kiawe ilima scrub is characterized by widely scattered kiawe trees and a well-developed shrub layer of ilima. The herb layer associated with this vegetative zone is primarily pili grass with sub elements of feather fingergrass, buffelgrass and hairy merremia. The project site itself is located within a landscaped area consisting of bermuda grass, kiawe and coconut palms.

Common urban and field birds have been recorded in the Manele Hulopo'e area. The axis deer is also found in the area.

6. Marine Environment

The exceptional quality of marine communities within the Manele and Hulopo'e bays has been acknowledged through the State of Hawaii's designation of the area as Manele Hulopo'e Marine Life Conservation District. As such, the waters are managed by the State Department of Land and Natural Resources.

7. Archaeological Resources

The site is located on material dredged from the harbor in 1960 and 1969, thus essentially eliminating the potential of encountering significant cultural resources.

8. Air Quality

Air quality on the island of Lana'i is generally considered good. Blowing dust from unpaved roads and other unvegetated areas comprises the only potentially significant air quality problems. Locally, exhaust from boats and motor vehicles may impact air quality.

9. Noise Characteristics

Surrounding noise levels in the vicinity of the project site are considered relatively low. Background noise levels are attributed to natural (e.g. wind) conditions, and harbor vehicular and boating traffic.

10. Visual Resources

The proposed project is located within an active harbor area. The existing picnic/rest stop facilities are provided by shade cloth on a galvanized pipe frame. The visual impact is minimal due to the low picnic area profile and surrounding landscaping. Views from the site include berthing facilities, the harbor breakwater, car and trailer parking. Landscaping within the harbor provides visual relief from the parking and storage harbor functions. Manele Bay itself offers exceptional vistas of the coastal environment.

B. SOCIO-ECONOMIC ENVIRONMENT

1. Population

The population of the County of Maui has exhibited relatively strong growth over the past decade with the 1990 population estimated to

be 100,374, a 41.7% increase over the 1980 population of 70,847. Growth in the County is expected to continue, with resident population projections to the years 2000 and 2010, estimated to be 123,900 and 145,200, respectively (DBED, 1990).

According to estimates by the State Department of Business, Economic Development, and Tourism, the estimated 1989 population of the Island of Lana'i was 2200.

2. Economy

The Lana'i economy is in transition from an agricultural base to one based on tourism. While the 1981 Lanai Community Plan recommended maintaining pineapple as the primary economic activity, pineapple has subsequently been phased out completely. New employment is provided by two upscale resorts opened in 1990 and 1991.

C. PUBLIC SERVICES

1. Police And Fire Protection

The Maui County Police Department has one police station on Lana'i, located within Lana'i City, with a police force of seven officers.

The Maui County Fire department has one fire station on Lana'i with a crew of four firemen.

2. Solid Waste

The only landfill on Lana'i is located one mile south of the airport access road. That landfill is currently being improved by Kewitt Pacific under contract to the County of Maui. Once completed, improvements will extend the life of the landfill by ten years by accommodating refuse vertically. Solid Waste collection for the

project site is handled by a private collection company hired by the Trilogy Corporation.

4. Recreational Facilities

Hulopo'e Beach Park and Manele Bay Small Boat Harbor are important recreational facilities in the vicinity of the proposed project. Neighboring Hulopo'e Beach Park is the most popular shoreline recreation site on Lanai for both residents and visitors.

Manele Bay Small Boat Harbor is used for various recreational and commercial boating activities. Both fishing and pleasure cruises originate from the harbor. Commercial tour boats from Lahaina visit the area on a day-trip basis.

D. INFRASTRUCTURE

1. Roadways

Access to Manele Bay Small Boat Harbor is provided via Kaunalapau Highway to the intersection of Manele Road, and along Manele Road to the Harbor. Manele Road is a state highway with two lanes within a 19 foot wide pavement with 6 foot shoulders. Portions of the roadway surface are badly deteriorated and in need of resurfacing.

2. Wastewater

Manele Bay Small Boat Harbor is serviced by individual cesspools. The applicant has an approved septic tank for the containment and disposal of gray water from the existing picnic rest area.

4. Drainage

A major drainage channel which empties into the harbor is located to the North of the project site. A silt basin has also been constructed in this facility in order to lesson the impacts of soil erosion and sedimentation within the boat harbor. Drainage on the project site sheet flows into a system of unimproved swales which convey flows into the harbor.

5. Electrical

Maui Electric Company, which owns electric power generation units and transmission facilities on Lana'i, does not provide services to Manele Bay Small Boat Harbor. Harbor electrical needs are met by generators.

III. POTENTIAL IMPACTS AND MITIGATION MEASURES

A. PHYSICAL ENVIRONMENT

1. Surrounding Uses

The proposed project site is currently in use by the applicant as a rest stop area for charter groups. The proposed improvements therefore will not change land use in the area, and are not anticipated to impact surrounding land uses.

2. Topography/Landform

The site will be excavated approximately 10 ft. in order to provide for the basement and basement access way. Once construction of the retaining walls and pavilion floor are complete the area will be regraded to approximately the same level as the existing natural grade. Some additional grading and filling will be necessary for the remainder of the site for landscape purposes. As the site is located on fast lands comprised of dredged material, and since the majority of the site will be regraded to closely match the existing grade, the environmental impacts to topography or landform are not expected to be significant.

3. Flora and Fauna

Some vegetation removal will be necessary in order to grade, construct and landscape the proposed project. This will result in short-term impacts to the site, however, none of the existing plant species are considered significant resources. Long-term impacts to flora are expected to be beneficial as the site will be landscaped with attractive drought and wind tolerant plants.

4. Marine Resources

Negative impacts to the Manele Hulopo'e Marine Life Conservation District are not expected to occur. During the construction phase the mitigation measures listed above will be implemented in order to mitigate potential impacts to the waters of Manele Bay:

- 1) Minimize the time of construction.
- 2) Establish ground cover as early as possible after grading and excavation activities are complete.
- 3) Use temporary berms, cut off ditches and silt curtains where needed to prevent soil erosion into Manele Bay.
- 4) Perform all grading operations in conformance with the applicable provisions of the Water Pollution Controls and Water Quality Standards of Public Health Regulations of the State of Hawaii, Department of Health and chapter 20.08, Maui County Code.

Over the long term, the project will provide vegetative landcover over a portion of the site which is presently exposed harbor tailings. This should reduce the potential for sediment from storm runoff from entering the harbor.

In addition, development of restrooms in the rest area pavilion would lesson the load on the State Restroom facilities which are serviced by a cesspool. The wastewater flows will be handled via an existing septic tank system in conformance with the State Department of Health rules and regulations regarding wastewater disposal (Chapter 62, Hawaii Administrative Rules). The potential for negative impacts from a cesspool are considered much greater than from a properly functioning septic tank system.

5. Archaeological Resources

As the site has is located on material dredged from the harbor, there is no likelihood of encountering archaeological resources. Thus there is no anticipated effect on such resources.

6. Air Quality

Air quality in the immediate vicinity of the project is anticipated to be affected over the short term by construction activities. Proper emission control devices and dust control measures, such as regular watering, will minimize these potential impacts.

On a long term basis, the project will not generate adverse air quality conditions.

7. Noise

Ambient noise conditions will be affected over the short-term by construction activities. Construction equipment would be dominant source of noise during the construction period. Construction is anticipated to be limited to daylight hours only and will be minimized through proper adherence to Department of Health requirements.

There are no anticipated adverse long-term impacts to air quality as a result of the proposed action.

8. Visual Resources

The existing picnic/rest stop facilities are provided by shade cloth on a galvanized pipe frame. The construction of the permanent pavilion and landscape improvements will improve the visual character of the area. The pavilion design, which includes a roof pitch reflecting traditional Hawaiian architectural character and the landscape improvements will provide an attractive feature in the Harbor area. Since the basement will be constructed below the existing and finish grade the pavilion will be viewed as a single story structure. The open walls of the pavilion and surrounding kiawe trees will also serve to mitigate the visual impact of the structure.

B. SOCIO-ECONOMIC ENVIRONMENT

1. Population and Local Economy

On a short term basis, the project will support construction and construction-related employment.

Although the applicant currently employs approximately 40 full time employees on Lana'i (three at the project site), the proposed project will not have a direct impact on job creation since the improvements will not lead to an intensification of existing operations. Therefore, the employment related impacts of the project upon public service needs, such as police, medical facilities and schools are not considered significant.

C. INFRASTRUCTURE

1. Roadways

The proposed project is not anticipated to have any long term impacts on roadways. Most of the people utilizing the rest stop will be arriving by boat rather than the roadway system.

2. Water

An existing water meter currently provides water to the site and is mostly used for irrigation purposes as well as washing of eating and cooking utensils. These water uses will remain the same and are not anticipated to create a significant increase in average daily water demand.

3. Drainage

There will be a slight increase in runoff water due to the increase in impervious surface (pavilion roof). Runoff from the roof will be diverted to landscaped areas in order to lesson the amount of storm runoff entering the harbor. Given the extremely low level of annual rainfall for the area, drainage impacts are not considered to be significant.

4. Wastewater

There should be no net increase in wastewater generation at the harbor since the proposed action would not result in an intensification of use in the area. Development of restrooms in the rest area pavilion would lesson the load on the State Restroom facilities which are serviced by a cesspool. The wastewater flows will be handled via the existing septic tank system on-site in conformance with the State Department of Health rules and regulations regarding wastewater disposal (Chapter 62, Hawaii Administrative Rules).

IV. RELATIONSHIP TO GOVERNMENT PLANS, POLICIES AND CONTROLS

A. STATE LAND USE DISTRICTS

The Hawaii Land Use Law, Chapter 205, Hawaii Revised Statutes, establishes four major land use districts in which all lands in the State are placed. These districts are designated "Urban," "Rural," "Agriculture," and "Conservation." The subject property is located within the "Conservation" District Limited ("L") Subzone classification.

