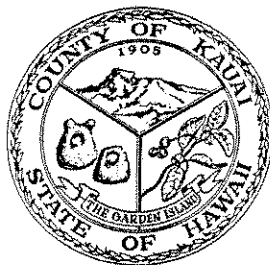


BERNARD P. CARVALHO, JR.
MAYOR



JUL 23

IAN K. COSTA
DIRECTOR OF PLANNING

GARY K. HEU
ADMINISTRATIVE ASSISTANT

IMAIKALANI P. AIU
DEPUTY DIRECTOR OF PLANNING

**COUNTY OF KAUA'I
PLANNING DEPARTMENT**

4444 RICE STREET
KAPULE BUILDING, SUITE A473
LIHU'E, KAUA'I, HAWAII 96766-1326

TEL (808) 241-4050 FAX (808) 241-6699

July 10, 2009

Ms. Katherine Puana Kealoha, Director
Office of Environmental Quality Control
State of Hawaii
235 South Beretania Street, Suite 702
Honolulu, Hawaii 96813

Dear Ms. Kealoha:

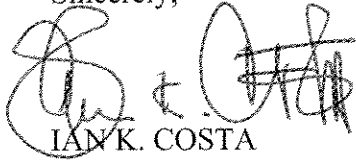
Subject: Finding of No Significant Impact (FONSI)
Kauai Lagoons Resort Density Amendment Project
Petitioner/Applicant: MORI Golf (Kauai), LLC
Tax Map Keys: (4) 3-5-01: 27 (Por.), 102, and 168 (Por.)
Kalapaki, Lihue, Kauai, Hawaii

The County of Kauai Planning Department, as the Approving Agency, has reviewed the comments received on the Draft Environmental Assessment (EA) for the Kauai Lagoons Resort Density Amendment Project (May 2009) which began on May 23, 2009. The County Planning Department has reviewed the Draft EA, agency and public comments submitted to the Draft EA, and the Petitioner/Applicant's responses to the written comments to the Draft EA. Based on this review, the Planning Department has determined that the proposed project will not have significant environmental effects and hereby issues a Finding of No Significant Impact (FONSI). Please publish this notice in the next available Environmental Notice.

We have enclosed a completed OEQC Publication Form, two (2) copies of the Final EA, and a CD containing a pdf file of the Final EA and the OEQC Publication Form.

Please contact Michael Laureta of our staff at (808) 241-4068 if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ian K. Costa', written over a circular stamp or seal.

IAN K. COSTA
Planning Director

Enclosures

cc: Mr. Ronald A. Sato, AICP, Wilson Okamoto Corporation

Final Environmental Assessment

Kauai Lagoons Resort Density Amendment Project

Kalapaki, Lihue, Kauai, Hawaii



**Prepared for:
MORI Golf (Kauai), LLC**

**Prepared by:
Wilson Okamoto Corporation**

July 2009

FINAL ENVIRONMENTAL ASSESSMENT

KAUAI LAGOONS RESORT DENSITY AMENDMENT PROJECT

Kalapaki, Lihue, Kauai, Hawaii

**Tax Map Keys: (4) 3-5-01: 27 (Por.), 102, and
168 (Por.)**

Prepared For:

**MORI Golf (Kauai), LLC
3351 Hoolaulea Way, Suite 201
Lihue, Kauai, Hawaii 96766**

Prepared By:

**Wilson Okamoto Corporation
Engineers and Planners
1907 South Beretania Street, Suite 400
Honolulu, Hawaii 96826**

July 2009

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PREFACE

This Final Environmental Assessment (EA) and Finding of No Significant Impact (FONSI) is prepared pursuant to Chapter 343, Hawaii Revised Statutes (HRS), and Title 11, Chapter 200, Administrative Rules, Department of Health, State of Hawaii. Proposed is an Applicant Action by MORI Golf (Kauai), LLC, Petitioner/Applicant, to amend the State Land Use District Boundary, County General Plan, County Zoning, and County Visitor Destination Area (VDA) boundaries for inland portions of the Kauai Lagoons Resort's 27-hole golf course complex to permit the development of 22 single-family residential lots. This is pursuant to an agreement to be entered into between the County of Kauai and Kauai Development LLC for the assignment of a density equivalent to the calculated density of 22 dwelling units from an approximately 138-acre oceanfront parcel owned by Kauai Development LLC to the Kauai Lagoons Resort. Following the assignment of density, the oceanfront parcel would be conveyed to the County of Kauai for public purposes. The preparation of this EA is required since the proposed Project involves a County General Plan Amendment pursuant to Chapter 343, HRS, and Title 11, Chapter 200, Hawaii Administrative Rules.

In conjunction with this Final EA, a petition for a State Land Use District Boundary Amendment, County General Plan Amendment, County Zoning Amendment, and County Visitor Destination Area Amendment, and a separate Special Management Area Use Permit, Use Permit and Class IV Zoning Permit application have been filed with and are being concurrently processed by the County Planning Department to implement the proposed Project.

PROJECT SUMMARY

Petitioner/Applicant:	MORI Golf (Kauai), LLC 3351 Hoolaulea Way, Suite 201 Lihue, Kauai, Hawaii 96766
Approving Agency:	County of Kauai Planning Department 4444 Rice Street, Suite 473 Lihue, Hawaii 96766
Location:	Kalapaki, Lihue, Kauai, Hawaii
Tax Map Keys (TMKs):	(4) 3-5-01: 27 (por.), 102, and 168 (por.)
Affected Area:	Approximately 34.0 acres
Recorded Fee Owners:	MORI Golf (Kauai), LLC 3351 Hoolaulea Way, Suite 201 Lihue, Kauai, Hawaii 96766 TMKs: (4) 3-5-01: 27 (por.) and 168 (por.) Kauai Development LLC 2045 Kalakaua Avenue, Suite M400 Honolulu, Hawaii 96815 (TMK: (4) 3-5-01: 102)
Existing Use:	Golf Course
State Land Use Classification:	Agricultural District and Urban District
County General Plan:	Resort and Open
Lihue Development Plan:	Agriculture, Resort, Open, and Golf Course
County Zoning:	Open District (O) and Residential District (R-2)
Special Management Area (SMA):	A portion of the Project Site is located within the SMA
Proposed Action:	The proposed Project includes the assignment of a density equivalent to the calculated density of 22 dwelling units from an approximately 138-acre oceanfront parcel located adjacent to and east of the Lihue Airport to the existing Kauai Lagoons Resort. Upon the assignment of density to the Kauai Lagoons Resort, the

22 dwelling units will be developed as 22 single-family residential lots within three (3) separate single-family residential subdivisions within the Kauai Lagoons Resort's 27-hole golf course complex. Development of the 22 single-family residential lots will require that the underlying State Land Use District Boundary, County General Plan, County Zoning, and County Visitor Destination Area designations of the affected golf course lands be amended to the appropriate State and County land use designations. With the proposed density assignment of the 22 dwelling units to the Kauai Lagoons Resort, the density cap for the Resort will be increased from the current maximum density of 750 dwelling units established under Condition No. 1 of Zoning Ordinance No. PM-2006-383 to a total maximum density of 772 dwelling units, exclusive of the Resort's 31 affordable housing units.

Following the assignment of density, the 138-acre oceanfront parcel will be conveyed to the County of Kauai for public purposes based upon an agreement to be entered into between the County and Kauai Development LLC, the current owner of the 138-acre parcel. The future use of the 138-acre parcel will be determined by the County at a later time following conveyance of the land to them.

Impacts:

No significant impacts are anticipated from the proposed amendments to the State and County land use designations and future development of the Project Site.

**Required Permits
& Approvals:**State of Hawaii

Department of Health

- National Pollutant Discharge Elimination System (NPDES)
Permit for Storm Water Associated with Construction Activity

County of Kauai

Planning Department

- State Land Use District Boundary Amendment
- County General Plan Amendment
- County Zoning Amendment
- County Visitor Destination Area Amendment
- Special Management Area Use Permit
- Use Permit
- Class IV Zoning Permit
- Subdivision

Department of Public Works

- Grading Permit
- Building Permit

- Sewer System Requirements
- Drainage System Requirements

Department of Water:

- Water Master Plan Approval
- Water and Water System Requirements

Other Agencies

Utility Companies

- Utility Service Requirements

**Agencies Consulted
In Pre-Assessment
Process:**

Federal

U.S. Army Corps of Engineers

U.S. Fish and Wildlife Service

U.S. Department of Agriculture, Natural Resources Conservation Service

State of Hawaii

Department of Agriculture

Department of Business, Economic Development and Tourism

Department of Business, Economic Development and Tourism, Land Use
Commission

Department of Business, Economic Development and Tourism, Office of
Planning

Department of Health

Department of Health, Office of Environmental Quality Control

Department of Land and Natural Resources

Department of Land and Natural Resources, Land Division

Department of Land and Natural Resources, Land Division, Kauai District

Department of Land and Natural Resources, Historic Preservation
Division

Department of Education

Department of Transportation

Department of Transportation, Airports Division

Office of Hawaiian Affairs

County of Kauai

Office of the Mayor

Office of the County Clerk

Planning Department

Department of Parks and Recreation

Department of Public Works, Engineering Division

Department of Public Works, Building Division

Department of Public Works, Division of Wastewater Management

Department of Public Works, Division of Solid Waste Management

Department of Water

Housing Agency

Police Department
Fire Department

Agencies Consulted

In Draft EA

Process:

Federal

U.S. Army Corps of Engineers
U.S. Fish and Wildlife Service
U.S. Department of Agriculture, Natural Resources Conservation Service
U.S. Department of Agriculture, Animal and Plant Health Inspection
Service, Wildlife Services

State of Hawaii

Department of Agriculture
Department of Business, Economic Development and Tourism
Department of Business, Economic Development and Tourism, Land Use
Commission
Department of Business, Economic Development and Tourism, Office of
Planning
Department of Health
Department of Health, Office of Environmental Quality Control
Department of Land and Natural Resources
Department of Land and Natural Resources, Land Division
Department of Land and Natural Resources, Engineering Division
Department of Land and Natural Resources, Commission on Water
Resource Management
Department of Land and Natural Resources, Land Division, Kauai District
Department of Land and Natural Resources, Division of Forestry and
Wildlife, Kauai District
Department of Land and Natural Resources, Historic Preservation
Division
Department of Education
Department of Transportation
Department of Transportation, Airports Division
Office of Hawaiian Affairs

County of Kauai

Office of the Mayor
Office of the County Clerk
Planning Department
Department of Parks and Recreation
Department of Public Works, Engineering Division
Department of Public Works, Building Division
Department of Public Works, Division of Wastewater Management
Department of Public Works, Division of Solid Waste Management
Department of Water
Housing Agency
Police Department

Fire Department

Others

Sierra Club, Kauai Group of the Hawaii Chapter
Lihue Public Library

1. INTRODUCTION

1.1 Introduction

MORI Golf (Kauai), LLC, Petitioner/Applicant, and Kauai Development LLC intend to enter into an agreement with the County of Kauai (hereafter referred to as the "County") that will assign a density equivalent to the calculated density of 22 dwelling units from an approximately 138-acre undeveloped oceanfront parcel located adjacent to and east of the Lihue Airport to the existing Kauai Lagoons Resort located in Kalapaki, Lihue, Island of Kauai. The approximately 138-acre oceanfront parcel from which the density will be assigned is owned by Kauai Development LLC (hereafter referred to as the "Kauai Development Parcel"). A Location Map depicting the Kauai Lagoons Resort and the Kauai Development Parcel is included as Figure 1-1. Following the assignment of density, the Kauai Development Parcel will be conveyed to the County for public purposes based upon an agreement to be entered into between the County and Kauai Development LLC. The future use of the Kauai Development Parcel will be determined by the County following conveyance of the land to them. Upon the assignment of density to the Kauai Lagoons Resort, the 22 dwelling units will be developed as 22 single-family residential lots within three (3) separate single-family residential subdivisions to be located within the Resort's 27-hole golf course complex which is owned by the Petitioner/Applicant. The three (3) single-family residential subdivisions, identified as Subdivision 1A, Subdivision 5 and Subdivision 6, will encompass a total area of approximately 22 acres, with the residential lots ranging in average size from approximately 0.5-acre to 1.5 acres each.

The agreement to assign a density equivalent to the calculated density of 22 dwelling units from the Kauai Development Parcel to the Kauai Lagoons Resort and the subsequent conveyance of the Kauai Development Parcel to the County stems from the provisions of Condition No. 23 of Zoning Ordinance No. PM-2006-383 for the Kauai Lagoons Resort. A copy of Zoning Ordinance No. PM-2006-383 is included in Appendix A of this Environmental Assessment (EA). In this Condition No. 23, a maximum density of 11 dwelling units was established for development within the Kauai Development Parcel. The intent of this Condition was to encumber the subject parcel with a Declaration of Conservation Restriction that would contain provisions regulating the development of the parcel. The provisions of this Condition have not been implemented.

The establishment of the density equivalent to the calculated density of 22 dwelling units to be assigned from the Kauai Development Parcel was based on the results of two (2) appraisals conducted by Hastings, Conboy, Braig & Associates, Ltd. in January 2008 and February 2008. The purpose of the appraisals was to determine the gross retail value of the fee simple interest in 11 hypothetical finished residential oceanfront lots in a condominium development to be located on portions of the Kauai Development Parcel, and the gross retail value of the fee simple interest in 22 hypothetical finished residential golf course frontage lots to be located within the Kauai Lagoons Resort. Based on the results of these appraisals, it was concluded that the gross retail value of the fee simple interest of one (1) hypothetical finished residential oceanfront lot is equivalent to the gross retail value of the fee simple interest of two (2) hypothetical finished residential golf course frontage lots. Therefore, it was determined that 22 dwelling units would be used for the purpose of assigning the density from the Kauai Development Parcel to the Kauai Lagoons Resort.



WILSON OKAMOTO
CORPORATION
ENGINEERS | PLANNERS | CONSULTANTS

KAUAI LAGOONS RESORT DENSITY AMENDMENT PROJECT

With the proposed density assignment of the 22 dwelling units to the Kauai Lagoons Resort, the density cap for the Resort will be increased from the current maximum density of 750 dwelling units established under Condition No. 1 of Zoning Ordinance No. PM-2006-383 to a total maximum density of 772 dwelling units, exclusive of the Resort's 31 affordable housing units.

In order to accommodate the additional density of 22 dwelling units within the Kauai Lagoons Resort, the Petitioner/Applicant is seeking to amend the State and County land use designations for inland portions of the Resort's 27-hole golf course complex to provide for these units which will be developed as 22 single-family residential lots within three (3) separate single-family residential subdivisions. The required amended land use designations include 1) a State Land Use District Boundary Amendment from the State Agricultural District (A) to the State Urban District (U), 2) a County General Plan Amendment from the Open designation to the Resort designation, 3) a County Zoning Amendment from the Open District (O) to the Residential District (R-2), and 4) expansion of the existing County Visitor Destination Area (VDA) boundaries within the Kauai Lagoons Resort to encompass the Subdivision 6 site and an adjacent Open District (O) zoned area. The County General Plan Amendment will also include the designation of an approximately 12.0-acre remnant area surrounding Subdivision 6 that is currently designated Open to be in the Resort designation to provide for a more uniform boundary.

In addition, County land use permits will also be required for development of the proposed Project improvements. The required land use permits include 1) a Special Management Area (SMA) Use Permit for the subdivision of Subdivision 6 and construction of the associated site improvements since this subdivision is located within the County's SMA boundary, 2) a Use Permit for a proposed private underground sewer pump station to be located within the Open District (O) adjacent to Subdivision 5 to serve that subdivision, and 3) a Class IV Zoning Permit since a Use Permit is required and for the development of the underground sewer pump station and the 22 single-family residential lots.

Preparation of this EA is required since the proposed Project involves a County General Plan Amendment pursuant to Chapter 343, Hawaii Revised Statutes (HRS).

The petition for the State Land Use District Boundary Amendment, County General Plan Amendment and County Zoning Amendment/VDA Amendment, and a separate SMA Use Permit, Use Permit and Class IV Zoning Permit application have been filed with the County Planning Department. The required land use entitlements and permits for the proposed Project are being processed by the County Planning Department, with decisions to be rendered by the County Planning Commission and the County Council.

1.2 Project Location

The Kauai Lagoons Resort is located adjacent to and south/southwest of the Lihue Airport and approximately one mile southwest of Lihue town in Kalapaki, Lihue, Kauai as shown in Figure 1-1. The approximately 560-acre Kauai Lagoons Resort is owned by Kauai Lagoons LLC, MORI Golf (Kauai), LLC and KD Kapule LLC and is identified as TMKs: (4) 3-5-01: 27, 165, 168, 169, 171 to 177, and 180 to 215 as shown in Figure 1-2.

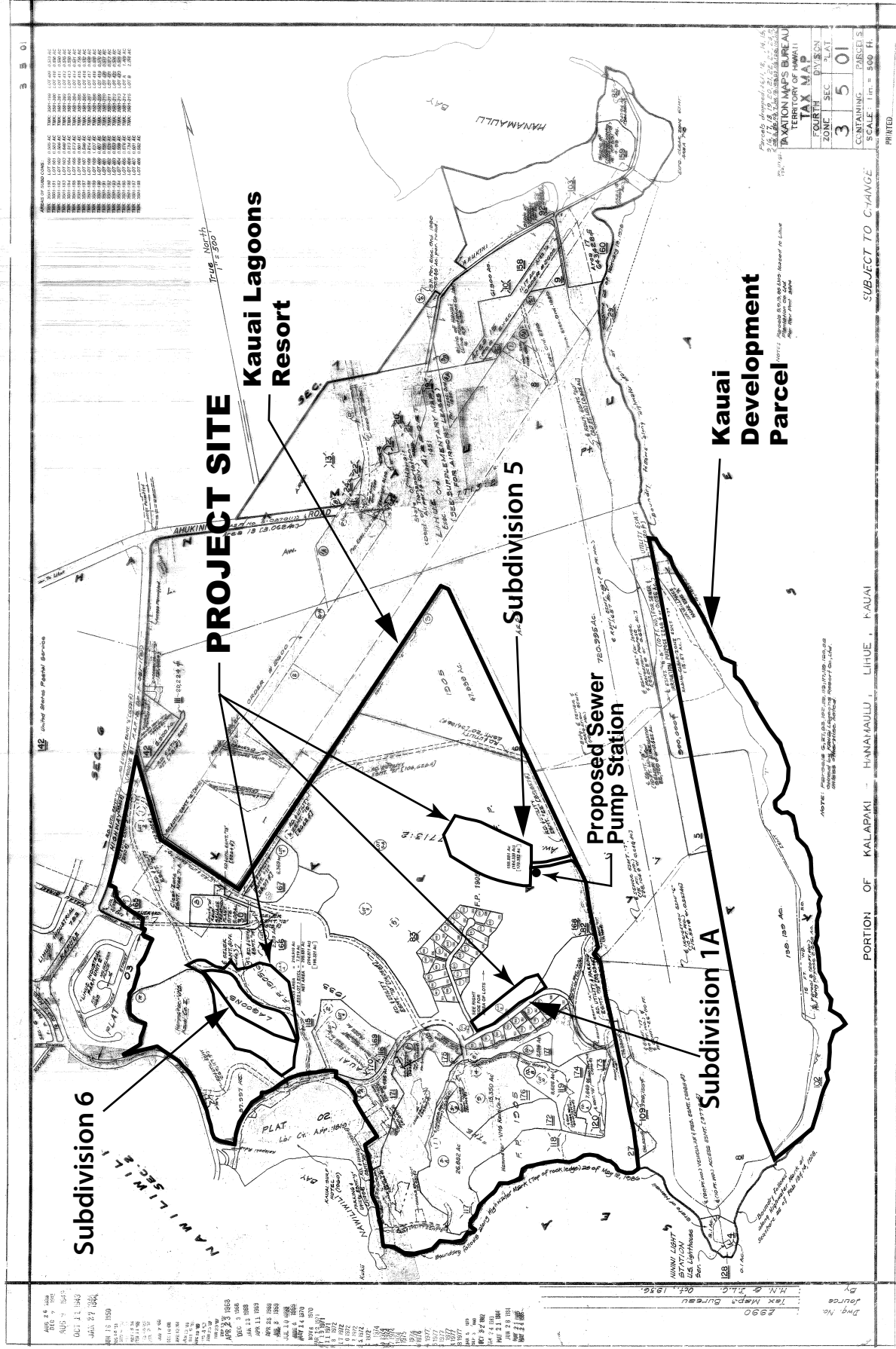


FIGURE 1-2
TAX MAP KEYS: (4) 3-5-01: 27 (POR.), 102, AND 168 (POR.)

KAUAI LAGOONS RESORT DENSITY AMENDMENT PROJECT

The Project Site, consisting of approximately 34.0 acres, is located within a portion of the Kauai Lagoons Resort's 27-hole golf course complex owned by the Petitioner/Applicant MORI Golf (Kauai), LLC and identified as TMKs: (4) 3-5-01: por. 27 and por. 168.

The Kauai Development Parcel is located adjacent to and east of the Lihue Airport and approximately 0.4 mile east of the Kauai Lagoons Resort in Kalapaki, Lihue, Kauai. This coastline parcel is identified as TMK: (4) 3-5-01: 102 and is owned by Kauai Development LLC.

1.3 Background

The Kauai Lagoons Resort is a resort-residential development which is planned to include 750 resort-residential units, including condominium and time share units and single-family residential lots, along with 31 multi-family affordable housing units and support facilities. Support facilities are planned to include a redesigned golf course; a new golf clubhouse with a pro shop; a restaurant; a commercial facility; a central operations building with a marketplace/cafe; a fitness center; a kids club; a marketplace express and grill/kitchen; temporary sales facilities and model units; public lateral shoreline access; public recreation/picnic shelters, showers and restroom facilities; swimming pools; pool bars; a landscape maintenance facility; electrical/mechanical facilities; and off-street parking stalls, including 20 public beach access parking stalls. The Kauai Lagoons Resort is being developed by the Petitioner/Applicant MORI Golf (Kauai), LLC, Kauai Lagoons LLC and KD Kapule LLC.

On August 23, 2005, Kauai Lagoons Resort received approval for Special Management Area Use Permit SMA (U)-2005-8, Project Development Use Permit U-2005-26, Use Permit U-2005-25, and Class IV Zoning Permit Z-IV-2005-30 (hereafter referred to as "SMA Permit") from the County Planning Commission to allow the development of 723 hotel/residential units, along with 24 affordable housing units, a new golf clubhouse, treatment spa, fitness center, retail and office space, a restaurant, resort check-in facilities, temporary sales facilities and model units, public recreational facilities, off-street parking stalls, and other resort amenities.

On September 29, 2006, General Plan Amendment Ordinance No. PM-2006-382, Zoning Amendment Ordinance No. PM-2006-383, and Visitor Destination Area Amendment Ordinance No. PM-2006-384 for the Kauai Lagoons Resort were approved by the County Council to provide lower-density development, develop in remnant golf course areas, permit additional lagoon area units, and permit single-family lots within the golf course. Zoning Amendment Ordinance No. PM-2006-383 established a 750-dwelling unit density cap for the Kauai Lagoons Resort, exclusive of the affordable housing units.

In accordance with the Kauai Lagoons Resort's Affordable Housing Agreement effective February 18, 2005, a total of 113 affordable housing units are being developed in conjunction with the Kauai Lagoons Resort development. Eighty-two (82) of these units, being developed as multi-family affordable housing rental units, are located on an approximately 6.7-acre parcel identified as TMK: (4) 4-3-01: 014 within the Waipouli area of the Island. The remaining 31 multi-family affordable housing units are being developed as 99-year leasehold units on an approximately 2.1-acre parcel identified as TMK: (4) 3-5-01: 165 within the northwestern portion of the Kauai Lagoons Resort at the intersection of Kapule Highway and Haoa Street.

On June 10, 2008, Kauai Lagoons Resort received approval for an Amendment to Special Management Area Use Permit SMA (U)-2005-8, Project Development Use Permit U-2005-26, Use Permit U-2005-25, and Class IV Zoning Permit Z-IV-2005-30 and Special Permit SP-2008-4 (hereafter referred to as "Amended SMA Permit") from the County Planning Commission to implement a revised master plan for the balance of the Resort development and to allow the development of 407 resort residential units, 31 affordable housing units, a new golf clubhouse with a pro shop, a restaurant, a commercial facility, a members lounge, a main check-in building, a central operations building, temporary central operations facilities, temporary sales facilities and model units, public lateral shoreline access, public recreation/picnic shelters, showers and restroom facilities, swimming pools, a new tennis court complex, an electrical/mechanical facility, relocated and reconfigured golf holes of the Kiele Golf Course, in conjunction with modifications to other areas of the golf course to allow for a Par 72 championship Kiele Golf Course, and off-street parking stalls, including 20 public beach access parking stalls.

As part of the approved phases of development within the Kauai Lagoons Resort, various phases of design, permitting and construction have been undertaken for 363 resort residential units located within the Resort, including the former Fashion Landing commercial area, the former Inn on the Cliffs area, the existing tennis court complex area along Kalapaki Circle, and portions of the Kiele Golf Course and golf driving range.