The objective of the conservation district "Limited" subzone is to limit uses where natural conditions suggest constraints on human activities. Areas encompassed by this district include land susceptible to floods and soil erosion and lands undergoing major erosion damage requiring corrective attention by the county, state, or federal governments. Much of the lands around the coast of Lanai have been placed in the conservation district because of their severely eroded condition. Lands mauka of Manele Bay were major contributors to non-point source pollution via soil erosion, and as a result a siltation basin was constructed just north of the project site. Lands within the immediate vicinity of the harbor are relatively flat, consisting of fill from harbor dredging activities. The semi-improved nature of the harbor area, it's relatively flat topography, the presence of fill or vegetation and lack of exposed or severely eroded areas, distinguish the harbor area from

lands immediately mauka of the bay and around the coastal portions of the Lanai.

The unvegetated portion of the project site is considered susceptible to erosion, however, the landscape improvements included in the proposed project should reduce this potential significantly. In addition, mitigation measures noted above will be implemented during construction to minimize the potential for soil erosion.

In sum, the project site does not appear to suggest any constraints due to natural conditions which characterize the surrounding area and appropriate measures will be implemented to protect sensitive marine ecosystems from non-point source pollution during the construction phase.

The State land at Manele Bay Small Boat Harbor was set aside "For construction, operation and maintenance of a Small Boat Marina and appurtenant facilities. . . " by Governor's Executive Order (E.O.) No. 2141 dated June 2, 1964. The use by the applicant of a portion of the harbor for a picnic/rest stop is in conformance with the purposes set forth in the E.O., and as such a Conservation District Use Permit is not required.

B. GENERAL PLAN OF THE COUNTY OF MAUI

The General Plan of the County of Maui (1990 update) provides long term goals, objectives and policies directed toward the betterment of living conditions in the county. Addressed are social, environmental, and economic issues which influence future growth in Maui County. The following General Plan objectives are addressed by the proposed project:

Objective: To encourage exceptional and continuing quality in the development of visitor industry facilities.

Objective: To provide high-quality recreational facilities to meet the present and future needs of our residents of all ages and physical abilities..

The provision of a passenger rest stop and harbor service center is consistent with the above objectives.

C. LANA'I COMMUNITY PLAN

Nine (9) community plan regions have been established in Maui County. Each Region's growth and development is guided by a Community Plan which contains objectives and policies in accordance with the County General Plan. The purpose of the Community Plan is to outline a relatively detailed agenda for carrying these out.

The proposed project is located within Project District I (Manele) identified in the proposed Lana'i Community Plan (June 1994). In reference to this project district, the Lana'i Community Plan states, "Limiting commercial use to the hotel, golf clubhouse and Manele Bay Small Boat Harbor areas will compliment the objectives of the Manele Hulopo'e Marine Conservation District."

The Community Plan also notes that "daily visitor traffic from Maui is manifested in employment opportunities for Lana'i residents, as well as environmental concerns related to visitor-related activities."

The Community Plan supports the implementation of "adequate land-side support areas for small boating facilities in accordance with the recommendations of the Manele Boat Harbor Advisory Committee."

The applicant presented the proposed project to the Manele Boat Harbor Advisory Committee in April, 1994. The Committee recommended various design modifications which have been incorporated into the project plans. These include the following: moving the building toward the west property line, moving the entrance to the basement to the northwest elevation, providing that all hardscape improvements will be located within the subject leased

property, and providing a double pitch roof which more closely resembles plantation style architecture.

D. COASTAL ZONE MANAGEMENT PROGRAM

The proposed project is within the Special Management Area (SMA) and will require a SMA permit from the Lana'i Planning Commission. This section addresses the project's consistency with the Coastal Zone Management program objectives as established by the Rules and Regulations of the Lana'i Planning Commission and Chapter 205A, Hawaii Revised Statutes (§ 205A-2).

(1) Recreational resources;

- (A) Provide coastal recreational opportunities accessible to the public.**

Manele Bay Boat Harbor currently provides coastal recreation opportunities to the public. The establishment of the harbor service center is intended to provide amenities for harbor users. The passenger rest stop is intended to provide improvements to Trilogy's existing rest stop and picnic area. The proposed facilities are considered modest improvements to the harbor and would further promote recreational use of the harbor.

(2) Historic resources;

- (A) Protect, preserve and, where desirable, restore those natural an manmade historic and prehistoric resources in the coastal zone management area that are significant in Hawaiian and American history and culture.**

There are no known archaeological resources at the project site and there is no anticipated impact on such resources.

(3) Scenic and open space resources;

- (A) Protect, preserve and, where desirable, restore or improve the quality of coastal scenic and open space resources.**

A significant portion of the project site is currently unimproved and consists of exposed harbor tailings from harbor dredging activities. The proposed landscape improvements are intended to improve the quality of this area and would decrease the potential for sediments from storm runoff entering the harbor. The existing picnic/rest stop facilities are provided by shade cloth on a galvanized pipe frame. The construction of the permanent pavilion and landscape improvements will improve the visual character of the area. The pavilion design, which includes a roof pitch reflecting traditional Hawaiian architectural character and the landscape improvements will provide an attractive feature in the Harbor area. Since the basement will be constructed below the existing and finish grade the pavilion will be viewed as a single story structure. The open walls of the pavilion, proposed landscape plantings and the existing kiawe trees will also serve to mitigate the visual impact of the structure.

(4) Coastal ecosystems;

- (A) Protect valuable coastal ecosystems, including reefs, from disruption and minimize adverse impacts on all coastal ecosystems.**

Negative impacts to Manele Bay are not expected to occur. During the construction phase the following mitigation measures would be implemented:

- 1) Minimize the time of construction.
- 2) Establish ground cover as early as possible after grading and excavation activities are complete.
- 3) Use temporary berms, cut off ditches and silt curtains where needed to prevent soil erosion into Manele Bay.

4) Perform all grading operations in conformance with the applicable provisions of the Water Pollution Controls and Water Quality Standards of Public Health Regulations of the State of Hawaii, Department of Health and chapter 20.08, Maui County Code.

Over the long term, the project will provide a vegetative landcover over an area which is presently exposed harbor tailings. This should reduce the potential for sediments from storm runoff from entering the harbor.

In addition, development of restrooms in the rest area pavilion would lesson the load on the State Restroom facilities which are serviced by a cesspool. The wastewater flows will be handled via an existing septic tank system in conformance with the State Department of Health rules and regulations regarding wastewater disposal (Chapter 62, Hawaii Administrative Rules). The potential for negative impacts from a cesspool are considered much greater than from a properly functioning septic tank system.

- (5) Economic uses;**
(A) Provide public or private facilities and improvements important to the State's economy in suitable locations.

The proposed project is intended to provide improvements to Manele Small Boat Harbor in order to better accommodate existing users of the facility. The proposed location is preferred because of it's centrality and convenience to the general boating community as well as Trilogy Corporation.

- (6) Coastal hazards;**
(A) Reduce hazard to life and property from tsunami, storm waves, streams flooding, erosion, subsidence and pollution.

The proposed project has been designed (and will be constructed) to minimize the potential for erosion, subsidence, pollution and damage from storm waves, flooding or tsunami.

- (7) **Managing development;**
(A) **Improve the development review process, communication, and public participation in the management of coastal resources and hazards.**

The proposed project is subject to the public disclosure and review through the *environmental impact review process* established through Chapter 343, HRS, as well as the SMA permit process which involves a public hearing before the Lana'i Planning Commission. In addition, prior to the initiation of these formal review processes, the applicant presented early conceptual designs to the Manele Harbor Advisory Committee. The Committee recommend various site design and architectural modifications which have been incorporated into the project. These include: moving the building toward the west property line, moving the entrance to the basement to the northwest elevation, providing that all hardscape improvements will be located within the subject leased property, and providing a double pitch roof which more closely resembles plantation style architecture.

- (8) **Public participation;**
(A) **Stimulate public awareness, education, and participation in coastal management.**

The Division of Boating and Recreation is committed to public participation and involvement in the management and long range planning of it's facilities. On Lana'i, the Manele Harbor Advisory Committee, set up and staffed by DOBOR, has provided valuable input and recommendations regarding the Harbor facility and was instrumental in developing the Master Plan for the Manele Small Boat Harbor.

- (9) **Beach protection;**
(A) **Protect beaches for public use and recreation.**

The proposed project will not have a direct impact on public beaches or the shoreline. The project area does not abut the shoreline and the

proposed structure is setback towards the rear (west) of the leased area.

E. REQUIRED PERMITS

As noted above, the project will require a SMA permit from the Lana'i Planning Commission. In addition, the project will require a building permit from the County of Maui and septic system approval from the State Department of Health.

V. FINDINGS AND CONCLUSIONS

The proposed Manele Bay Pavilion will provide a passenger rest stop and harbor service center. This facility will replace the shade cloth covered picnic area currently utilized by the applicant as well as provide food, drink and sundry sales. It will service tour operators, hotel guests, Lanai residents, sea transit passengers, and the boating community using the harbor facilities.

The proposed project will involve earthwork and construction activities. In the short term, these activities may generate temporary nuisances normally associated with construction activities. The potential for soil erosion during construction will be minimized through appropriate mitigation measures. All construction activities are anticipated to be limited to normal daylight working hours. Impacts generated from construction activities are not considered significant.

From a long-term perspective, the proposed project is not anticipated to result in adverse environmental impacts. The proposed project is not anticipated to have an adverse effect upon public service needs, such as police, medical facilities and schools. In addition, the impact upon roadways, water, wastewater, drainage and other infrastructure systems are not considered significant. The rest stop and harbor service center represent a continuation of existing land use, and are consistent with surrounding harbor-related activities.

In light of the foregoing findings, it is concluded that the proposed action will not result in any significant impacts.

VI. AGENCIES CONSULTED IN THE PREPARATION OF THE DRAFT ENVIRONMENTAL ASSESSMENT

The following agencies were consulted in preparing this environmental assessment:

County of Maui:

Department of Planning

Department of Public Works

State of Hawaii:

Department of Land and Natural Resources

Division of Boating and Recreation

Manele Boat Harbor Advisory Committee

VII. PUBLIC COMMENT

The following individuals and agencies provided comments on the Draft EA. The comment letters and responses can be found in Appendix A. This Final EA has been amended where appropriate based on the comments received.

Office of Environmental Quality Control
Office of State Planning
Manele Bay Harbor Advisory Committee
Mr. Ron McOmber
Ms. Patricia Tummons

REFERENCES

Armstrong, R. Warwick, (ed.) Atlas of Hawaii. University of Hawaii Press, 1991.