The Petitioner/Applicant and Kauai Lagoons LLC are currently requesting a second amendment to the SMA Permit to implement further revisions to the master plan for the Kauai Lagoons Resort development within the previously approved 750-unit density cap. The proposed revisions are needed to provide for adjustments to the residential product types being offered in response to the current market conditions. The proposed revisions to the master plan include approximately 387 resort residential units comprised of 372 condominium/time share units and 15 single-family residential lots, and support facilities including a central operations building with a marketplace/café, a temporary central operations facility, administrative office facilities, a temporary sales facility and model units, a marketplace express and grill/kitchen, a kids club, a fitness center, a resales center, a landscape maintenance facility, swimming pools, two (2) pool bars, three (3) greeter stations, two (2) electrical/mechanical facilities, an underground sewer pump station, a water booster pump station, drainage improvements, and off-street parking stalls. The request for approval of the second amendment to the SMA Permit is being separately obtained by the Petitioner/Applicant and Kauai Lagoons LLC.

It is noted that an EA was previously prepared in April 2006 for the Kauai Lagoons Resort in conjunction with the September 2006 County General Plan Amendment for the Resort. This current EA focuses on the proposed 22 single-family residential lots to be located within the three (3) single-family residential subdivisions, and also considers the remainder of the Kauai Lagoons Resort Development in addressing the cumulative impacts, as appropriate, including the current proposed revisions to the Resort's master plan. The Site Master Plan for the Kauai Lagoons Resort which also depicts the proposed three (3) single-family subdivisions comprising the 22 single-family residential lots is included as Figure 2-1.

As the proposed use of the Kauai Development Parcel will be determined by the County, a separate environmental review process may be undertaken for the use of the Parcel at a later time, as may be required.

1.4 Defined Terms

The following defined terms are used in this EA:

“Kauai Development Parcel” refers to the approximately 138-acre undeveloped oceanfront parcel from which a density equivalent to the calculated density of 22 dwelling units is being assigned to the Kauai Lagoons Resort.

“Resort Property” refers to the overall Kauai Lagoons Resort property consisting of approximately 560 acres.

“Resort Development” refers to the planned master plan development of the Kauai Lagoons Resort Property.

“Project Site” refers to the approximately 34.0 acres within the Kauai Lagoons Resort’s 27-hole golf course complex comprising the total acreage associated with Subdivision 1A (4.60 acres), Subdivision 5 (10.36 acres) and an associated adjacent private underground sewer pump station within an approximately 400 square-foot area, and Subdivision 6 (7.06 acres) as further described below, and the remnant County General Plan Open designation area (approximately 12.0 acres) surrounding Subdivision 6 and identified as TMK: (4) 3-5-01: por. 27.

“Project” refers to the proposed three (3) single-family residential subdivisions (Subdivisions 1A, 5 and 6) comprising the 22 single-family residential lots, the proposed private underground sewer pump station adjacent to Subdivision 5, and the remnant County General Plan Open designation area (approximately 12.0 acres) surrounding Subdivision 6.

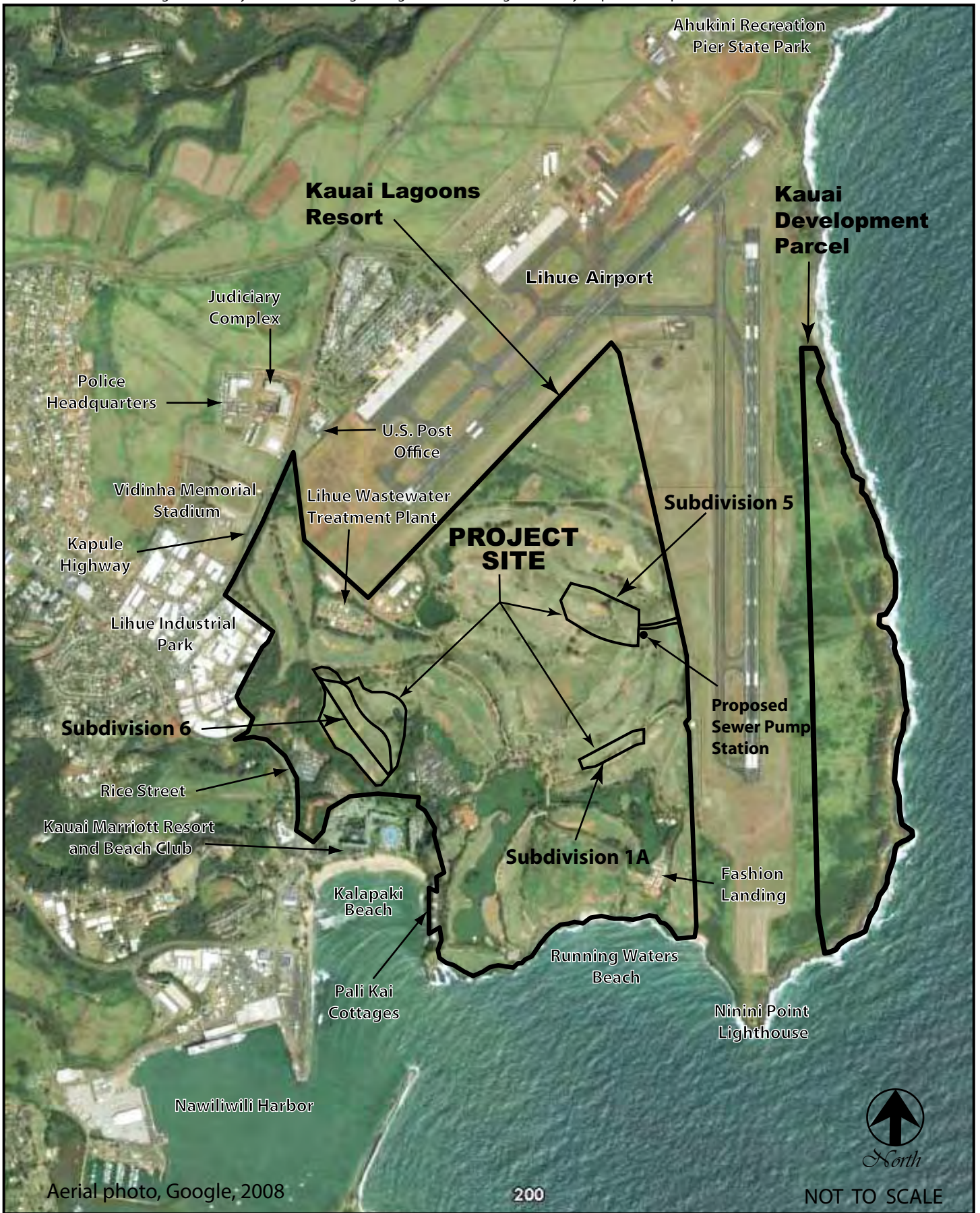
“Subdivision 1A” refers to the approximately 4.60-acre subdivision consisting of nine (9) single-family residential lots located in the vicinity of the existing Mokihana Golf Course Hole No. 1 (TMK: (4) 3-5-01: por. 27 and por. 168).

“Subdivision 5” refers to the approximately 10.36-acre subdivision consisting of six (6) single-family residential lots located in the vicinity of the existing Mokihana Golf Course Hole Nos. 6, 7 and 8 (TMK: (4) 3-5-01: por. 168).

“Subdivision 6” refers to the approximately 7.06-acre subdivision consisting of seven (7) single-family residential lots located in the vicinity of the existing Kiele Golf Course Hole No. 7 (TMK: (4) 3-5-01: por. 27).

1.5 Existing and Surrounding Uses

The existing use within the Project Site includes portions of the Kauai Lagoons Resort’s 27-hole golf course complex as shown in the Project Site Photos included in Appendix B. The existing and surrounding land uses are depicted in the Vicinity Map included as Figure 1-3.



Land uses bordering the Project Site include portions of the Kauai Lagoons Resort's 27-hole golf course complex.

Other land uses in the surrounding vicinity of the Project Site include the Lihue Airport and the Kauai Development Parcel to the east; the County's Lihue Wastewater Treatment Plant, Vidinha Memorial Stadium, the U.S. Post Office, the County Police Department's Lihue Headquarters, the judiciary complex, Kāpule Highway, and Ahukini Recreation Pier State Park to the north; the Kauai Marriott Resort and Beach Club, tennis courts, a parking lot, private residences, Nawiliwili Harbor, the Fashion Landing commercial area, Ninini Point Lighthouse, and coastline, including Kalapaki and Running Waters Beaches, to the south; and the Lihue Industrial Park and Rice Street to the west.

2. PROJECT DESCRIPTION

2.1 Project Need

The need for the proposed Project is to assign a density equivalent to the calculated density of 22 dwelling units from the Kauai Development Parcel to the Kauai Lagoons Resort, which will allow by agreement for the undeveloped, oceanfront Kauai Development Parcel to be conveyed to the County and designated for public purposes. This opportunity stems from the provisions of Condition No. 23 of Zoning Ordinance No. PM-2006-383 which provides the following:

23. *As represented by the Applicant, the Applicant shall have that certain parcel of land located in Kalapakī, Hanamā‘ulu, Līhu‘e (Puna), Kaua‘i, Hawai‘i, identified by Kaua‘i Tax Map Key No. (4) 3-05-001:102 (“Subject Property”) encumbered with a Declaration of Conservation Restriction (to be recorded in the Bureau of Conveyances of the State of Hawaii) which will contain provisions regulating the development of the Subject Property, including but not limited to, the following restrictions (hereinafter referred to as the “Development Restrictions”):*
- a. *No dwelling units shall be allowed within those portions of the Subject Property located in the 65 DNL or higher noise contours as shown on that certain map entitled FAR Part 150 5-Year (CY 1991) Noise Exposure Map for Līhu‘e Airport (from the Līhu‘e Airport – FAR Part 150 Noise Compatibility Program, Noise Compatibility Program Report, State Department of Transportation Airports Division, December 1989) (referred to hereinafter as the “Restricted Area”).*
 - b. *Only the following structures or improvements shall be allowed within the Restricted Area: roads, fences, walls, vegetation and landscaping, not more than five (5) agricultural accessory buildings, underground utilities and above-ground facilities associated therewith (none of which shall exceed five (5) feet in height), irrigation ditches, no more than two (2) water tanks (neither of which shall exceed fifteen (15) feet in height), and water wells. No dwelling units shall be allowed within the Restricted Area.*
 - c. *Only agricultural uses shall be allowed within the Restricted Area. No residential, industrial, resort or commercial uses (except commercial uses related to agriculture activities) shall be allowed within the Restricted Area.*
 - d. *The Subject Property shall not be subdivided.*
 - e. *The maximum number of dwelling units that may be developed on the Subject Property shall not exceed eleven (11) dwelling units. The owner of the Subject Property shall have the right to use the dwelling unit density to which the Restricted Area is eligible, provided that any and all dwelling units (not to exceed 11) are located on the portions of the Subject Property outside of the Restricted Area.*

- f. The Declaration of Conservation Restriction encumbering the Subject Property may not be amended in any manner so as to change, modify, or delete the Restrictive Covenants contained herein without the prior approval of the Council of the County of Kaua'i.*

In lieu of the development of the Kauai Development Parcel by the current landowner Kauai Development LLC in accordance with the subject Condition No. 23, it has been agreed that the parcel's maximum density would be assigned to the Kauai Lagoons Resort and that the parcel would then be conveyed to the County and designated for public purposes based upon an agreement to be entered into between the County and Kauai Development LLC. As previously indicated, the County will determine the future use of this parcel being conveyed to them.

The current reconfiguration being undertaken for the Kauai Lagoons Resort's 27-hole golf course complex allows for the Petitioner/Applicant to accommodate the 22 dwelling-unit density within the reconfigured golf course for development of 22 single-family residential lots within three (3) separate single-family residential subdivisions. Development of the 22 single-family residential lots requires that the underlying State Land Use District Boundary, County General Plan, County Zoning, and County VDA designations of the affected golf course lands be amended to the appropriate State and County land use designations.

2.2 Project Description

The proposed Project includes the assignment of a density equivalent to the calculated density of 22 dwelling units from the approximately 138-acre undeveloped oceanfront Kauai Development Parcel to the existing Kauai Lagoons Resort, and the development of the 22 dwelling-unit density into 22 single-family residential lots to be located within three (3) separate single-family residential subdivisions within the Resort Development's 27-hole golf course complex. The Project Site Plan depicting the location and preliminary lot layout of the three (3) single-family residential subdivisions within the Resort Development's 27-hole golf course complex is depicted in Figure 2-1. It is noted that the lot layouts within the boundaries of the three (3) single-family residential subdivisions as depicted in Figure 2-1 are conceptual and may be subject to change.

Following the assignment of density, the Kauai Development Parcel will be conveyed to the County for public purposes based upon an agreement to be entered into between the County and Kauai Development LLC. The future use of the Kauai Development Parcel will be determined by the County at a later time following conveyance of the land to them. Therefore, the proposed Project as described and assessed in this EA focuses on the development of the 22 single-family residential lots within the Resort Development's 27-hole golf course complex and associated improvements.