Belt Collins and Associates, 1991. Manele Golf Course and Golf Residential Project, Lana'i, Hawaii: Final Environmental Impact Statement.

County of Maui, Maui Planning Department. Community Plan Update: Proposed Lana'i Community Plan. June 1994.

County of Maui, Maui Planning Department. *The General Plan of the County of Maui*. 1990 Update.

Letter from Keith Ahue, Director, Department of Land and Natural Resources to Ron McComber, Manele Harbor Advisory Committee, September 27, 1993.

State of Hawaii, Department of Land and Natural Resources, Division of Boating and Ocean Recreation. Boating Lease No. B-93-02 between State of Hawaii and Trilogy Corporation. November 1993.

U.S. Department of Agriculture, Soil Conservation Service in cooperation with the University of Hawaii Agricultural Experiment Station. Soil Survey of Islands of Kauai, Oahu, Maui, Molokai, and Lanai. State of Hawaii, 1972.

Appendix A -
Draft EA Comments and Responses



STATE OF HAWAII
OFFICE OF ENVIRONMENTAL QUALITY CONTROL

228 SOUTH KING STREET
FOURTH FLOOR
HONOLULU, HAWAII 96813
TELEPHONE 551-2611
FACSIMILE 551-2611

March 24, 1995

Mr. David Parsons
Department of Land and Natural Resources
Division of Boating and Ocean Recreation
333 Queen Street, Suite 300
Honolulu, Hawaii 96813

Dear Mr. Parsons:

Subject: Draft Environmental Assessment for the Manele Bay
Passenger Rest Stop

The proposed project involves the construction of a passenger rest area pavilion, basement and landscape improvements within Manele Bay Small Boat Harbor on the island of Lanai's south coast. The proposed project is located within an area of 18,436 square feet leased to the applicant by the State of Hawaii. Manele Bay Small Boat Harbor is owned and operated by the State of Hawaii. The project site is currently used as a rest stop and assembly area for the applicant's charter groups and passengers. Existing improvements consist of a temporary structure made of a galvanized pipe frame and shade cloth. The proposed improvements are intended to provide a more permanent replacement of the existing shelter facilities.

We have reviewed the Draft Environmental Assessment for the Manele Bay Passenger Rest Stop and have the following comments:

1. Please describe how the project meets the objectives of the State Conservation District and Coastal Zone Management Program. Indicate whether CDUP and SMA permits will be needed for the project. If permits are not required, please obtain clearances from DLNR's Office of Conservation and Environmental Affairs and OSP's Coastal Zone Management Program.
2. The proposed project is located within an area of 18,436 square feet leased to the applicant by the State of Hawaii. The lease to the applicant should clearly state the terms and conditions for public versus commercial uses--who has

GARY GILL
DIRECTOR

35 MAR 28 1995
BOATING DIVISION

Mr. Parsons
March 24, 1995
Page 2

priority. We believe that the public rights should always come first. Areas for public use should be clearly identified with the appropriate signage.

3. What is the estimated cost of the project, length of the construction time, and intensity of use by the leassa (how many customers are expected to use the facility and when).
4. Please list all the alternatives that have been considered (by the applicant or the community) for this project.
5. The exceptional quality of marine communities within Manele Bay has been acknowledged through the designation of the area as a Marine Life Conservation District. Please list all the specific measures that will be performed to mitigate impacts to the waters of Manele Bay.

If you have any questions, please call Jeyan Thirugnanam at 586-4185. Thank you for the opportunity to comment.

Sincerely,

Gary Gill
Director

c: Mr. Michael Wilson, DLNR
Trilogy Corporation
Chris Hart and Partners



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
DIVISION OF BOATING AND OCEAN RECREATION
333 QUEEN STREET, SUITE 300
HONOLULU, HAWAII 96813

MICHAEL D. WILSON
CHAIRMAN
BOARD OF LAND AND NATURAL RESOURCES
DAVID W. WILSON
DIRECTOR
BOATING & COASTAL ZONE

Gary Gill
June 7, 1995
Page 2

BOR-PH3077.95

June 7, 1995

The Honorable Gary Gill, Director
Office of Environmental Quality Control
220 South King Street, Fourth Floor
Honolulu, Hawaii 96813

Dear Director Gill:

Subject: Manele Bay Passenger Rest Stop Draft Environmental Assessment, Manele Boat Harbor, Island of Lanai

Thank you for providing comments on the Manele Bay Passenger Rest Stop Draft Environmental Assessment (EA). This letter will respond to your comments which addressed issues related to the Draft EA.

The following responses are presented in the order they were presented in your letter dated March 24, 1995.

1. The proposed project is within the Special Management Area (SMA) and will require a SMA permit from the Lana'i Planning Commission. A section will be added to the Final EA addressing the Coastal Zone Management program objectives as established by the Rules and Regulations of the Lana'i Planning Commission, a copy of this analysis is attached hereto.
2. The provisions of Boating Lease No. B-93-2 do not require the lessee to provide areas for public use. The lease does require the lessee to landscape over 16,000 square feet of the premises and allows them to provide tables, benches, trash receptacles, etc. for use by their customers and the general public. Installation of signage on the premises is restricted to the improvements and appurtenant equipment and must conform to the sign ordinance of the County of Maui and be approved by the State.
3. The estimated construction cost of the project is approximately \$250,000.00. It is anticipated that construction would take approximately six months.

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ROY EVANS

As stated in the Draft EA, the lessee will utilize the pavilion in the same manner and intensity as is presently occurring. The majority of activity typically occurs during lunch time hours (11:00 a.m. to 2:00 p.m.). It is important to note that normal customer levels fluctuate throughout the year and are dependant on weather, the tourism industry and special charter group needs. During busy months (January through April and July and August) typical number of lunch customers range between 120 and 150 per day, Monday through Friday. Slower months see typical numbers of around 70 to 90 customers. Guests are usually fed during three sittings and weekends are usually slower than weekdays. (Paying customers are not taken to Hulapoe Beach on weekends). Again, these levels are averages and fluctuate during any given week and throughout the year.

A slight increase in activity at the project area is expected to occur with the addition of the harbor service center, however, given the low level of traffic at Manele Harbor, this is expected to be minimal. The provision of the harbor service center is intended to accommodate the existing level of users at the harbor and is not anticipated to stimulate additional boating activity at the harbor.

4. The following alternatives have been considered:

No Action. This alternative involves making no improvements to the existing passenger rest area. At present, existing facilities consist of a temporary structure made of galvanized pipe frame and shade cloth. Approximately half of the 18,436 square foot area which is currently leased is not landscaped and consists of original tailings from harbor dredging activities. A primary goal of the proposed action is to improve the visual character of the area by providing a permanent replacement of the existing facilities and a landscape planting plan. Another primary objective is to provide basic services for harbor users. The no action alternative would not meet these two primary objectives.

Alternative Site within Manele Boat Harbor. An alternative site within the northeast section of the harbor was considered. This alternative was proposed by the Manele Harbor Advisory Committee and preliminarily agreed to by Trinity Corporation. However, we rejected this site because it would not be centrally located for the harbor users. The objective of the Division of Boating and Ocean Recreation (DBOR) is to provide a harbor service center which is accessible to the harbor users. The northeast section of the harbor is on the opposite side of the harbor from the

boat ramp and mooring areas. This alternative was determined to be a violation of accepted best management practices for small boat harbors and marinas regarding siting of service facilities.

Passenger Rest Stop Pavilion without the Harbor Service Center. The inclusion of the Harbor Service Center in the project was in response to a Lana'i boaters survey conducted by DBOR and the Advisory Committee. Results of the survey are included as an appendix to the Manele Harbor Master Plan. The following percentage of survey respondents felt the associated services or improvements should be provided at Manele:

40.6%	Fuel
25.0%	Ice
62.5%	More Park Area
40.6%	Want Manele Harbor enhanced
65.5%	Want fast food

Thus, we felt that inclusion of the Harbor Service Center at Trilogy's passenger rest area was important and included it as a requirement of the lease agreement.

Alternative Site Plan. An earlier site plan had located the pavilion closer to the easement (makai) property line, with the Harbor Service Center along this east elevation. In this alternative, the Harbor Service Center would be easily accessible and visible to harbor users and would be situated in a more open and friendly environment. In response to recommendations from the Manele Harbor Advisory Committee, however, the pavilion was moved to the rear (west) of the site and the Harbor Service Center moved to the north elevation, out of direct view from harbor users.

5. Negative impacts to Manele Bay are not expected to occur. During the construction phase, the following mitigation measures would be implemented in order to mitigate potential impacts to the waters of Manele Bay:

- Minimize the time of construction.
- Establish ground cover as early as possible after grading and excavation activities are complete.
- Use temporary berms, cut off ditches and silt curtains where needed to prevent soil erosion into Manele Bay.


- Perform all grading operations in conformance with the applicable provisions of the Water Pollution Controls and Water Quality Standards of Public Health Regulations of the State of Hawaii, Department of Health and chapter 20.08, Maui County Code.

Over the long term, the project will involve providing vegetative landcover over an area which is presently exposed harbor fillings. This should reduce the potential for sediment from storm runoff from entering the harbor.

In addition, development of restrooms in the rest area pavilion would lessen the load on the State comfort station facilities which are serviced by a cesspool. The wastewater flows will be handled via an existing septic tank system in conformance with the State Department of Health rules and regulations regarding wastewater disposal (Chapter 62, Hawaii Administrative Rules). The potential for negative impacts from a cesspool are considered much greater than from a properly functioning septic tank system.

I hope the foregoing adequately addresses the concerns you have regarding this project. If you have any questions, you or your staff may call Larry Cobb, Property Manager, at Ext. 7-1978.

Very truly yours,


David E. Parsons
State Boating Administrator

Attachments



CHRIS
HART
& PARTNERS

May 22, 1995

Mr. Gary Gill, Director
Office of Environmental Quality Control
220 South King Street, 4th Floor
Honolulu, Hawaii 96813

Dear Mr. Gill:

Subject: Draft Environmental Assessment for the Manele Bay Passenger Rest Stop

Thank you for providing comments on the Manele Bay Passenger Rest Stop Draft Environmental Assessment (EA). This letter will respond to your comments which addressed issues related to the Draft EA. The Department of Land and Natural Resources (DLNR) will respond to you directly regarding Conservation District Use Application (CDUA) requirements and lease issues.

The following responses are presented in the order they were presented in your letter dated March 24, 1995.

1. The proposed project is within the Special Management Area (SMA) and will require a SMA permit from the Lana'i Planning Commission. A section will be added to the Final EA addressing the objectives of the Conservation District and Coastal Zone Management program objectives as established by the Rules and Regulations of the Lana'i Planning Commission. A copy of the SMA analysis is attached hereto. (The issue of CDUA requirements to be addressed by DLNR.)
2. (Issues relating to lease terms and conditions will be responded to by DLNR.)
3. The estimated construction cost of the project is approximately \$250,000. It is anticipated that construction would take approximately six months.
As stated in the Draft EA, Trilogy Corp. does not expect a significant increase in use after project completion. As with any normal business, Trilogy Corp. anticipates modest growth, however, this is dependent on the health of the tourism industry and will not be directly affected by the proposed project.
Estimates of anticipated use are based on existing activity. It is important to note that normal customer levels fluctuate throughout the year and are dependent on weather, the tourism industry and special charter group needs. The majority of activity typically occurs during lunch time hours, although the applicant also accommodates special functions of the community and the hotel periodically. During busy months (January through April and July and August) typical number of lunch customers range between 120 and 150 per day, Monday through Friday. Slower months see typical numbers of around 70 to 80 customers. Guests are

LANDSCAPE ARCHITECTURE AND PLANNING

1055 MAHANA STREET, SUITE 200 - WAHAIKI, HAWAII 96793-1706 - PHONE: 508-242-1055 - FAX: 508-242-1174

Mr. Gary GE, OECC
May 22, 1995
Page 2

usually fed during three sittings and weekends are usually slower than weekdays. (Paying customers are not taken to Hulapoe Beach on weekends.) Again, these levels are averages and fluctuate during any given week and throughout the year.

A slight increase in activity at the project area is expected to occur with the addition of the harbor service center, however, given the low level of traffic at Manele Harbor, this is expected to be minimal. The provision of the harbor service center is intended to accommodate the existing level of users at the harbor and is not anticipated to stimulate additional boating activity at the harbor.

4. The following alternatives have been considered:

No action. This alternative involves making no improvements to the existing passenger rest area. At present, existing facilities consist of a temporary structure made of galvanized pipe frame and shade cloth. A significant portion of the 18,436 sq. ft. area which is currently leased is not landscaped and consists of original tailings from harbor dredging activities. A primary goal of the proposed action is to improve the visual character of the area by providing a permanent replacement of the existing facilities and a landscape planting plan. Another primary objective is to provide basic services for harbor users. The no action alternative would not meet these two primary objectives.

Alternative site within Manele Small Boat Harbor. An alternative site within the northeast section of the harbor was considered. This alternative was proposed by the Manele Harbor Advisory Committee and preliminarily agreed to by Trilogy Corporation, however, the State Division of Boating and Recreation's (DOBOR's) administrative offices rejected this site because it would not be centrally located for harbor users. The objective of the DOBOR is to provide a harbor service center which is accessible to the harbor users. The northeast section of the harbor is on the opposite side of the harbor from the boat ramp and mooring areas. This alternative would violate accepted best management practices for small boat harbors and marinas regarding siting of service facilities.

Passenger Rest Stop Pavilion without the Harbor Service Center. The inclusion of the Harbor Service Center in the project plans was in response to a Lana'i boaters survey conducted by DOBOR. Results of the survey are included as an appendix to the Manele Harbor Master Plan. The following percentage of survey respondents felt the associated services or improvements should be provided at Manele:

40.6%	Fuel
25.0%	Ice
62.5%	More Park Area
40.6%	Want Manele Harbor enhanced
65.5%	Want fast food

Thus, DOBOR felt that inclusion of the harbor service center at Trilogy's passenger rest area was important and included it as a requirement of the lease agreement.

Alternative Site Plan. An earlier site plan had located the pavilion closer to the east (makai) property line, with the harbor service center along this east elevation. In this alternative, the harbor service center would be easily accessible and visible to harbor users and would be situated in a more open and friendly environment. In response to recommendations from the Manele Harbor Advisory Committee, however, the pavilion was moved to the rear (west) of the site and the harbor center moved to the north elevation, out of direct view from harbor users.

5. Negative impacts to Manele Bay are not expected to occur. During the construction phase the mitigation measures listed above will be implemented in order to mitigate potential impacts to the waters of Manele Bay:

- 1) Minimize the time of construction.
- 2) Establish ground cover as early as possible after grading and excavation activities are complete.
- 3) Use temporary berms, cut off ditches and silt curtains where needed to prevent soil erosion into Manele Bay.
- 4) Perform all grading operations in conformance with the applicable provisions of the Water Pollution Controls and Water Quality Standards of Public Health Regulations of the State of Hawaii, Department of Health and chapter 20.08, Maui County Code.

Over the long term, the project will provide vegetative landcover over a portion of the site which is presently exposed harbor fillings. This should reduce the potential for sediment from storm runoff from entering the harbor.

In addition, development of restrooms in the rest area pavilion would lessen the load on the State Restroom facilities which are serviced by a cesspool. The wastewater flows will be handled via an existing septic tank system in conformance with the State Department of Health rules and regulations regarding wastewater disposal (Chapter 62, Hawaii Administrative Rules). The potential for negative impacts from a cesspool are considered much greater than from a properly functioning septic tank system.

Thank you for reviewing and commenting on the Draft EA. If there are any questions, please contact Mr. Roly Frampton of my office.

Sincerely,

CHRISTOPHER L. HART
Landscape Architect - Planner

encl.

cc: DOBOR
Trilogy Corp.
Maui Planning Dept.

OFFICE OF STATE PLANNING

Office of the Governor
MAUI ADDRESS: P.O. BOX 3000, MAUI, HAWAII 96750
TELEPHONE: (808) 241-2000 FAX: (808) 241-2001

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DLJR
OCEA

Ref. No. C-1110

March 24, 1995

RECEIVED
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DEPT. OF LAND & NATURAL RESOURCES
STATE OF HAWAII

MEMORANDUM

TO: The Honorable Michael D. Wilson, Chairperson
Department of Land and Natural Resources

FROM: Gregory G. Y. Pai, Ph. D., Director

SUBJECT: Manele Bay Passenger Rest Stop Draft Environmental Assessment
(Manele Bay, Lanai, Hawaii)

We have reviewed the draft environmental assessment for the Manele Bay Passenger Rest Stop project and have the following concerns.

In our view, the document is incomplete. It does not include a discussion of alternatives, such as the no action alternative, and proposed mitigation measures as required by Chapter 343, HRS. In addition, it does not discuss conformance with applicable programs and permits such as conservation land use and Coastal Zone Management (CZM) programs. This makes a comprehensive assessment of the potential environmental impacts difficult.

Manele Bay is an exceptional aquatic ecosystem as evidenced by its Marine Life Conservation District (MLCD) designation. Through the MLCD, conservation district use, and other programs, these unique marine environments are protected by prohibiting activities in the surrounding areas that may disturb, degrade, or adversely impact it. In this regard, the environmental assessment does not adequately demonstrate the compatibility of the commercial convenience shop and harbor service center operations with the MLCD, nor how environmental and ecological degradation will be avoided.

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The Honorable Michael D. Wilson
Page 2
March 24, 1995

In addition, a Conservation District Use Application (CDUA) may be required, given that the project is situated in the conservation district limited (L) subzone. This classification allows the building of structures and accessory uses only if they are consistent with the purpose of the conservation district, which is to limit uses where natural conditions suggest constraints on human activities. This relationship is not discussed.

As a valuable coastal resource, Manele Bay is also protected under the CZM law, Chapter 205A, HRS. A legally enforceable objective of the CZM law is to preserve the quality of coastal resources, by protecting unique coastal ecosystems from disruption and minimizing potential adverse impacts. Given the environmental and ecological value of Manele Bay, we believe that the concept of a rest stop and harbor service center is incompatible with the natural environment. If adverse environmental and ecological impacts result, the project would violate the CZM law. This matter needs to be addressed.

In addition, the project site is in the Special Management Area (SMA) and therefore may require an SMA permit from the Lanai Planning Commission. This permit ensures that development is designed to avoid the loss or degradation of valuable resources, and to provide for adequate public access to beaches, recreation areas, and natural reserves.

The environmental assessment should address and discuss the omissions in the draft environmental assessment, in order to allow for a comprehensive review of the potential impacts that could be generated by the project.

Thank you for the opportunity to review and comment on the document. If there are any questions, please contact Harold Lao at 587-2883.



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
P. O. BOX 211
HONOLULU, HAWAII 96821

REF: BOR-PW/LC June 7, 1995

MEMORANDUM

TO: The Honorable Gregory G.Y. Pai, Ph.D., Director
Office of State Planning

FROM: Michael D. Wilson, Chairperson
Board of Land and Natural Resources

SUBJECT: Manele Bay Passenger Rest Stop Draft Environmental
Assessment, Manele Boat Harbor, Island of Lanai
(OSP Ref. No. C-1110)

Thank you for your memorandum of March 24, 1995 and comments pertaining to the subject Draft Environmental Assessment. After discussions with my staff, I would like to offer the following response to the questions you raised.

The Lessee and its consultant concur that the Final Environmental Assessment must be amended to include a discussion of alternatives, mitigation measures and compliance with the objectives of the Coastal Zone Management program. The Lessee's planner provided a draft of the amendments for the Final EA, a copy of which is enclosed for your information.

The mitigation measures that will be included in the Final EA addresses the impact on the aquatic ecosystem in the Marine Life Conservation District. Over the long term, this project is expected to have a positive impact on the water quality in Manele Bay due to the introduction of additional landscaping and the resulting decrease in run-off into harbor.