The Project Site encompasses a total of approximately 34.0 acres which includes the three (3) single-family residential subdivisions totaling approximately 22 acres, the private underground sewer pump station of approximately 400 square feet adjacent to Subdivision 5, and the approximately 12.0 acres comprising the existing remnant General Plan Open designation area surrounding Subdivision 6.

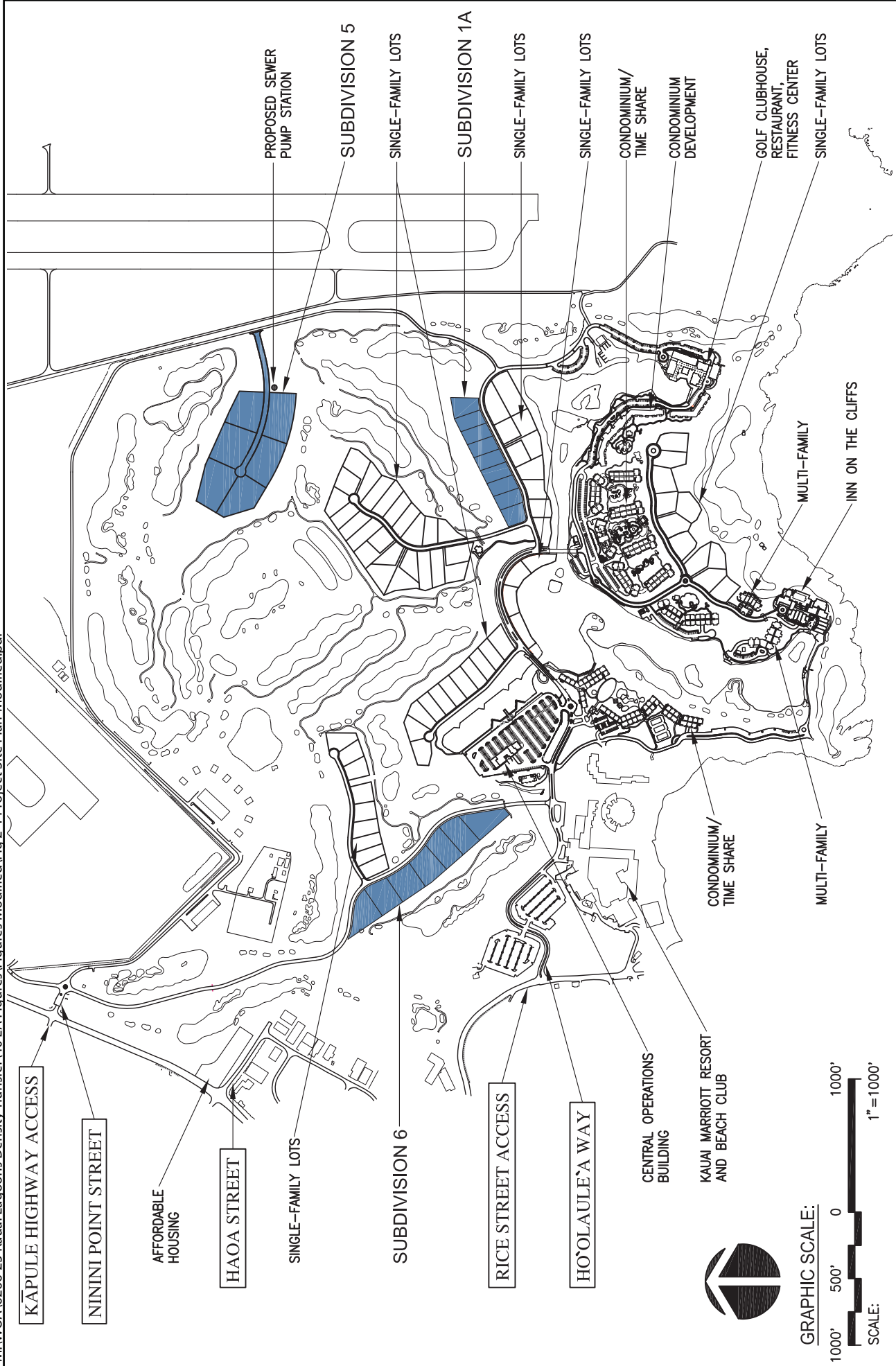


FIGURE 2-1
PROJECT SITE PLAN

The first subdivision, identified as Subdivision 1-A consisting of approximately 4.60 acres, will include nine (9) single-family residential lots each averaging 0.5-acre in size. Subdivision 1-A will be located in the vicinity of the existing Mokihana Golf Course Hole No. 1 within the central-eastern portion of the Resort Development (TMK: (4) 3-5-01: por. 27 and por. 168).

The second subdivision, identified as Subdivision 5 consisting of approximately 10.36 acres, will include six (6) single-family residential lots each averaging 1.5 acres in size and a private access road. Subdivision 5 will be located in the vicinity of the existing Mokihana Golf Course Hole Nos. 6, 7 and 8 within the northeastern portion of the Resort Development (TMK: (4) 3-5-01: por. 168). The private access road of approximately 1,100 linear feet will extend west from Ninini Point Street to provide access to Subdivision 5.

A private underground sewer pump station will be located within an approximately 400 square-foot area adjacent to the eastern boundary of the Subdivision 5 site. The underground sewer pump station, which will serve the Subdivision 5 lots, will be fully below-grade, except for an air vent. A small enclosed structure to be located near the underground sewer pump station will house the control panel, emergency generator and generator fuel tank for the pump station. The waterproof structure will be constructed of material such as acoustical stainless steel or fiberglass.

The third subdivision, identified as Subdivision 6 consisting of approximately 7.06 acres, will include seven (7) single-family residential lots each averaging 1 acre in size. Subdivision 6 will be located in the vicinity of the existing Kiele Golf Course Hole No. 7 within the western portion of the Resort Development (TMK: (4) 3-5-01: por. 27).

The approximately 12.0 acres comprising the existing remnant General Plan Open designation area surrounding Subdivision 6 currently encompasses the existing Kiele Golf Course Hole Nos. 6 and 8 within the western portion of the Resort Development. The proposed designation of this remnant area from the General Plan Open to Resort is intended only to provide for a more uniform boundary of the Resort designation and not for additional density purposes.

The proposed 22 single-family residential lots will be restricted to one (1) residential dwelling per lot and no Additional Dwelling Units and guest cottages will be permitted. Dwelling construction and lot landscaping will be undertaken separately by either the developer or individual lot owners in accordance with established design guidelines.

Existing public roadways in the vicinity of the Project Site include Kāpule Highway to the north and Rice Street to the west. In accordance with Condition No. 6 of the Amended SMA Permit, the Ninini Point Street entrance at Kāpule Highway will serve as the primary vehicular access for the Resort Development. Vehicular access to each of the proposed three (3) single-family residential subdivisions will be from the privately-owned and maintained internal roadway system within the Resort Development. The primary vehicular access from Kāpule Highway to Subdivision 1A will be via Ninini Point Street, Pāhola Drive (formerly known as Limo Road), Ho'olaule'a Way, and Kāhilipulu Way. Primary vehicular access to Subdivision 5 will be via Ninini Point Street, Pāhola Drive, Ho'olaule'a Way, Kāhilipulu Way, and Ninini Point Street, with secondary access to be provided along the portion of Ninini Point Street which traverses along the northern and eastern boundaries of the Resort Property. Primary vehicular access to Subdivision 6 will be via Ninini Point Street and Pāhola Drive.

The assignment of density of the 22 dwelling units will result in the need to increase the density cap for the Kauai Lagoons Resort from the current maximum 750 dwelling units established under Zoning Ordinance No. PM-2006-383, to a total maximum of 772 dwelling units, exclusive of the 31 affordable housing units. This will require an amendment to Condition No. 1 of Zoning Ordinance No. PM-2006-383 to increase the density cap of the Kauai Lagoons Resort accordingly.

In addition, the conveyance of the Kauai Development Parcel to the County for public purposes will result in the need to delete Condition No. 23 of Zoning Ordinance No. PM-2006-383 in its entirety since the provisions regulating the development of that parcel will no longer be applicable once the parcel is conveyed to the County.

To accomplish the above, the Petitioner/Applicant proposes the following entitlement actions. The existing and proposed State Land Use Districts Map, Kauai General Plan Land Use Map, and County Zoning Map are included as Figures 4-1, 4-2, 4-3, 4-4, 4-5, and 4-6, respectively, in Chapter 4 of this EA.

1. State Land Use District Boundary Amendment

Reclassification of 14.6 acres of land within the Resort Development's 27-hole golf course complex located within TMK: (4) 3-5-01: 168 from the State Agricultural District (A) to the State Urban District (U) to allow for development of Subdivision 1A and Subdivision 5 consisting of a total of 15 single-family residential lots. This would occur in the vicinity of Mokihana Golf Course Hole Nos. 1, 6, 7, and 8 within the eastern portion of the Resort Development. An approximately 0.4-acre area within the southeast portion of Subdivision 1A is currently within the State Urban District and, therefore, will not be part of the reclassification. The reclassification of 15 acres or less is subject to review and recommendation by the County Planning Commission and approval by the County Council and the Mayor.

It is noted that an approximately 450 linear-foot segment of the proposed private access road that will extend from Ninini Point Street to the entrance of Subdivision 5 is located within the State Agricultural District and will not be reclassified to the State Urban District since private roadways are a permissible use within the State Agricultural District pursuant to Chapter 205 Land Use Commission, Section 205-4.5 (7), HRS.

2. County General Plan Amendment

Amendment of the County General Plan Land Use Map to designate approximately 19.1 acres of land within a portion of the Kauai Lagoons Resort's 27-hole golf course complex located within TMK: (4) 3-5-01: por. 27 from the Open designation to the Resort designation. This would allow for the development of Subdivision 6 (7.06 acres) consisting of a total of seven (7) single-family residential lots, and the designation of the existing approximately 12.0-acre remnant Open designation area surrounding Subdivision 6 to the Resort designation to provide for a more uniform boundary and not for additional density purposes. The areas of amendment would include the Kiele Golf Hole Nos. 6, 7 and 8 located in the western portion of the Resort Development.

The General Plan Amendment triggers the preparation of this EA which will be processed pursuant to Chapter 343, HRS, and Title 11, Chapter 200, Title 11, Hawaii Administrative Rules, Department of Health, State of Hawaii. This EA is subject to acceptance by the County Planning Department, and the General Plan Amendment is subject to review and recommendation by the County Planning Commission and approval by the County Council and the Mayor.

3. County Zoning and Visitor Destination Area (VDA) Amendment

For the County Zoning Amendment, several components are involved, including the zoning amendment of approximately 22 acres comprising the three (3) single-family residential subdivisions within the Resort Development's 27-hole golf course complex (TMKs: (4) 3-5-01: por. 27 and por. 168) from the Open District (O) to the Residential District (R-2):

- a. The 14.6 acres of State Agricultural District lands within TMK: (4) 3-5-01: por. 168 to be reclassified to the State Urban District within the Mokihana Golf Course are proposed to be rezoned from the Open District (O) to the Residential District (R-2) for the development of Subdivisions 1A and 5 consisting of a total of 15 single-family residential lots.
- b. The approximately 7.06 acres within TMK: (4) 3-5-01: por. 27, of which the County General Plan designation will be amended from the Open to the Resort designation, are proposed to be rezoned from the Open District (O) to the Residential District (R-2) for the development of Subdivision 6 consisting of a total of seven (7) single-family residential lots.
- c. The Visitor Destination Area (VDA) boundaries of the Resort Development are proposed to be expanded by approximately 9.2 acres to encompass the Subdivision 6 site and an adjacent approximately 2.1-acre Open District (O) zoned area to accommodate the future realignment of the southern portion of Pāhola Drive (formerly known as Limo Road).
- d. Condition No. 1 of Zoning Ordinance No. PM-2006-383 is proposed to be amended to increase the density cap of the Kauai Lagoons Resort from the current total of 750 dwelling units to a total of 772 dwelling units, exclusive of the 31 affordable housing units, to accommodate the additional 22-unit density being assigned from the Kauai Development Parcel. All other provisions of this Condition will remain unchanged.
- e. Condition No. 23 of Zoning Ordinance No. PM-2006-383 is proposed for deletion in its entirety since the provisions regulating the development of the Kauai Development Parcel will no longer be applicable once the parcel is conveyed to the County.

The County Zoning Amendment and VDA Amendment are subject to review and recommendation by the County Planning Commission and approval by the County Council and the Mayor.

As previously indicated, in addition to the petition for State Land Use District Boundary Amendment, County General Plan Amendment, County Zoning Amendment, and County VDA Amendment for the above land use designation amendments, a separate SMA Use Permit, Use Permit and Class IV Zoning Permit application has been prepared and filed with the County Planning Department. The SMA Use Permit will allow for the subdivision and construction of site improvements for Subdivision 6. The Use Permit will allow for the proposed underground sewer pump station adjacent to Subdivision 5. The Class IV Zoning Permit will allow for the development of the proposed underground sewer pump station and the 22 single-family residential lots.