The Manele Boat Harbor was set aside by Governor's Executive Order No. 2141 "For construction, operation and maintenance of a Small Boat Marina and appurtenant facilities..." The land was subsequently classified as Subzone "L" of the Conservation District in October 1984 with the structures and usage specified by the E.O. being recognized as existing nonconforming uses. Trilogly Corporation has been conducting commercial boating operations at the harbor for over twenty years. Its use of a portion of the harbor for this purpose is considered to be in conformance with the E.O. The additional uses were identified by the boating community responding to a survey distributed in connection with the development of the Master Plan for the Manele

MICHAEL D. WILSON
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
OFFICE OF STATE PLANNING
P. O. BOX 211
HONOLULU, HAWAII 96821

ADVISORY SERVICES
PLANNING
ARCHITECTURE
LANDSCAPE ARCHITECTURE
LAND USE PLANNING
ENVIRONMENTAL PLANNING
LAND AND NATURAL RESOURCES
STATE PLANNING
MARINE AND LIFE DEVELOPMENT

Gregory G.Y. Pai
June 7, 1995
Page 2

Boat Harbor. The enclosed Appendix II to the Manele Boat Harbor Master Plan reflects the complete results of that survey. Since the subject project is consistent with the purpose of the E.O., a Conservation District Use Application was not required. Enclosed for your information is a copy of the memorandum dated May 10, 1995 from Roger C. Evans, Administrator, Office of Conservation and Environmental Affairs, and the letter dated September 27, 1993 from former Land Board Chairperson Keith W. Ahue, disclosing the basis for the position that a CDUA is not required for this project.

The project's impact on the marine waters of the Coastal Zone Management area was previously discussed under the mitigation measures. As mentioned, no negative impact on the marina waters is expected pertaining to either the construction of improvements or the on-going operations. Further, the project promotes the objectives described in Chapter 205A-4, HRS by enhancing the recreational value of the harbor facility and is consistent with the CZM recognition of the need for economic development.

Trilogy Corporation is a significant economic factor for the island of Lana'i. It provides jobs and income to over forty families and helps diversify the island's narrow economic base.

The terms of Boating Lease No. B-93-2 require the Lessee to apply for a Special Management Area permit, prepare an Environmental Assessment and stipulates that the Lessee shall comply with all applicable laws, statutes, ordinances, building codes, and rules and regulations. The Environmental Assessment is a requisite for the SMA permit application that will be submitted to the Lana'i Planning Commission.

I hope the foregoing adequately addresses the concerns you have regarding this project. If you have any questions, you may call Larry Cobb, Boating Division Property Manager, at Ext. 7-1978.

Attachments



CHRIS HART & PARTNERS
May 15, 1995

Gregory G. H. Pai, Ph. D., Director
Office of State Planning
P.O. Box 3540
Honolulu, Hawaii 96811-3540

Dear Dr. Pai:

Subject: Manele Bay Passenger Rest Stop Draft Environmental Assessment (Manele Bay, Lana'i, Hawaii); OSP Ref. No. C-1110

Thank you for responding to the above referenced Draft Environmental Assessment (EA). The following responses addresses your comments in the order they were presented.

1. A discussion of the alternatives considered will be included in the Final EA. For your information they are presented below.

No action. This alternative involves making no improvements to the existing passenger rest area. At present, existing facilities consist of a temporary structure made of galvanized pipe frame and shade cloth. A significant portion of the 18,436 sq. ft. area which is currently leased is not landscaped and consists of original tallings from harbor dredging activities. A primary goal of the proposed action is to improve the visual character of the area by providing a permanent replacement of the existing facilities and a landscape planning plan. Another primary objective is to provide basic services for harbor users. The no action alternative would not meet these two primary objectives.

Alternative site within Manele Small Boat Harbor. An alternative site within the northeast section of the harbor was considered. This alternative was proposed by the Manele Harbor Advisory Committee and preliminarily agreed to by Trilogy Corporation, however, the State Division of Boating and Recreation's (DOBOR's) administrative offices rejected this site because it would not be centrally located for harbor users. The objective of the DOBOR is to provide a harbor service center which is accessible to the harbor users. The northeast section of the harbor is on the opposite side of the harbor from the boat ramp and mooring areas. This alternative would violate accepted best management practices for small boat harbors and marinas regarding siting of service facilities.

Passenger Rest Stop Pavilion without the Harbor Service Center. The inclusion of the Harbor Service Center in the project plans was in response

to a Lanai boaters survey conducted by DOBOR. Results of the survey are included as an appendix to the Manele Harbor Master Plan. The following percentage of survey respondents felt the associated services or improvements should be provided at Manele:

- 40.6% Fuel
- 25.0% Ice
- 62.5% More Park Area
- 40.6% Want Manele Harbor enhanced
- 65.5% Want fast food

Thus, DOBOR felt that inclusion of the harbor service center at Trilogy's passenger rest area was important and included it as a requirement of the lease agreement.

Alternative Site Plan. An earlier site plan had located the pavilion closer to the east (makai) property line, with the harbor service center along this east elevation. In this alternative, the harbor service center would be easily accessible and visible to harbor users and would be situated in a more open and friendly environment. In response to recommendations from the Manele Harbor Advisory Committee, however, the pavilion was moved to the rear (west) of the site and the harbor center moved to the north elevation, out of direct view from harbor users.

2. The Final EA will include specific mitigation measures which will be implemented during construction activities to minimize the potential of soil erosion. These include the following:

- 1) Minimize the time of construction.
- 2) Establish ground cover as early as possible after grading and excavation activities are complete.
- 3) Use temporary berms, cut off ditches and silt curtains where needed to prevent soil erosion into Manele Bay.
- 4) Perform all grading operations in conformance with the applicable provisions of the Water Pollution Controls and Water Quality Standards of Public Health Regulations of the State of Hawaii, Department of Health and chapter 20.08, Maui County Code.

3. Negative impacts to Manele Bay are not expected to occur. During the construction phase the mitigation measures listed above will be implemented in order to mitigate potential impacts to the waters of Manele Bay.

Over the long term, the project will provide vegetative landcover over a portion of the site which is presently exposed harbor fillings. This should reduce the potential for sediments from storm runoff from entering the harbor.

In addition, development of restrooms in the rest area pavilion would lessen the load on the State Restroom facilities which are serviced by a cesspool. The

wastewater flows will be handled via an existing septic tank system in conformance with the State Department of Health rules and regulations regarding wastewater disposal (Chapter 62, Hawaii Administrative Rules). The potential for negative impacts from a cesspool are considered much greater than from a properly functioning septic tank system.

In reference to the compatibility of the service center with the MLCDD, the proposed facilities are considered modest improvements to the harbor and would promote recreational use of the harbor and Manele Bay in approximately the same manner as is presently occurring. Thus, the proposed project will be ancillary to the normal harbor operations and will not be incompatible with the MLCDD.

4. The objective of the conservation district "Limited" subzone is to limit uses where natural conditions suggest constraints on human activities. Areas encompassed by this district include land susceptible to floods and soil erosion and lands undergoing major erosion damage requiring corrective attention by the county, state, or federal governments. Much of the lands around the coast of Lanai have been placed in the conservation district because of their severely eroded condition. Lands mauka of Manele Bay were major contributors to non-point source pollution via soil erosion, and as a result a siltation basin was constructed just north of the project site. Lands within the immediate vicinity of the harbor are relatively flat, consisting of fill from harbor dredging activities. The semi-improved nature of the harbor area, its relatively flat topography, the presence of fill or vegetation and lack of exposed or severely eroded areas, distinguish the harbor area from lands immediately mauka of the bay and around the coastal portions of the Lanai.

The unvegetated portion of the project site is considered susceptible to erosion, however, the landscape improvements included in the proposed project should reduce this potential significantly. In addition, mitigation measures noted above will be implemented during construction to minimize the potential for soil erosion.

In sum, the project site does not appear to suggest any constraints due to natural conditions which characterize the surrounding area and appropriate measures will be implemented to protect sensitive marine ecosystems from non-point source pollution during the construction phase.

(The issue of a CDUA requirement will be addressed by DLNR.)

5. We are unaware of any adverse environmental or ecological impacts which would provide you the basis for making the statement that the "concept of a rest stop and harbor service center is incompatible with the natural environment." As noted above, negative impacts to Manele Bay are not anticipated. The project has been contemplated and designed in order to be compatible with the natural environment.

Manele Harbor Advisory Committee

Lanai City, HI 96763

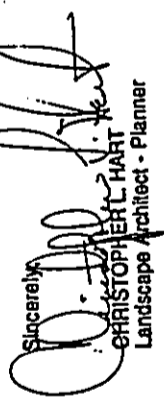
P.O. Box 491

March 23, 1995

The Final EA will provide additional documentation that there will be no adverse environmental or ecological impacts to the natural environment by adding a new section addressing potential impacts to the marine environment and identifying specific mitigation measures where appropriate.

- 6. The proposed project is within the Special Management Area (SMA) and will require a SMA permit from the Lanai Planning Commission. A section addressing the Coastal Zone Management program objectives and policies as established by the Rules and Regulations of the Lanai Planning Commission will be added to the Final EA and is enclosed herewith for your review.

Thank you for reviewing and commenting on the Draft EA. If there are any questions, please contact Mr. Rory Frampton of my office.

Sincerely,

 CHRISTOPHER L. HART
 Landscape Architect - Planner

encl.

cc: DOBOR
Trilogy Corp.
Maui Planning Department

Mr. Mike Wilson
 Chairman
 Department of Land and Natural Resources
 1151 Punchbowl Street
 Honolulu, HI 96813

Mr. Larry Cobb
 Department of Land and Natural Resources
 Division of Boating and Ocean Recreation
 79 South Nimitz Highway
 Honolulu, HI 96813

Mr. James Coon
 Trilogy Corporation
 P.O. Box 1118
 Lahaina, Maui, Hawaii, 96761

Chris Hart & Partners
 1955 Main Street
 Wailuku, Maui, HI 96793

Office of Environmental Quality Control
 220 South King Street, 4th Floor
 Honolulu, HI 96813

Re: COMMENTS FROM MEMBERS OF THE MANELE HARBOR ADVISORY COMMITTEE
 REGARDING THE "DRAFT ENVIRONMENTAL ASSESSMENT, TRILOGY CORPORATION'S MANELE BAY PASSENGER REST STOP, MANELE BAY, LANAI, HAWAII."

In the last paragraph of Section IV, C the applicant states that it "... presented the proposed project to the Manele Harbor Advisory Committee ..." and that the Committee recommended various design modifications which have been incorporated into the project plan."

The statements in this paragraph are accurate. However, they present only one small part of the story. In fact, they seem intended to imply that the Committee has reviewed, approved and concurs in all phases of this project. The Committee strongly objects to this implication. They particularly object to secretive and underhanded way in which the lease was negotiated, approved and signed.

Since the Committee first became aware that lease negotiations were in progress between the Division of Boating and Ocean Recreation and Trilogy Corporation, most of its members have strongly objected to the location of the lease parcel at the throat of the harbor's land entrance.

RECEIVED

MAR 27 1995

CHRISTOPHER L. HART
LANDSCAPE ARCHITECTURE & PLANNING

In addition, the Committee has consistently been kept in the dark with regard to the status and the terms and conditions of the lease. The Division of Boating and Ocean Recreation (totally disregarded).

The Master Plan for the Mānalo Small Boat Harbor, which had just been completed after two and one-half years of work (see Attachment 1). It recommended that when the planned private commercial area adjacent to the harbor is developed, commercial operations should be shifted there, freeing the limited acreage of the harbor for public use. Private signs and structures should not be permitted within the harbor area.

The Committee's compromise recommendation, and its agreement with Trilogy, to move the project to the northeast portion of the harbor area.

The requirement to open the new commercial operation (i.e. a convenience store) to bid.

Only when the Board of Land and Natural Resources had approved a lease at the throat of the land entrance to the harbor area was the Committee told that approval had already been obtained. Then only after the lease had been signed was it reviewed with the Committee and the Committee told "that it was too late ... to do anything except take DEOR to court".

The project was first brought to the attention of the Committee at their May, 27, 1993 meeting (see Attachment 2). At this meeting:

Larry Cobb, Property Manager Boating, Division of Boating and Ocean Recreation and Jim Coon, Trilogy Corporation gave, what appeared to be, a well rehearsed opening one/two punch.:

Larry Cobb presented his perceived "need for a commercial area on State Property ... to generate funds ...".

Jim Coon indicated that "He would like 1,500 - 15,000 sq. ft. (of) land for his Bar-B-Que, a conceptual pavilion to meet hotel standards, and whatever to meet the State's requirements for a long term lease."

Derrick Arruda expressed the feeling of most of the Committee members when he said, "Let's talk straight! I have come to every meeting and now what is going on? Why does Larry come after we (have) finished the Master Plan? We decided a long time ago to move commercial (operations) to private land (and) now I hear about a scuba shop, fuel dock, car rental and a privately run boat storage area. What is really wanted?"

Harold Campbell, Maui District Manager, DOT, suggested that we might "possibly relocate Trilogy to some other place in the harbor because of (the) possible long term impact."

Trilogy was charged to prepare and "present a proposal of what is needed, land size required, conceptual drawing, services provided to the public and the extent that it is to be used for private usage".

At the June 24, 1993 meeting (see Attachment 3):

Randy Coon, represented Trilogy:

He did not have a site/use plan as promised at the previous meeting. Therefore, Trilogy was once again charged with presenting a site/use plan at the next meeting.

He again agreed to relocate the Trilogy project "to some other place in the harbor".

He proposed to change the Master Plan to include a 18,000 sq. ft. lease. This was to include a "600 sq. ft. building, a 2400 sq. ft. roofed picnic area (and a 16,000 (sq.ft.) ... landscaped buffer area".

The August 26, 1993 session was an open public meeting (see Attachment 4):

Trilogy still did not have the requested site/use plan.

David Parsons, State Boating Manager stated that he had gotten "... approval from the Land (and Natural Resources) Board to convert Trilogy's permit into a long-term lease with conditions."

"The discussion became heated with regard to the location of Trilogy. Mr. Parsons noted that moving Trilogy to the mauka end would spread commercial operation over the entire area. He did not think this was the best use."

Harold Campbell "stated that the project must go out for bid." He also "... stated ... (that) the concept was to locate (Trilogy) ... mauka in the trailer storage area ...". Both of these statements were clearly 180° from David Parsons positions.

Larry Cobb said "The Land (and Natural Resources) Board (had) approved a thirty five year lease for the Trilogy operation. We have the approval, but we don't have a written lease yet, ..."

At the September 13, 1993 meeting (see Attachment 5):

Trilogy still did not have a site/use plan to show the Committee. It was beginning to appear that they had no intention of developing one.

Trilogy again agreed to move their project to the northeast section of the harbor. This agreement was reflected in the amendment to the minutes prior to their approval at the October 28, 1993 meeting (see Attachment 5).

"Mr Campbell noted that the Committee had not (been permitted to see) ... the Land (and Natural Resources) Board submittal." A copy was provided to be reproduced and provided to the members of the Committee. It should be noted that:

The submittal was dated June 10, 1993, three months before it was reluctantly provided to the Committee.

In spite of Trilogy's agreement to move the project to the northeast portion of the harbor it called for lease of 16,036 sq. ft. right at the throat of the harbor's land entrance.

At the October 28, 1993 meeting (see Attachment 6):

Trilogy still did not have the site/use plan which they had promised to provide.

"Mr. Campbell informed the (Committee) ... that the lease is currently at the attorney general's office for review."

Ron McOmber, noted (as Harold Campbell had stated at August 26, 1993 meeting) that the project should be "...open for bid since the 'store' is a new commercial operation. Ron suggested a letter be sent to the Attorney General questioning the grant of a commercial operation without a public hearing. This letter was signed by six of the eight Lana'i community representatives on the Committee (see Attachment 7).

At the November 30, 1993 meeting (see Attachment 8):

Jim Coon "... explained that he was still willing to move the Trilogy operation to the northeast section as agreed to with the Committee (in May). However the State Boating Manager, DBOR, DLNR vetoed the plan, apparently without hearing from or informing the Committee".

"(Larry) Cobb agreed that the initiative for repudiating the recommendation of the Committee had not come from Coon but from the State Boating Manager. He stated that the lease has now been signed and that it was now too late to do anything except take DBOR to court." He then briefly reviewed the terms and conditions of the lease.

Trilogy once again did not have the site plan which the Committee had been requesting since the May 27, 1993 meeting. Charles Penque, Maui District Manager, DLNR, said "When the State Boating Manager vetoed the proposed move Trilogy decided they had better stay where they were and work on the layouts was abandoned."

It is obvious to many of the members of the Manele Harbor Advisory Committee that the Division of Boating and Ocean Recreation has had a closed mind. It has withheld information from the Committee and has had no interest in and no intention of listening to input from the community which might not agree with its predetermined plan of action.

If you would like to discuss their objections to this Draft Environmental Assessment with any of the members of the Manele Harbor Advisory Committee, Mr. Charles Penque, Maui District Manager can get in touch with any of us.

Sincerely,

Manele Harbor Advisory Committee Members

cc: Charles Penque, Maui District Manager, DLNR

DEPARTMENT OF LAND AND NATURAL RESOURCES



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
P. O. BOX 491
HONOLULU, HAWAII 96809

MANUELA B. WILSON
Chairperson
Mane'le Harbor Advisory Committee
P. O. BOX 491
HONOLULU, HAWAII 96809

Mane'le Harbor Advisory Committee
June 7, 1995
Page 2

We appreciate your interest in preserving Earth's Best resource. I hope the foregoing adequately addresses your concerns. If you have further questions regarding this matter, you may contact David Parsons at 587-1966 in Honolulu.

Very truly yours,

Michael D. Wilson
Michael D. Wilson
Chairperson of the Board
of Land and Natural Resources

RF:BOR/PH
June 7, 1995

Mane'le Harbor Advisory Committee
P. O. Box 491
Lana'i City, HI 96763

Subject: Draft Environmental Assessment, Trilogy Corporation, Manele Boat Harbor, Island of Lana'i

Thank you for your letter of March 23, 1995 and comments on the Draft Environmental Assessment submitted by Trilogy Corporation in connection with the development of the Passenger Rest Stop and commercial facilities at Manele Boat Harbor. After discussions with my staff, I offer the following response.

The goals and objectives of the Advisory Committee and Master Plan must be consistent with State policy. A Master Plan that places harbor related services outside the jurisdiction and control of the State is unacceptable. It is our position that harbor services and ancillary uses be on State land whereby the use of such lands would be subject to the necessary controls. In addition, certain details, such as the optimal location of the leased premises and the lease terms, was an administrative decision beyond the authority of the Advisory Committee and the lessees.

The lease process was initiated by the State based on the policy of the previous administration to convert monthly revocable permits to leases. When Trilogy Corporation agreed to the conversion, David Parsons and Larry Cobb attended meetings with the Manele Bay Advisory Committee and the community to receive input and provide information pertaining to the lease process. The lease document was structured to incorporate the Manele Boat Harbor Master Plan and Advisory Committee recommendations. The lease was prepared in accordance with Chapter 171, Hawaii Revised Statutes. Under certain circumstances, it is appropriate to enter a lease by direct negotiations. It was the position of the Department and the Attorney General's office that the lease in question met that criteria. The Board of Land and Natural Resources approved the issuance of a lease by direct negotiation at its meeting on June 10, 1993 (Item J-1).

RECEIVED
MAR 27 1995

CHRIS HART & PARTNERS
Landscape Architecture & Planning

Mr. Mike Wilson
Director D.L.N.R.
1151 Punchbowl St.
Hon. Hi., 96813

23 March 1995

Dear Mr. Wilson

I would like to respond to the Draft E.A. from the Trilogly Corp. on the Manele Bay Passenger Rest Stop.

I first would like to know why the Community of Lana'i didn't have a chance to see this document before the dead line was just two weeks away? If we had not received a copy from the Hawaii Thousand Friends we would not have seen it at all. For that reason alone this makes this whole E.A. not worth the paper it was wrote on.

The Harbor Advisory witch was formed to help the State come up with a long range plan for the harbor area was left completely out of this proses.

While Mr. Coon was coming to the advisory meetings he was also dealing behind their backs with Mr. Parsens and Larry Cobb to sign a contract of which he knew would supersede any agreements he (Mr. Coon) might have had with the Harbor Advisory Group.

I think you'll also find that the State Map on Flood Zones that Manele is in a Sub Zone "1" which is zone subject to Flooding. On page 3 number 4 the E.A. that there is no flood hazard classification. I don't believe this is a true statement.