Sustainable Strategies: The proposed Project proposes to incorporate the application of Leadership in Energy and Environmental Design (LEED) standards and strategies, to the extent deemed economically feasible, to achieve sustainable site, utilities and building development. The following green principles and strategies being proposed for the Project and the overall Resort Development include the following:

Sustainable Sites:

- Control storm water runoff on-site. The project's design will reuse the majority of the storm water volume generated for non-potable uses. Storm water runoff will be captured and returned to the lagoons or retained on-site.
- Develop an erosion and sedimentation control plan meeting the construction activity pollution prevention criteria. This would include reducing pollution from construction activities by controlling soil erosion, waterway sedimentation and airborne dust generation.
- Reduce the roof heat island effect by using Energy Star compliant, high reflectance and low emissivity roofing at flat roof areas.
- Minimize light pollution by designing exterior lighting to reduce fixture lumens emitted at an angle of 90 degrees or higher from nadir (straight down).
- Promote alternative transportation by providing secure bicycle storage and locker room facilities.
- Provide pedestrian linkages within the Resort Development and to Island-wide public transportation.

Water Efficiency:

- Achieve water and energy savings by deleting cooling towers and utilizing the Resort Development's lagoons as a heat sink in lieu of typical heating, ventilation and air-conditioning (HVAC) systems.
- Design for low irrigation water usage and utilize non-potable water for landscape irrigation. The project's irrigation will utilize water from the Resort's lagoons, on-site wells, and R-1 quality recycled wastewater effluent from the County's Lihue Wastewater Treatment Plant. Potable water for irrigation of the project's landscaping will be minimized or eliminated.
- Reduce potable water usage through use of high efficiency plumbing fixtures.

Energy and Atmosphere:

- Assess building energy design efficiencies and perform fundamental building commissioning.
- Reduce energy demand through specification of efficient lighting and mechanical equipment. Specify Energy Star rated appliances that will reduce electric consumption. Use high performance glazing to achieve an increased level of performance and reduction in energy use.
- Energy consumption reduction through design modeling has been designed to be ~14% more efficient than ASHRAE 90.1 2004.
- Incorporate specified refrigerants that do not utilize ozone depleting chemicals such as Chloro-fluoro-carbons (CFCs).

Indoor Environmental Quality:

- Design HVAC systems to monitor air delivery.
- Propose low Volatile Organic Compound (VOC) materials such as adhesive and sealants, paints and coating, and carpet systems.
- Require a construction management plan for the proper storage, installation and maintenance of HVAC systems to minimize particulate and organic contaminants. Implement an Indoor Air Quality (IAQ) Management Plan during pre-occupancy phases that protects the HVAC system during construction, controls pollutant sources and interrupts contamination pathways.
- Design indoor spaces such as janitor closets and copying rooms with separate ventilating systems to control indoor pollutant sources.
- Provide lighting control systems that reduce light usage and sensors for day lighting to reduce energy consumption.
- Provide building occupants with options for thermal comfort and control.
- Design spaces with views to the exterior and options for natural ventilation.

Innovation and Design Process:

- Create and implement a Green education program to share green strategies with Resort employees and guests through graphic stations and self-guided tours.
- Provide a post-occupancy ongoing pest management program with an emphasis on effective use of Green pesticides and techniques.
- Implement a green housekeeping program.
- Consider carbon neutral building products.
- Incorporate use of low VOC furniture.
- Incorporate use of low-content mercury lighting.
- Work with the U.S. Fish & Wildlife Service and the State Department of Land and Natural Resources (DLNR) Division of Forestry and Wildlife (DOFAW) in establishing a joint Federal-State Habitat Conservation Plan in accordance with the requirements of Section 10 of the Endangered Species Act, as amended, and §195D, HRS.

Waste Stream Diversion:

- During construction, develop a solid waste management plan to segregate and store materials for recycling (paper, wood, cardboard, glass, metals, and plastics) and minimize construction, demolition and land clearing debris from disposal in the County's landfill.
- Reuse concrete from the demolition of existing buildings and other infrastructure within the Resort Development as non-expansive granular fill in areas deemed appropriate for such reuse.
- Utilize locally-produced materials such as aggregate and concrete wherever feasible and applicable.
- Incorporate waste diversion and reduction facilities into the design of the project and encourage recycling of materials at the project during the operations phase. Implement a solid waste management plan to provide for recycling of cardboard, aluminum, glass, plastic, and green waste, and participation in the State's "high five" program. Incorporate recycling and waste collection facilities at each development area within the Resort Development. Employ composting of all greenwaste on-site for the project's golf course and landscaped areas.

2.3 Project Schedule

Development of the proposed Project is projected to be undertaken following receipt of entitlements, permits, subdivision, and construction plan approvals, and completion of mass grading of the Resort Development's adjacent golf course modifications, and subject to financing and market conditions, as described below:

Subdivision 1A:

	<u>Start</u>	<u>Completion</u>
Subdivision/Construction Documents	April 2010	October 2010
Infrastructure/Lot Construction	March 2011	May 2011

Subdivision 5:

	<u>Start</u>	<u>Completion</u>
Subdivision/Construction Documents	April 2010	October 2010
Infrastructure/Lot Construction	February 2013	May 2013

Subdivision 6:

	<u>Start</u>	<u>Completion</u>
Subdivision/Construction Documents	April 2010	October 2010
Infrastructure/Lot Construction	April 2012	June 2012

3. DESCRIPTION OF THE EXISTING ENVIRONMENT, PROJECT IMPACTS AND MITIGATION MEASURES

The following is a description of the existing environment, assessment of potential impacts and proposed measures to mitigate potential adverse impacts resulting from the development of the proposed Project.

Cumulative and secondary impacts resulting from the proposed Project in conjunction with the overall Resort Development are also addressed in this Chapter, as appropriate. Cumulative impacts are those that result from the incremental impact of the action when added to other past, present and reasonably foreseeable future actions. Secondary impacts include those that are caused by the Project and occur later in time or removed in distance but are still reasonably foreseeable. They may include growth inducing effects and other effects related to induced changes in the pattern of land use, population density or growth rates, regardless of who initiates the action.

3.1 Climate

The climate of Kauai is relatively moderate throughout most of the year, although some differences in certain meteorological conditions may occur from one region to another. Most of these differences are caused by the Island's mountainous topography. The climate is characterized as semi-tropical with two (2) seasons. The summer period from May through September is generally warm and dry, with predominantly northeast trade winds. In contrast, the winter season from October through April is associated with lower temperatures and higher rainfall. The trade winds are less prevalent during this period.

Long-term data collected at Lihue Airport indicates that the northeast wind direction prevails throughout the year with a mean annual wind speed of 20 miles per hour. Winds from the south are infrequent, occurring only a few days during the year and mostly in winter in association with Kona storms.

Average temperature in the Lihue area ranges from about 66 degrees Fahrenheit (°F) in the coolest month to about 83°F in the warmest month. Median annual rainfall in the area is approximately 43 inches.

3.2 Geology, Topography and Soil

The Island of Kauai is geologically one of the oldest and structurally complex islands in the State, consisting principally of a large volcano, the Kauai shield, which became active approximately four (4) million years ago. The Island's land mass was formed by two (2) major volcanic series identified as the Waimea Canyon Volcanic Series and the Koloa Volcanic Series. The Waimea Volcanic Series refer to the flows that formed the original volcanic shield and caldera of the Island. The Koloa Volcanic Series refer to subsequent flows that overlaid much of the Waimea Volcanic Series formations on the lower slopes of the Island. The Resort Property generally consists of clay silt underlain by decomposed, highly weathered basalt.

Overall, the Resort Property ranges from an elevation of about 120 feet above mean sea level (msl) near the center of the Property to about 6 feet above msl at the southern boundary. The Resort Property generally slopes toward Runway 17-35 of the Lihue Airport and toward

Nawiliwili Bay.

Within the Project Site, the elevations of the proposed three (3) single-family residential subdivisions are determined by the existing golf course contours within each site. Within the Subdivision 1A site, the elevations range from approximately 110 feet above msl within most of the site to about 100 feet above msl near the eastern end. The elevations of the Subdivision 5 site range from approximately 110 feet above msl within the central portion to about 96 feet above msl near the southeast portion. Within the Subdivision 6 site, the elevations range from approximately 130 feet above msl within the northern portion to about 100 feet above msl within the southern portion. The elevations of the remnant Open designation area surrounding Subdivision 6 range from approximately 130 feet above msl within the northern portion to about 60 feet above msl within the eastern portion.

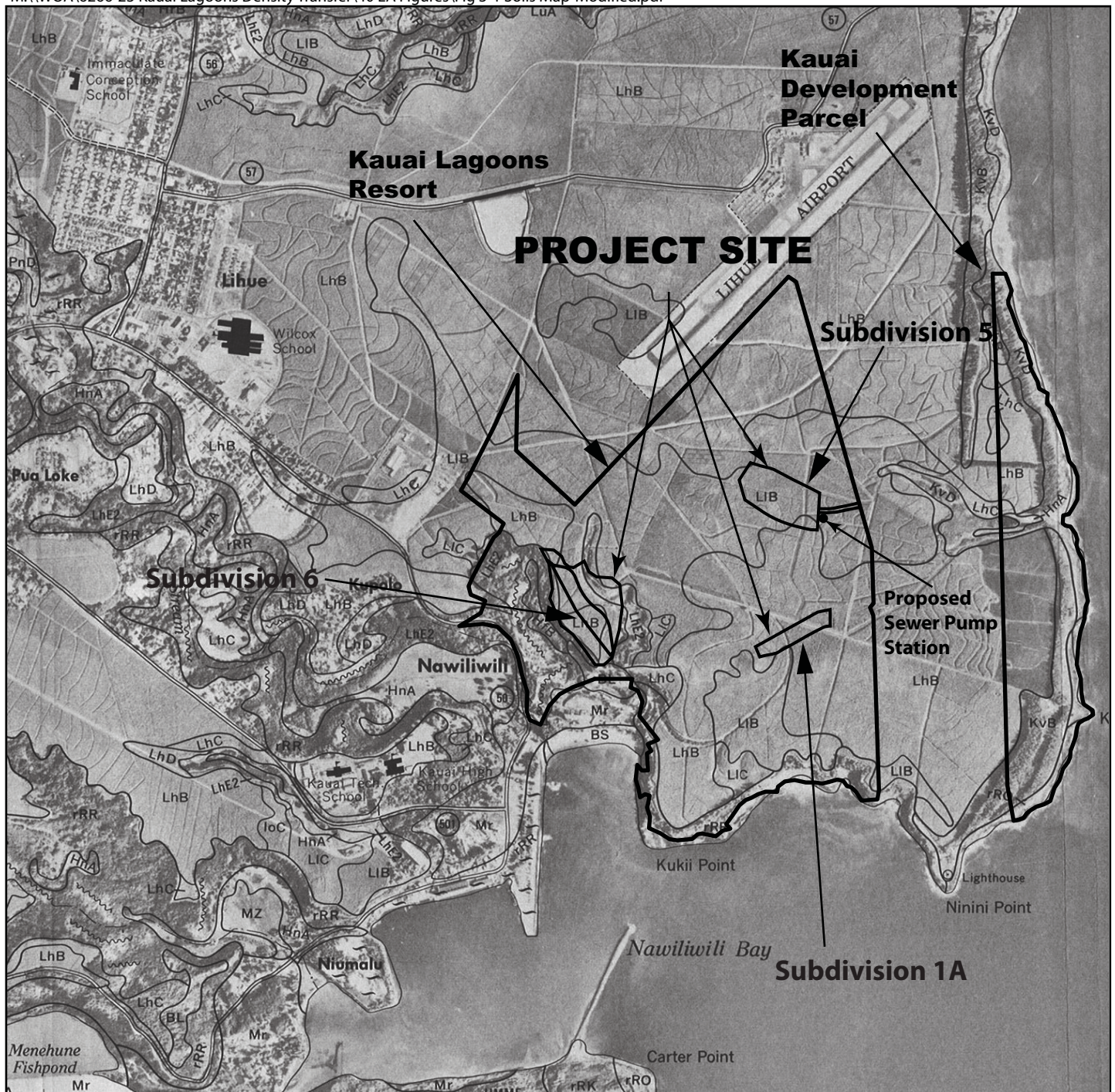
Within the Project Site, the U.S. Department of Agriculture Natural Resources Conservation Service classifies the soils as Lihue gravelly silty clay, 0-8 percent slopes (LIB) occurring within the majority of Subdivision 5, the northern and southernmost portions of Subdivision 6, and portions of the adjacent remnant Open designation area; Lihue silty clay, 0-8 percent slopes (LhB) occurring within Subdivision 1A, the southeastern portion of Subdivision 5, the southern portion of Subdivision 6, and the southwestern portion of the remnant Open designation area; and Lihue silty clay, 25 to 40 percent slopes, eroded (LhE2) occurring within the eastern portion of the remnant Open designation area as shown on the Soils Map included as Figure 3-1. The Lihue series consist of well-drained soils on uplands. These soils developed in material weathered from basic igneous rock. The LIB and LhB soil series are similar in that permeability is moderately rapid, runoff is slow, and the erosion hazard is no more than slight. The LhE2 soil series has rapid runoff and the erosion hazard is severe.