On page 12 the E.A. also talks about the Community Plan for Lana'i. The C.A.C., of which I was the Co-Chair, did address the Harbor concerns. The C.A.C. met for six months and Mr. Coon never came to one of our meetings to tell us what his plans were for the future. We knew that the Harbor Advisory had completed their recommendations to the State and we felt that their finished document should be the driving force when it came to the harbor area. And that is why you need to look at and ask them now they feel about this E.A.

Mr. Wilson
D.L.N.R.

From the early days of dealing with Mr. Coon it has been at the very best a love hate situation. Mr. Coon made promises as to what he would do while using the beach park area. To this date his promises have become very shallow indeed. He promised in a letter to this community that he would do certain things and stay only for certain hours. But as time has gone by things have been ignored. For instant Mr. Coon said he would not come to Lana'i on week ends or use the beach area on week ends or company holidays. Not only has he not kept that promise but now he has taken over almost half of the beach every day during the week.

There are many concerns with what Mr. Coon is asking for with this project and given his past record the real question is will he keep his promises.

The E.A. gives you the idea that this is just a old contract that Mr. Coon had for a long time and now he wants to build a new building. This is not the case as a matter of fact there never has been a commercial operation at that site before. My question then is why didn't this site go out to bid and let other operators have a chance to open a business at that site? Why was Mr. Coon given the exclusive right to that site?

Please give some consideration to the questions I have raised.

Sincerely;



Ron McOmber
Box 2160
Lana'i, Hi., 96763

C/C: Trilogly Corp. ✓
Mr. Chris Hart
Q.E.C.
Mr. Larry Cobb

JUN -07 9 16:36 DEAR BOX STATE OF HI 10151717 10:30 AM '95 (Mon) HI 35715 P.



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

DEPARTMENT OF LAND AND NATURAL RESOURCES
10151717
10:30 AM '95 (Mon) HI 35715 P.

REF: BOR/FM June 7, 1995

Mr. Ron McOmber
Box 2160
Lana'i, HI 96763

Subject: Draft Environmental Assessment, Trilogy Corporation, Manele Boat Harbor, Island of Lana'i

Thank you for your letter of March 23, 1995 and comments on the Draft Environmental Assessment submitted by Trilogy Corporation in connection with the development of the Passenger Rest Stop and commercial facilities at Manele Boat Harbor. After discussions with my staff, I offer the following response.

The Environmental Assessment is a requirement of the development process and must be submitted as part of the Special Management Area permit application. It is my understanding that the proposed development was discussed extensively by the Lana'i community and the Draft Environmental Assessment should have been anticipated by anyone concerned with this project.

The lease process was initiated by the State based on the policy of the previous administration to convert nonably revocable permits to leases. When Trilogy Corporation agreed to the conversion, David Parsons and Larry Cobb attended meetings with the Manele Bay Advisory Committee and the community to provide information pertaining to this process. The lease document was structured to incorporate the Manele Boat Harbor Master Plan and Advisory Committee recommendations. Certain details, such as the optimal location of the premises, was an administrative decision beyond the authority of the Advisory Committee and leases.

We are aware of the Subzone L classification of the Conservation District. As you were advised in the September 27, 1993 letter from former Chairperson Keith W. Ahue, additional structures may be permitted so long as they are used for marina-related purposes in compliance with the purpose of the Executive Order for the harbor. The Final Environmental Assessment will address the flood hazard condition of Manele Boat Harbor and eliminate the ambiguity reflected in the Draft E. A.

Mr. Ron McOmber
June 7, 1995
Page 2

For your information, we did receive comments from the Manele Boat Harbor Advisory Committee on the Draft E. A. Our response to the issues they raised will be incorporated into the Final Environmental Assessment.

The lease was prepared in accordance with Chapter 171, Hawaii Revised Statutes. Under certain circumstances, it is appropriate to enter a lease by direct negotiations. It was the position of the Department and the Attorney General's office that the lease in question met that criteria. The Board of Land and Natural Resources approved the issuance of a lease by direct negotiation at its meeting on June 10, 1993 (Item J-1).

We appreciate your interest in preserving Earth's Best resources. I hope the foregoing adequately addresses your concerns. If you have further questions regarding this matter, you may contact David Parsons at 587-1966 in Honolulu.

Very truly yours,

Michael D. Wilson
Michael D. Wilson
Chairperson of the Board
of Land and Natural Resources



CHRIS
HARTZ
& PARTNERS

May 15, 1985

Mr. Ron McOmber
Box 2160
Lanai, HI 96763

Dear Mr. McOmber:

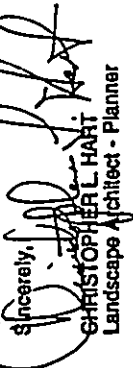
This letter will respond to comments in your letter dated March 23, 1985, which addressed issues related to the Draft Environmental Assessment (EA) for Trilogy Corporation's Manele Bay Passenger Rest Stop. The Department of Land and Natural Resources (DLNR) will respond to you directly regarding lease issues.

1. **Public Review.** The Draft EA was prepared and processed in accordance with Chapter 343, Hawaii Revised Statutes and Chapter 200, Environmental Impact Statement Rules, of the State of Hawaii Department of Health's Administrative Rules. Pursuant to Chapter 343, HRS, notice of availability of the Draft EA for public review was published in the February 23, 1985, OEQC Bulletin. The MHAC was provided an opportunity to review the project in April, 1984 and provided comments and suggestions which were incorporated into the project plans. In addition, the MHAC was informed by Mr. Jim Coon at it's January meeting that the Draft EA was being sent to OEQC and would be available for public review.

2. **Flood Maps.** Your statement that Manele is in Subzone "1" on the "the State map on Flood Zones" apparently refers to the State Conservation District Subzone Maps which designate the Manele area as being within the "Limited" subzone. According to the Land Use and Codes Division at the County of Maui, no Federal Insurance Rate Maps have been prepared for the Island of Lanai.

3. **MHAC Review.** The MHAC was provided an opportunity to review the proposed project in April, 1984. The Committee recommended various design modifications which have been incorporated into the project plans. These include the following: moving the building toward the west property line, moving the entrance to the basement to the northwest elevation, providing that all landscape improvements will be located within the subject leased property, and providing a double pitch roof which more closely resembles plantation style architecture.

If there are any questions on this matter please contact Mr. Roy Frampson of my office.

Sincerely,

CHRISTOPHER L. HARTZ
Landscape Architect - Planner

encl.

cc: DOBOR
Trilogy Corp.
Maui Planning Department

LANDSCAPE ARCHITECTURE AND PLANNING

1955 MAIN STREET, SUITE 200 • WAILUKU, MAUI, HAWAII 96793-1706 • PHONE 808-242-1955 • FAX 808-242-1956

187-C Hahuli Street
Hilo HI 96720

March 13, 1995

Mr. David Parsons
Division of Boating and Ocean Recreation, DLNR
333 Queen Street, Suite 300
Honolulu HI 96813

Dear Mr. Parsons:

Subject: Draft Environmental Assessment for Trilogy Corporation's
Manele Bay Passenger Rest Stop

I wish to comment on this Draft EA. Before I get into the substance of my remarks, let me say that I have no position at this time on the appropriateness of this project. At first glance, the project appears reasonable (although I believe any final decision on its suitability should await preparation of an acceptable environmental assessment). Rather, my comments are directed more at the way the project is being handled.

Conservation District Concerns

First, I wish to register my objections to the fact that both your office and the applicant believe that there is no need to regard this proposed use as subject to Conservation District rules.

Clearly, the land is in the Conservation District, Limited subzone. The Draft EA acknowledges this. Yet your office has stated repeatedly, to me and, apparently, to the planner who prepared this document, that this project is grandfathered by virtue of the fact that the land in question was part of an executive order setting aside the Manele Small Boat Harbor that pre-dated the land's inclusion in the Conservation District. As such, you claim, the use is grandfathered.

Had the use been in existence, it might be considered to be legitimately grandfathered. Yet this use - a convenience store, snack shop, and picnic pavilion - was not even contemplated, much less built, at the time the land was placed in the Conservation District.

You have claimed that the use is "necessary" to a harbor, and thus exempt from review as a Conservation District land use. Inasmuch as the Manele Bay small boat harbor has existed for more than twenty years without the services of a convenience store and snack shop, it is difficult to make the argument that such services are a necessary component of, or accessory to, the Manele harbor facility.

I have searched Hawaii's Administrative Rules Title 13 Chapter 5 to find on what grounds you base your claim of an exemption from Conservation District rules. These rules do make allowance for "nonconforming use," but the definition would seem to exclude anticipated uses and refers only to uses that have been "established" before October 1, 1964 or such time as the land was placed into the Conservation District. ("Nonconforming use" means the lawful use of any building, premises, or land for any trade, industry, residence or other purposes which is the

95 MAR 15 AM 23
BOATING DIVISION

March 13, 1995

II. Special Management Area Concerns

I do not see anywhere addressed in this document a discussion of the Special Management Area or, more generally, application of the Coastal Zone Management Act. It may be that it is the applicant's position that this project is exempt from SMA requirements in much the same way that it is the applicant's (and DOBOR's) position that the project is exempt from Conservation District requirements.

At the very least, this document must disclose the reasons for taking such a view.

III. Other Concerns

- A) Will this project need the approval of the Land's Planning Commission? Will it require a grading permit? Should there not be included in this document a listing of the permits required?
- B) The Office of Environmental Quality Control regularly publishes, in its Bulletin, its guidelines for preparing environmental assessments. Listed below are just a few of the required elements of environmental assessments that are missing from this draft:

An adequate site map (the one provided in the draft EA is practically unreadable and not drawn to scale);

A discussion of alternatives, including no action;
Proposed mitigation measures (especially during construction).

C) The draft EA fails to identify the approving agency, referring instead to the Division of Boating and Ocean Recreation as the "accepting agency." Given the concerns I've noted above about what I perceive to be efforts to circumvent public comment as well as Land Board review, I believe this is an important element that must be included.

D) We are not given an idea as to the total square footage of the building. Rather, we are told what its footprint will be (2400 square feet). Will addition of the basement double this area? Or is the basement going to extend only partway under the pavilion area?

V. Conclusion

This draft Environmental Assessment fails to meet the standards set in Chapter 343. It improperly describes the project as exempt from Conservation District rules. It does not disclose mitigation measures that will be taken to offset identified harms, such as runoff during construction. It does not describe the way the project fits into the state's Coastal Zone Management Program (Chapter 205A) or the county's Special Management Area rules.