The *Detailed Land Classification - Island of Kauai* published by the University of Hawaii Land Study Bureau (LSB), evaluates the quality or productive capacity of certain lands on the Island for selected crops and overall suitability in agricultural use. A five-class productivity rating system was established with "A" representing the class of highest productivity and "E" the lowest. The Project Site is predominantly classified as "B" rated soils, which indicates a high suitability for productive agriculture. An area within the eastern portion of the remnant Open designation area is classified as "E" rated soils, which is considered very poor characteristics for productive agricultural areas.

The *Agricultural Lands of Importance in the State of Hawaii* (ALISH) map designates the majority of the Project Site as "Prime Agricultural Land", defined as land which has the soil quality, growing season, and moisture supply needed to produce sustained high yields of crops economically when treated and managed according to modern farming methods. An area within the eastern portion of the remnant area is designated as "Other Important Agricultural Land", defined as land other than Prime or Unique Agricultural Land that is also of statewide or local importance for agricultural use.

Impacts and Mitigation Measures

No significant impacts to the geology, topography and soils are anticipated with the construction and development of the proposed Project. Construction of the proposed Project improvements will involve grading, excavation and trenching of areas presently developed as golf course use.



Legend

BL Badland
 HnA Hanalei silty clay, 0-2 percent slopes
 HfB Halii gravelly silty clay, 3-8 percent slopes
 KvB Koloa stony silty clay, 3-8 percent slopes
 KvD Koloa stony silty clay, 15-25 percent slopes
 LhB Lihue silty clay, 0-8 percent slopes

LhC Lihue silty clay, 8-15 percent slopes
 LhE2 Lihue silty clay, 25-40 percent slopes
 LIB Lihue gravelly silty clay, 0-8 percent slopes
 LIC Lihue gravelly silty clay, 8-15 percent slopes
 rRR Rough broken land
 rRO Rock outcrop

Source:
 U.S. Department of Agriculture,
 Natural Resources Conservation Service



0 1000 2000 FT



**FIGURE 3-1
 SOILS MAP**

Appropriate erosion and sediment controls will be instituted during Project grading operations and construction site work activities in compliance with the State Department of Health's (DOH) National Pollutant Discharge Elimination System (NPDES) Permit program and the County's grading ordinance requirements. Mitigation measures will be instituted following site-specific assessments, incorporating appropriate structural and/or non-structural Best Management Practices (BMPs) such as minimizing time of exposure between construction and re-vegetation, and implementing erosion control measures such as silt fences, graveled construction entrances, and sediment basins.

Following construction, exposed soils will have been graded, built and paved over, and landscaped which will control erosion.

The Project Site is currently developed with golf course use and no agricultural activities presently occur. Given the proposed single-family residential development within the Project Site, it is highly unlikely that the lands will revert to agricultural use.

3.3 Water Resources

Surface Water: The major streams on Kauai originate in the rainy uplands and are relatively large and uniform in flow. The Nawiliwili Stream is the nearest perennial stream, located approximately 0.3 mile southwest of the Project Site at its closest point. Nawiliwili Stream flows into Nawiliwili Bay. The Hanamaulu Stream is also a perennial stream and is located approximately 1.4 miles north of the Project Site at its closest point. The major streams, and most minor ones, are sustained in large measure by groundwater drainage.

Within the Resort Property, a network of man-made lagoons encompassing approximately 35 acres is located makai of the Project Site. The lagoons are approximately 10 feet deep, aerated to help maintain water quality, and are supplied by non-potable wells within the Kauai Lagoons Resort.

There are no wetlands located within or in the immediate vicinity of the Project Site.

Groundwater: The Island of Kauai is divided into three (3) groundwater sectors, identified as Aquifer Sector Areas, consisting of the Lihue Aquifer Sector comprising the eastern portion of the Island, the Hanalei Aquifer Sector comprising the northern portion of the Island, and the Waimea Aquifer Sector comprising the western portion of the Island. The Aquifer Sector Areas are divided into sub-regional hydrologic units, identified as Aquifer System Areas, which are areas defined by hydrogeological continuity, particularly hydraulic connections among units.

The Project Site is located within the Lihue Aquifer Sector Area which is comprised of the following five (5) Aquifer System Areas: Kilauea, Anahola, Wailua, Hanamaulu, and Koloa. The Project Site is located within the Hanamaulu Aquifer System Area that mantled with the Koloa formation. The Hanamaulu Aquifer System Area has a sustainable yield of 36 million gallons per day (mgd). (State Department of Land and Natural Resources (DLNR), Commission on Water Resource Management (CWRM), June 2008).

Coastal Waters: The coastal waters in the vicinity offshore of the Property are classified as Class A waters by the State DOH. The objective of this class is that “their use for recreational purposes and aesthetic enjoyment be protected. These waters shall not act as receiving waters for any discharge which has not received the best degree of treatment or control compatible with the criteria established for this class.” (*Water Quality Standards, Title 11, Chapter 54, Hawaii Administrative Rules*).

Impacts and Mitigation Measures

No significant impacts on surface waters, groundwater, and near shore coastal waters are anticipated as a result of the construction and development of the proposed Project.

Potential water quality impacts to near shore coastal waters during construction of the Project will be mitigated by adherence to State and County water quality regulations governing grading, excavation and stockpiling. A NPDES General Permit for Storm Water Associated with Construction Activity administered by the State DOH will be required to control storm water discharges. The County’s grading ordinance includes provisions related to reducing and minimizing the discharge of pollutants associated with soil disturbing activities in grading, grubbing and stockpiling. Mitigation measures will be instituted following site-specific assessments, incorporating appropriate structural and/or non-structural BMPs such as minimizing time of exposure between construction and re-vegetation, and implementing erosion control measures such as silt fences, graveled construction entrances, and sediment basins.

Development of the proposed Project will result in an increase in storm runoff since portions of the existing golf course areas within the Project Site will be replaced with non-permeable surfaces. The Project’s proposed drainage system will be designed to control drainage flows and minimize impacts to the adjacent and nearby properties and to the nearshore coastal waters. The Project’s drainage system will be designed to accommodate the increased storm runoff without increasing off-site impacts and will comply with the County’s Drainage Standards.

Cumulatively, as the proposed and planned projects within the Resort development occur, the rate and quantity of runoff will change as a result of the proposed alterations to the existing natural topography and existing facilities within the area of development. Development of the overall Kauai Lagoons Resort improvements will result in an estimated increase of approximately 130 cubic feet per second (cfs) of runoff and an increase in runoff volume of 33.107 acre-feet. To accommodate the projected increase in runoff volume, a total of seven (7) detention basins will be provided throughout the Kauai Lagoons Resort development which will account for as much as 8.187 acre-feet of the increase in runoff volume. The remaining 24.920 acre-feet will be diverted into the existing lagoons. The excess runoff proposed to be diverted into the lagoons is estimated to raise the water level of the lagoons by 8.9 inches. The maximum allowable increase in water level height of the lagoons is 24 inches, which is sufficient to accommodate the estimated 8.9-inch rise in water level. With the addition of the proposed detention basins and use of the existing lagoons, the flow rates and drainage patterns will be kept to pre-development conditions, and the runoff generated by the Resort Development will not adversely affect the adjacent properties and down-gradient areas.

Construction activities and development of the proposed Project are not likely to introduce any materials which could adversely affect groundwater.

3.4 Flood Hazard

According to the Flood Insurance Rate Map (FIRM) prepared by the Federal Emergency Management Agency (FEMA), the Project Site is located within Zone "X", defined as "Areas determined to be outside the 0.2% annual chance floodplain" as shown on Figure 3-2.

Impacts and Mitigation Measures

Construction and development of the proposed Project are not anticipated to result in flooding of the Project Site or lower elevation properties. Given the current golf course use of the Project Site, development of the proposed Project will increase the impervious areas of the site.

Cumulatively, in consideration of the development of the Project with the remainder of the Resort Development, the addition of the proposed seven (7) detention basins to be provided throughout the Resort and use of the existing lagoons will keep the flow rates and drainage patterns to pre-development conditions. Therefore, the runoff generated by the proposed Project in consideration of the remainder of the Resort development will not adversely affect the adjacent properties and down-gradient areas, and will minimize any potential flood hazard.

3.5 Flora

Existing vegetation within the Project Site consists of landscaping associated with golf course use. Based on a botanical survey conducted by Rana Productions, Ltd. in October 2005 which encompassed most of the Resort Property, the Kauai Lagoons Resort's golf course is dominated by alien turf grasses and various ornamental landscape plants, including numerous fig trees (*Ficus sp.*), silk oak (*Grevillea robusta*), ironwood (*Casuarina equisetifolia*), African tulip (*Spathodea campanulata*), coconut (*Cocos nucifera*), monkey pod (*Samanea saman*), hau (*Hibiscus tiliaceus*), Royal poinciana (*Delonix regia*), Manila palm (*Veitchia merrillii*), sago palm (*Cycas sp.*), plumeria (*Plumeria sp.*), bouganvillea (*Bougainvillea sp.*), and various ornamental palms. There is very little ground cover other than turf grass, although the more common ruderal weedy species are present between some of the paved cart paths and the vegetation separating the golf course from the resort areas.

Impacts and Mitigation Measures

As the Project Site does not contain a unique botanical habitat, no significant impacts on flora are anticipated from the construction and development of the proposed Project. The vegetation present within the Project Site is dominated by alien plant species which are currently being maintained as either golf course or resort landscaping. No habitat of a proposed or listed, threatened or endangered plant species will be disturbed as a result of the proposed Project.

Upon construction of the proposed Project, the existing landscaping within the Project Site will be replaced with new landscaping within the individual single-family lots. The lot landscaping will be undertaken separately by either the developer or individual lot owners in accordance with established design guidelines.

**FIGURE 3-2
FLOOD ZONE MAP**

3.6 Fauna

Based on the findings of a faunal survey of the Resort Property conducted by Rana Productions, Ltd. in October 2005, avian diversity was relatively low, although densities recorded for several species were high. Four (4) species, House Finch (*Carpodacus mexicanus frontalis*), Japanese White-eye (*Zosterops japonicus*), Western Meadowlark (*Sturnella neglecta*), and Chestnut Munia (*Lonchura atricapilla*), accounted for slightly more than 55% of the total number of all birds recorded during station counts. The most common avian species recorded was the House Finch, which accounted for 23% of the total number of individual birds recorded.

The findings of the avian survey are consistent with the findings of other recent surveys conducted within close proximity of the Resort Property and within other alien species dominated habitats in other lowland areas on Kauai in recent years. Six (6) native avian species were detected during the course of this survey. Four (4) of these, Hawaiian Goose or Nene (*Branta sandvicensis*), Hawaiian Duck or Koloa mapu (*Anas wyvilliana*), Common Moorhen or Alaeula (*Gallinula chloropus sandvicensis*), and Hawaiian Coot or Alae Keokeo (*Fulica alai*), are listed as endangered species under both Federal and State of Hawaii endangered species statutes. There are well known concentrations of geese, coots and moorhen associated with the water features within the Kauai Marriott Resort and Beach Club. All four (4) species also use resources within the Kauai Lagoons Resort golf courses. These species also use resources in almost any area within the general vicinity that contains standing water, no matter how ephemerally. In addition, over the past two (2) seasons, the Hawaiian Stilt or Ae'o (*Himantopus mexicanus knudseni*), also a native avian species listed as an endangered species under both Federal and State of Hawaii endangered species statutes has been observed within the Kauai Lagoons Resort's golf courses.

The other two (2) native species recorded were Black-crowned Night-Heron (*Nycticorax nycticorax hactli*) and Pacific Golden-Plover (*Pluvialis fulva*), the first of which is a common resident indigenous heron, and the second an indigenous migratory shorebird species that nests in the high Arctic, returning to Hawaii and the tropical Pacific during the winter months.

Although not recorded during this survey, it is likely that the Short-eared Owl (*Asio flammeus sandwichensis*) forages over the Resort Property at times, as they are regularly seen within the open lowland areas on the Island of Kauai and over the adjacent Lihue Airport grounds. Although not detected during this survey, it is likely that the endangered Hawaiian Petrel (*Pterodroma sandwichensis*) and the threatened endemic sub-species of the Newell's Shearwater (*Puffinus auricularis newelli*) over-fly the Resort Property between April and the end of November each year.

No mammalian species were encountered during the survey, although signs of both dog (*Canis f. familiaris*) and cat (*Felis catus*) were encountered at several locations within the survey area.

No endangered Hawaiian hoary bats were detected during the course of this survey. No mammalian species currently listed or proposed for listing under either Federal or State of Hawaii endangered species statutes were recorded during the survey.

Impacts and Mitigation Measures

The modification of habitat within the Project Site poses potential direct impacts to five (5) listed avian species, Hawaiian Goose, Hawaiian Duck, Common Moorhen, Hawaiian Coot, and Hawaiian Stilt. All five (5) species are opportunistic, and although listed as endangered, are relatively widespread within the lowland areas of the Island that support wetlands, or man-made water features such as ponds, wastewater ponds, and irrigation canals. The principal threats posed to these species by the modification of the habitat present within the Project Site are the inadvertent destruction of nests, eggs or chicks during construction activities and the temporary disturbance of non-nesting birds as a result of construction activity.

It is likely that the construction activity associated with the modification of habitat within the Project Site will temporarily disturb avian species, including the five (5) endangered species known from within the Resort Property. The Petitioner/Applicant and Kauai Lagoons LLC are in close coordination with the U.S. Fish and Wildlife Service (USFWS) and the State DLNR Division of Forestry and Wildlife (DOFAW) on developing measures to address potential impacts of the Project construction on the endangered Nene and other waterbird species. The Kauai Lagoons LLC entered into a Memorandum of Agreement (MOA) with the USFWS executed in January 2009 which details the extensive measures the Kauai Lagoons LLC implemented during the 2008-09 Nene breeding season, and will continue to implement, for the purposes of avoiding take of and providing certain conservation benefits to these species. These measures include enhancing nesting habitat areas, conducting endangered species awareness training for all Kauai Lagoons LLC and construction contractor employees, performing pre-construction surveys, utilizing designated biological and construction monitors, installing and maintaining protective fencing, posting and enforcing speed limits within the Resort Property, posting warning signs, providing centralized parking for construction crews, providing appropriate trash receptacles at construction sites, conducting predator trapping, developing and implementing emergency response protocols for dealing with injured birds, and conducting extensive and continual monitoring of Nene and waterbird breeding and presence on the Resort Property.

The Petitioner/Applicant and Kauai Lagoons LLC are also actively engaged with the USFWS and the State DLNR DOFAW in preparing a joint Federal-State Habitat Conservation Plan (HCP) in accordance with the requirements of Section 10 of the Endangered Species Act, as amended, and §195-D, HRS. This HCP will govern both the development operations, including development of the Project Site, and ongoing golf operations at the Kauai Lagoons Resort. The USFWS conducted an internal consultation on the terms of the MOA under Section 7 of the Endangered Species Act and issued a Biological Opinion on January 26, 2009. The Biological Opinion authorized certain incidental take in connection with the Resort Development through August 2009. Under the MOA, Kauai Lagoons LLC and the USFWS have committed to use their best efforts to complete before that date the HCP process for additional construction and for long-term Resort operations. The terms of the MOA allow for it to be extended if the HCP process is not complete by August 31, 2009. Furthermore, the Petitioner/Applicant and Kauai Lagoons LLC are funding the USFWS and State DLNR DOFAW efforts in the translocation of Nene to other suitable areas on the Island.

The proposed Project also poses a potential secondary threat to two (2) listed pelagic seabird species, Hawaiian Petrel (*Pterodroma sandwichensis*) and Newell's Shearwater (*Puffinus auricularis newelli*), both of which regularly over-fly the Project Site between April and the end of

November each year. Both species are at risk of being downed by interactions with unshielded lighting and collisions with man-made structures when disoriented by lights. To reduce the potential for interactions between nocturnally flying Hawaiian Petrels and Newell's Shearwaters with external lights and man-made structures, any external lighting planned for the Project will be shielded or of the cut-off luminaire or indirect lighting types, and/or directed downward. The use of spotlights aimed upward or spotlighting of structures and landscaping within the Project Site will be prohibited. In addition, night time construction activities will not be undertaken in conjunction with the development of the proposed Project.

3.7 Air Quality

Air quality in the vicinity of the Project Site is considered to be good due to sparse development and the absence of point-source pollutant generators in the vicinity of the site.

In the vicinity of the Project Site, air quality is affected by aircraft operations from the Lihue Airport. Vehicular-related emissions in the form of carbon monoxide (CO) are also generated from traffic along the nearby roadways. It is likely that elevated concentrations of vehicle emissions are confined to areas near the Kapule Highway/Rice Street intersection during periods of traffic back up when dispersion conditions are poor.

Impacts and Mitigation Measures

Potential air quality impacts during construction of the Project will be mitigated by complying with the State DOH Administrative Rules, Title 11, Chapter 60, Air Pollution. The construction contractor(s) is responsible for complying with the State DOH regulations that prohibit visible dust emissions at property boundaries. Compliance with State regulations will require adequate measures to control airborne dust by methods such as water spraying and sprinkling of loose or exposed soil or ground surface areas and dust-generating equipment during construction. As may be deemed appropriate, paving of areas early in the construction schedule will also help to control dust.

No significant air quality impacts are anticipated from the development of the proposed Project. The ambient air quality levels would be most affected by vehicular and emissions in the form of CO generated by Project-related traffic and development, although the elevated concentrations are anticipated to be nominal and dissipate.

No significant impact on air quality is anticipated from the operation of the proposed underground sewer pump station to be located adjacent to the Subdivision 5 site. The underground sewer pump station will be fully below-grade, except for an air vent.

In accordance with Condition No. 14 of Zoning Ordinance No. PM-2006-383, the Petitioner/Applicant, Kauai Lagoons LLC, and KD Kapule LLC, owners and developers of the Resort Development, have granted to the State Department of Transportation, Airports Division (DOT-A) a Grant of Avigation and Noise Easement dated October 14, 2008 and recorded in the State Bureau of Conveyances as Document No. 2008-162922 pertaining to the operations of the adjacent Lihue Airport. The Grant of Avigation and Noise Easement sets forth covenants and restrictions with regard to the potential adverse impacts on the Resort Property from noise, fumes, smoke, vibrations, and other substances and phenomena resulting from aircraft operations at the Lihue Airport.

3.8 Noise

Ambient noise in the vicinity of the Project Site is predominantly attributed to aircraft operations at Lihue Airport, and to a lesser extent, vehicular traffic along the major roadways.

Aircraft noise sources in the vicinity of the Project Site are associated with fixed and rotary wing aircraft operations at Lihue Airport. Hawaiian Airlines, go! Airlines, Mokulele Airlines, United Airlines, and other major air carriers primarily operate carrier flights, and additional flights are conducted by commuter general aviation, air taxi, tour helicopter, business jet, and military aircrafts.

In 1989, the State DOT-A completed a Noise Compatibility Program for Lihue Airport in compliance with the guidelines contained in the Federal Aviation Regulations (FAR) Part 150 Noise Compatibility Planning Program for airports. This program establishes a single system for measuring airport noise, a standardized procedure for determining the exposure of individuals to noise, and a formal airport noise compatibility planning process. For aircraft noise, the DOT-A has recommended that 60 DNL (Day-Night Level average noise contour) be used as the common level for determining land use compatibility with respect to noise sensitive uses near its airports. Low-density residential, resorts and hotels (outdoor facilities) are recommended for land use compatibility within 60 DNL or less.

Impacts and Mitigation Measures

Potential noise impacts during construction of the Project will be mitigated by complying with the provisions of the State DOH Administrative Rules, Title 11, Chapter 46, "Community Noise Control" regulations which require a noise permit if the noise levels from construction activities are expected to exceed the allowable noise levels stated in the Rules. It shall be the contractor(s)' responsibility to minimize noise by properly maintaining noise mufflers and other noise-attenuating equipment, and to maintain noise levels within regulatory limits.

Based on the official Calendar Year 1991 noise contours established by the FAR Part 150 study, the proposed Project is planned to be within the 55 to 65 DNL noise contours. Condition No. 9 of Zoning Ordinance No. PM-2006-383 provides in part that:

No residential, condominium, or hotel units shall be constructed within areas greater than the 60 DNL noise contour of the Lihue Airport; provided, however, that such uses may be permitted within the 60 to 65 DNL noise contours, if there is an accompanying mitigation of interior noise to the 45 DNL noise level.

The Petitioner/Applicant intends to comply fully with this condition. The Project's design guidelines will be specific in referencing this requirement for interior noise mitigation as needed. For all residential development located between the 60 to 65 DNL noise contours, design guidelines will be established which would set forth the various door, window and exterior building envelope treatment measures to be followed in the construction of the units to achieve an interior noise level of 45 DNL.

As previously indicated, in accordance with Condition No. 14 of Zoning Ordinance No. PM-2006-383, the Petitioner/Applicant, Kauai Lagoons LLC and KD Kapule LLC, owners and developers of the Resort Development, have granted to the State DOT-A a Grant of Avigation and Noise Easement dated October 14, 2008 and recorded in the State Bureau of Conveyances

as Document No. 2008-162922 pertaining to the operations of the adjacent Lihue Airport. The Grant of Avigation and Noise Easement sets forth covenants and restrictions with regard to the potential adverse impacts on the Resort Property from noise, fumes, smoke, vibrations, and other substances and phenomena resulting from aircraft operations at the Lihue Airport.

In the vicinity of the Resort Property, ambient noise levels associated with increases in vehicular traffic generated by the proposed Project will not adversely impact nearby uses due to the nominal increase in vehicular traffic generated by the Project and the relatively self-contained nature and design of the Resort Development.

No significant noise impact is anticipated from the operation of the proposed underground sewer pump station since it will be fully below-grade. The emergency generator and generator fuel tank for the pump station will be housed in an adjacent small structure that will be fully enclosed and sound-attenuated.

3.9 Historic and Archaeological Resources

The areas comprising the Project Site have been developed into golf course use. An archaeological reconnaissance survey in February 1980 was conducted on portions of the Resort Property by Archaeological Research Center Hawaii, Inc. The TMKs surveyed included (4) 3-5-01: 82, 83, 119 and portions 27, 115-118 and 120. The report noted that the area had been previously impacted by sugar cane cultivation and cattle grazing and no archaeological or historic sites were found. The report recommended archaeological clearance with no further investigation (Letter Report: Archaeological Reconnaissance of Ninini Point Area, February 27, 1980).

Impacts and Mitigation Measures

No significant impacts on archaeological/historic resources within the Project Site are anticipated from the construction and development of the proposed Project as the site is currently developed with golf course use.

The State DLNR Historic Preservation Division (SHPD), in a letter dated October 27, 2008 in conjunction with this EA, a copy which is included in Chapter 9 Consultation, Section 9.1 Pre-Assessment Consultation of this document, has determined that “no historic properties will be affected” by the proposed Project since the subject area has been previously assessed in a prior archaeological inventory.

In the event that any archaeological sites, significant cultural deposits, or human skeletal remains are found during construction activities of the proposed Project, all work will immediately cease pending consultation with the SHPD. The treatment of any remains or artifacts will be in accordance with procedures obtained by the Kauai/Niihau Islands Burial Council and the SHPD.

3.10 Cultural Resources

A Cultural Impact Evaluation was undertaken for the Resort Property by Cultural Surveys Hawaii in October 2005, a summary of which is provided below.

By the end of the 18th century, population in the Kalapaki Ahupuaa likely focused along the floodplains of valley lands and along the shoreline. In the valley lands, streams fed taro loi,

while along the shore, fishponds supported the coastal population. Plateau areas of Kalapaki like the Resort Property may have been utilized for planting of dryland crops and gathering of timber and medicinal plants.

As confirmed by historical records and archaeological investigation, sugarcane cultivation and development of plantation infrastructure was the dominant land use within the Resort Property and surrounding lands throughout the first half of the 20th century. The decades of sugar cultivation in the area would have eliminated any surface properties related to traditional Hawaiian culture that may have formerly existed. Further, plantation operations, and the sense that the area was private property, restricted access by cultural practitioners who may have formerly used the area. During the second half of the 20th century, resort development would have further eliminated any remnants of the former traditional landscape and further restricted access.

None of the community contacts queried for this evaluation identified any cultural sites or concerns specifically within the Resort Property. Ms. Cheryl Lovell-Obatake noted that portions of the Resort Property are still accessed by community members “because the area is the last remnant of open space with no buildings.” These portions of the Resort Property may be the more makai lands along the coast, outside the present Project Site. Ms. Lovell-Obatake also noted that she has never heard of any burials in the Resort Property.