March 13, 1995

some as and no greater than that established immediately prior to October 1, 1964, or prior to the inclusion of the building, premises, or land within the conservation district.") For many years, Conservation District rules allowed "prospective" uses to be grandfathered; this was the source of much trouble, as you probably know, and the decision was made, when the rules were revised last year, to eliminate this provision. This change in the rules, by the way, was preceded by a change in statute; in other words, the Legislature itself has come down squarely in opposition to the view that "prospective" uses should be subject to the claim of grandfathering.

The failure of your office to hold this project up to the same standards as would be required of a Conservation District application is a serious matter. By processing it as an exempt project (although with no ground set forth for that exemption), you have curtailed the public scrutiny that this project would otherwise be subject to. This scrutiny would include, although not be limited to, a public hearing (as a commercial use in the Conservation District) and review by all appropriate state and county agencies, including the County of Maui (responsible for compliance with the state Coastal Zone Management Act), such sister DLNR agencies as the Office of Conservation and Environmental Affairs, the Division of Aquatic Resources, Historic Preservation Division, and the Division of Forestry and Wildlife, and the Department of Health (with respect to the protection of nearshore water quality and the sufficiency of the existing septic system).

Finally, I am extremely worried that your efforts to circumvent public review of this project will extend to granting it administrative approval, without bringing it before the Board of Land and Natural Resources for decision-making as a public meeting. In discussions I have had with you and with Larry Cobb of your division, I have been told that there is no need to seek Land Board approval since the Land Board already approved the pavilion when it approved the lease.

I have reviewed the lease, however, and must take exception to this view. Exhibit C to the lease, where purportedly this pre-approval is found, states only that the lessee shall be authorized to provide "the authority to construct certain improvements..." Given the ungrammaticality of this construction (what it means to authorize someone to provide authority is beyond my ken), I would argue that no meaningful permission can be derived from the language in this exhibit. And, in any event, Paragraph 3 of that exhibit states: "The Lessee shall submit all construction and improvement plans and specifications to the Lessor for review and approval prior to any construction or improvement." The initial paragraph of the lease establishes the fact that the Lessor is the State of Hawaii by its Board of Land and Natural Resources - and not, as you have claimed, the Division of Boating and Ocean Recreation.

For these reasons, I contend that your Division does not have the authority to grant approval to this project. I have not found any document that would authorize DOBOR to approve plans as the Land Board's agent, nor have you told me that any such document exists.

95 (M) 29 OR ST HI 38719 P

MICHAEL S. WILSON
Commissioner
Office of Land and Natural Resources
DEPARTMENT OF LAND AND NATURAL RESOURCES
SUBJECT: E. O. 2141



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
DIVISION OF BOATING AND OCEAN RECREATION
285 QUEEN STREET, SUITE 200
HONOLULU, HAWAII 96813

REGULATORY DIVISION

March 13, 1995

Mr. David Parsons, DOBOR
Page Four

For these reasons, I suggest that the document be substantially revised. Should the applicant wish to carry through with this project, I suggest it be done in accordance with all applicable Conservation District rules.

Yours truly,

Patricia Tummons
Patricia Tummons

June 7, 1995 BOR-PN3068.95

Patricia Tummons
187-C Hokuani Street
Hilo, HI 96720

cc: Doug Tom, Office of State Planning
Gary Gill, director, Office of Environmental Quality Control
Michael Wilson, chairman, Board of Land and Natural Resources
Christopher Yuen, Land Board member
Roger Ewers, administrator, Office of Conservation and Environmental Affairs, DLNR
Brian Miskoe, Maui County Planning Director

Subject: Draft Environmental Assessment, Trilogy Corporation, Manele Boat Harbor, Island of Lanai

We are in receipt of your letter of March 13, 1995 and comments on the Draft Environmental Assessment submitted on behalf of Trilogy Corporation in connection with the development of the Passenger Rest Stop and commercial facilities at Manele Boat Harbor. The following response represents the Department's position on the questions you raised.

State lands were set aside "for construction, operation and maintenance of a Small Boat Marina and appurtenant facilities..." by Governor's Executive Order No. 2141 (hereafter referred to as the "E. O.") dated June 2, 1964. The land was subsequently classified as "subzone-21" of the Conservation District in October 1964. With the structure and uses specified in the E. O. being recognized as existing nonconforming uses, since the subject project is consistent with the purpose of the E. O., a Conservation District Use Application is not required. This issue was raised at an open meeting of the Advisory Committee pertaining to the subject project. A copy of the response to a letter from Mr. Ron McOmber is enclosed for your information.

The permitted use of the premises under Boating Lease No. B-93-2 (hereafter referred to as the "Lease") include a convenience store, snack bar, passenger rest stop pavilion and landscaping provision. Trilogy Corporation has been conducting commercial boating operations at the harbor for over twenty years. Its use of a portion of the harbor for this purpose was considered to be in conformance with the E. O. The additional uses were

Patricia Tummons
June 7, 1995
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Identified by the boating community responding to a survey distributed in connection with the development of the Master Plan for the Manele Boat Harbor.

The basis for the position that the use of the facility is "grandfathered" is set forth in the provisions of Chapter 171-11, Hawaii Revised Statutes. This provision has precedence over Title 13, Chapter 5, Hawaii Administrative Rules with respect to use of State lands set aside by Executive Order.

This project has been presented to the Manele Harbor Advisory Committee and the community at several meetings in 1993. The provisions of the Lease, of which you were provided a copy, require Trilogy to apply for a Special Management Area permit, prepare an Environmental Assessment and stipulates that the Lessee shall comply with all applicable laws, statutes, ordinances, building codes, and rules and regulations. The EA and SMA have provisions for public review.

The provisions of the Lease further provide that the final plans must be submitted for review and approval by the Department prior to commencement of construction. In addition, the Department is the approving authority for the EA.

During discussions with the Lessee and its consultants, it was agreed that the Final Environmental Assessment will be amended to address the proposed project as it relates to the Coastal Zone Management program objectives, include an expanded discussion of mitigation measures, include a listing of permits required for the project and an improved site plan, as well as a discussion of alternatives.

I hope the foregoing adequately addresses the concerns you have regarding this project. If you have any questions, you may call Larry Cobb, Property Manager, at 587-1978.

Very truly yours,
David E. Parsons
David E. Parsons
State Boating Administrator

enclosures



May 15, 1995

Ms. Patricia Tummons
187-C Hokualani Street
Hilo, HI 96720

Dear Ms. Tummons

Subject: Draft Environmental Assessment for Trilogy Corporation's Manele Bay Passenger Rest Stop

Thank you for providing comments on the Manele Bay Passenger Rest Stop Draft Environmental Assessment (EA). This letter will respond to your comments which addressed issues related to the Draft EA. The Department of Land and Natural Resources (DLNR) will respond to you directly regarding Conservation District Use Application (CDUA) requirements and lease issues. The following responses are presented in the order they were presented in your letter dated March 13, 1995.

I. Conservation District Concerns

You letter claims that DLNR is deliberately curtailing public review of the project. Despite your obviously detailed review of the subject lease, we are puzzled that you failed to notice (or mention) the fact that Trilogy Corp. is required to apply for a Special Management Area (SMA) Permit, prepare an Environmental Assessment and comply with "all applicable laws, statutes, ordinances, building codes, and rules and regulations."

As you are well aware, the proposed project is subject to the public disclosure and review through the environmental impact review process established through Chapter 343, HRS, as well as the SMA permit process which involves a public hearing before the Lana'i Planning Commission. In addition, prior to the initiation of these formal review processes, the applicant presented early conceptual designs to the Manele Harbor Advisory Committee in April, 1994. The Committee recommend various site design and architectural modifications which have been incorporated into the project. These include moving the building toward the west property line, moving the entrance to the basement to the northwest elevation, providing that all hardscape improvements will be located within the subject leased property, and providing a double pitch roof which more closely resembles plantation style architecture.

1055 MAIN STREET, SUITE 200 - WAIALAE, MAUI, HAWAII 96793-1706 - PHONE: 808/242-1055 - FAX: 808/242-1054
LANDSCAPE ARCHITECTURE AND PLANNING

II. Special Management Area

The proposed project is within the Special Management Area (SMA) and will require a SMA permit from the Lanai Planning Commission. A section will be added to the Final EA addressing the Coastal Zone Management program objectives as established by the Rules and Regulations of the Lanai Planning Commission, a copy of this analysis is attached hereto.


III. Other Concerns

- A) As noted, a SMA permit will be required from the Lanai Planning Commission. A grading and building permit will also be required. The Environmental Impact Statement Rules do not require a listing of permits for EA's, however, one will be included in the Final EA.
- B) An improved site map, discussion of alternatives and specification of mitigation measures during construction will be included in the Final EA.
- C) (DLNR will address your concern regarding the approving agency.)
- D) The proposed basement will encompass approximately 2,400 sq. ft., however, the majority of this area will be used for storage.

IV. Conclusion

The Final EA has been amended to include additional mitigation measures, a discussion of alternatives, and an assessment of the project's compliance with the objectives of the Coastal Zone Management Act. It is our position that, the Final EA meets the requirements set forth in Chapter 343, Hawaii Revised Statutes and Chapter 200 of the Department of Health's Administrative Rules.

Thank you for reviewing and commenting on the Draft EA. If there are any questions, please contact Mr. Rory Frampton of my office.

Sincerely,

CHRISTOPHER L. HART
Landscape Architect - Planner

encl.

cc: DOBOR
Trilogy Corp.
Maui Planning Dept.

Appendix B -
EXECUTIVE ORDER NO. 2141

State of Hawaii
Office of the Lieutenant Governor

2141

This is to Certify That the within is a true copy of Executive Order No.
setting aside land for public purposes, the original of which is on file in this office.

In Testimony Whereof, the Lieutenant Governor of the
State of Hawaii, has hereunto subscribed his name
and caused the Great Seal of the State to be affixed.

William A. Richardson

DONE in Honolulu, this 2nd day of
June, A.D. 1964

Executive Order No. 2141

Setting Aside Land for
Public Purposes

Land

Purpose State Office

Date June 25, 1964