Impacts and Mitigation Measures

Based on the above findings, development of the proposed Project will have minimal impact upon native Hawaiian cultural resources, beliefs and practices. It should be noted, however, that subsurface properties associated with former traditional Hawaiian activities in the Project Site, such as artifacts and cultural layers, may be present despite the decades of sugar cultivation and resort development. As a precautionary measure, personnel involved in future development of the Project Site will be informed of the possibility of inadvertent cultural finds, and made aware of the appropriate notification measures to follow, including consultation with the SHPD and, as may be appropriate, with Kauai community cultural organizations.

3.11 Visual Resources

Due to its inland location within the Resort Property, the Project Site is not visible from public vantage points. The Project Site is not visible from the nearest major public roadways of Kapule Highway and Rice Street due to its inland location and distance from those roadways. Views of the Project Site from coastal areas are also non-existent due to its location well inland (mauka) from the coastline.

Impacts and Mitigation Measures

Within the Kauai Lagoons Resort, development of the proposed Project will alter the visual landscape from its relatively open state to one of urban use. However, as the proposed Project will be part of the Resort Development, the change in views will be of an intensification of the existing use.

Views of the proposed Project from coastal areas will be non-existent due to the inland location of the Project Site. The proposed subdivision nearest to the coastline is Subdivision 6 which is located well over 1,000 feet inland (mauka) from the nearest shoreline.

The Heritage Resources Map for the Lihue Planning District in the County's General Plan designates the portion of Kāpule Highway fronting the Resort Property as a Scenic Roadway Corridor. The proposed Project will not be visible from Kāpule Highway due to its inland location and distance from that roadway. The proposed Subdivision 6 site, which is the nearest subdivision to Kāpule Highway, is located approximately 0.3-mile inland and southeast from the roadway at its closest point.

Any visual impacts from public vantage points will be mitigated by developing the proposed Project in accordance with the applicable development standards of the County's Comprehensive Zoning Ordinance (CZO) relative to building height and envelopes, setbacks, etc. The development will also minimize the intrusion of buildings on the visual environment through architectural design criteria and landscaping deemed appropriate for the surrounding Resort development.

3.12 Traffic

The main roads providing access to the Resort Development include Kāpule Highway and Rice Street. Haoa Street provides access to the Resort Development's planned 31-unit multi-family affordable housing project located at the corner of Haoa Street and Kāpule Highway.

Kāpule Highway is primarily a two-way, two-lane, undivided State highway providing access between Lihue and Hanamaulu to the north. Kāpule Highway intersects Ninini Point Street and Hoolako Street at the northwest portion of the Resort Property. Ninini Point Street is a two-lane, two-way private roadway located within the Resort Property and is generally oriented in an east-west direction. Vehicular access is currently provided on Ninini Point Street to allow the public access to the coastal areas, along with access to the County's Lihue WWTP and for general resort servicing requirements. Hoolako Street is a predominantly two-lane, two-way roadway generally oriented in the east-west direction that primarily serves as the access road for the adjacent Vidinha Memorial Stadium. At this unsignalized intersection, Kāpule Highway has one lane for both approaches that serves all traffic movements, Ninini Point Street westbound has one lane that serves all traffic movements, and Hoolako Street eastbound has one lane that serves all traffic movements.

In accordance with Condition No. 6 of the 2008 Amended SMA Permit, the primary vehicular access to the Resort Development will be from Ninini Point Street at the Kāpule Highway intersection.

Further south, Kāpule Highway intersects Haoa Street and Halau Street in the vicinity of the Lihue Industrial Park. At this signalized intersection, both approaches of Kāpule Highway have exclusive turning lanes and one through lane. Haoa Street and Halau Street are predominantly two-lane, two-way County roadways generally oriented in the east-west direction that provide access to the commercial/industrial areas along their alignment. At the intersection with Kāpule Highway, Haoa Street westbound and Halau Street eastbound have exclusive left-turn lanes and shared through and right-turn lanes. Haoa Street will provide the primary vehicular access to the Resort Development's 31-unit multi-family affordable housing project located within the Resort Property at the corner of Kāpule Highway and Haoa Street.

Further to the south, Kāpule Highway intersects Rice Street which, in the vicinity of the Resort Property, is a two-way, two-lane State roadway serving as a connector road between Nawiliwili

Harbor and Lihue. At this unsignalized intersection, Kāpule Highway southbound has exclusive left-turn and right-turn lanes. At the intersection, Rice Street eastbound has an exclusive left-turn lane and one through lane, while the westbound approach has one through lane and an exclusive right-turn lane.

Secondary vehicular access to the Resort Property is provided from Rice Street at its intersection with Ho'olaule'a Way. This intersection also serves as the primary vehicular access to the Kauai Marriott Resort and Beach Club located adjacent to the Resort Property.

Within the Resort Development, the roadways and common driveways serving the various development areas will allow for two-way traffic and emergency vehicular access.

Relative to the proposed Project, the primary vehicular access from Kāpule Highway to Subdivision 1A will be via Ninini Point Street, Pāhola Drive (formerly known as Limo Road), Ho'olaule'a Way, and Kāhilipulu Way. Primary vehicular access to Subdivision 5 will be via Ninini Point Street, Pāhola Drive, Ho'olaule'a Way, Kāhilipulu Way, and Ninini Point Street, with secondary access to be provided along the portion of Ninini Point Street which traverses along the northern and eastern boundaries of the Resort Property. Primary vehicular access to Subdivision 6 will be via Ninini Point Street and Pāhola Drive.

In accordance with Condition No. 6 of the Amended SMA Permit, an updated Traffic Impact Report (TIR) was conducted by Wilson Okamoto Corporation in June 2009 for the Resort Development, including the proposed Project. This TIR was prepared as an update to the *Traffic Impact Report for the Proposed Kauai Lagoons Resort* dated September 2004, the *Supplemental Traffic Analysis for the Proposed Kauai Lagoons Resort* dated June 2005 which assessed the Resort Development's multi-family affordable housing development at the corner of Haoa Street and Kāpule Highway, and the *Supplemental Traffic Analysis for the Proposed Kauai Lagoons Resort* dated September 2005 which assessed the Ninini Point Street access at Kāpule Highway as the primary access to the Resort.

The following intersections were assessed in the updated TIR to determine the relative impact of the Resort Development:

- Kāpule Highway at Ninini Point Street and Hoolako Street
- Kāpule Highway at Rice Street
- Kāpule Highway at Haoa Street and Halau Street
- Rice Street at Ho'olaule'a Way

Traffic volumes were forecast for Year 2022, the anticipated full build-out date for the Kauai Lagoons Resort development. The TIR also accounted for the cumulative impact of the Resort development with other nearby proposed and planned developments, including the proposed Wailani development located within a portion of the former Lihue-Hanamaulu Master Plan development, the proposed Vidinha Stadium Complex expansion located adjacent to Hoolako Street west of Kāpule Highway, and the planned Lihue Airport master plan improvements located adjacent to the Resort, along with general projected growth in the region. Traffic volumes and conditions without the Kauai Lagoons Resort development were also forecast as a baseline from which to identify the incremental effects of the Resort development.

Impacts and Mitigation Measures

Short-Term Impacts and Mitigation Measures: During construction of the proposed Project, short-term traffic impacts will occur from construction vehicles such as earthmovers and heavy trucks transporting equipment and materials. However, since the construction schedule for each of the three (3) Project subdivisions will occur at different times, the resulting traffic impacts will be correspondingly reduced. Traffic control measures will be implemented during construction to mitigate potential traffic impacts along the roads in the immediate Project vicinity. Such mitigation will include restricting the transport of large, slow-moving heavy construction vehicles or equipment during the AM and PM peak traffic hours, and the use of flaggers and/or off-duty police officers to direct traffic during significant phases of construction.

Long-Term Impacts and Mitigation Measures: With regard to the proposed Project, construction of the 22 single-family residential lots is anticipated to be completed by Year 2013. Dwelling construction within the lots will subsequently be undertaken separately by either the developer or individual lot owners.

The proposed Project is expected to generate a total of 16 trips during the AM peak period and a total of 22 trips during the PM peak period. This is in comparison to the total trips anticipated to be generated by the Resort Development of 377 trips during the AM peak period and 455 trips during the PM peak period, including the proposed Project. Therefore, the proposed Project in itself will not significantly impact traffic conditions and operations in the Project vicinity.

Cumulative Impacts and Mitigation Measures: In accordance with Condition No. 6 of the Amended SMA Permit, a Memorandum of Agreement (MOA) was submitted by the Petitioner/Applicant and Kauai Lagoons LLC to the State DOT Highways Division on November 20, 2008 which identifies specific proposed roadway improvements and associated funding and construction considerations in association with the Kauai Lagoons Resort development. The MOA includes specific improvements to be designed, permitted, funded, and constructed at the Kāpule Highway/Rice Street intersection, the Kāpule Highway/Ninini Point Street/Vidinha Stadium Access Road (Hoolako Street) intersection, and the Kāpule Highway/Haoa Street/Halau Street intersection in accordance with Condition No. 6 of the Amended SMA Permit. Based on initial review comments, the Petitioner/Applicant and Kauai Lagoons LLC submitted a revised MOA to the DOT Highways Division on March 25, 2009 which addresses the comments. The Petitioner/Applicant and Kauai Lagoons LLC are currently in discussions with the DOT Highways Division with regard to specific intersection improvements to be provided in conjunction with the Kauai Lagoons Resort development, which also includes consideration of the recommended improvements from the updated TIR and the County's proposed Vidinha Stadium Expansion project. The Petitioner/Applicant and Kauai Lagoons LLC are maintaining ongoing discussions with the DOT Highways Division toward seeking resolution and ultimately execution of the MOA. As part of this effort, the Petitioner/Applicant and Kauai Lagoons LLC will coordinate with the DOT Highways Division on the schedule for preparation of construction plans and construction timetables for the various roadway improvements to be undertaken by the Petitioner/Applicant and Kauai Lagoons LLC in conjunction with the Resort development as set forth in the approved MOA.

As previously indicated, the proposed Project's 22 single-family residential units are expected to generate a total of 16 trips during the AM peak period and a total of 22 trips during the PM peak

period. These nominal peak hour trips will not result in the need for any additional traffic improvements beyond those to be undertaken by the Petitioner/Applicant and Kauai Lagoons LLC as set forth in the approved MOA in conjunction with the Resort development.

Other Transportation Modes: To supplement vehicular transportation to and within the Resort Development, a Resort shuttle system will be implemented for its employees and guests which will also include adjacent services and destinations. The guest transportation system will include Airport shuttle service; on-property shuttles to and from the Resort's sales centers, golf course clubhouse, and food and beverage services; and a lagoon water taxi service. All shuttles will operate on a planned schedule, except for the Airport shuttle which will be on a demand basis.

A County bus stop with a bench and shelter will be provided by the Petitioner/Applicant and Kauai Lagoons LLC near the entrance to the existing parking lot at the main entryway to the Resort. This location was recommended by the County Offices of Community Assistance, Transportation Agency during consultation with the Petitioner/Applicant and Kauai Lagoons LLC since it is in close proximity to the Resort Development's check-in point for employees at the proposed central operations facility.

A circulation system for pedestrians and bicyclists will be provided within the Resort Development. A Roadway and Public Access Plan is included as Figure 3-3. Existing public shoreline accessways within the Kauai Lagoons Resort will be maintained, including a shoreline access path near the Kiele Golf Hole No. 16, a shoreline access point from the former Inn on the Cliffs restaurant, and beach access off of Kalapaki Circle near the Kauai Marriott Resort and Beach Club. A pedestrian path around the lagoon, east of the second bridge and in the vicinity of Fashion Landing will be provided. A public lateral shoreline access will also be developed between the Inn on the Cliffs and Fashion Landing. Further discussion of the Resort Development's public access plan is included in Section 3.17 Recreational Facilities of this document. The Petitioner/Applicant and Kauai Lagoons LLC are currently coordinating with the County DPW Building Division on integrating segments of the County's proposed Nawiliwili-Ahukini Shared-Use Path improvements within the Resort Development. The Petitioner/Applicant and Kauai Lagoons LLC are committed to maintaining ongoing coordination with the DPW Building Division in working out details of the shared-use path improvements and associated easement locations within the Resort Development as the planning and design phases of the shared-use path project progresses by the County.

3.13 Socio-Economic Characteristics

The Project Site lies within a diverse district of Kauai -- Census Tract (CT) 405 in Lihue. The land uses surrounding the Project Site include resort, open, residential, and commercial and industrial businesses. The following is an overview of the socio-economic characteristics of the Lihue Census Tract and is also indicated in Table 3-1.

Population and Housing: Based on the 2000 Census, the population in Lihue has decreased 2.2 percent since the 1990 Census. In 1990, Lihue (CT 405) had a population of 5,279 and in 2000 the population had decreased to 5,162. During the same 10-year period, the population of the Island of Kauai had increased 14.2 percent, from 51,177 to 58,463 (*State of Hawaii Data Book*). The population change in Lihue is indicative of stability, and that the population is aging with younger people moving out of the area.

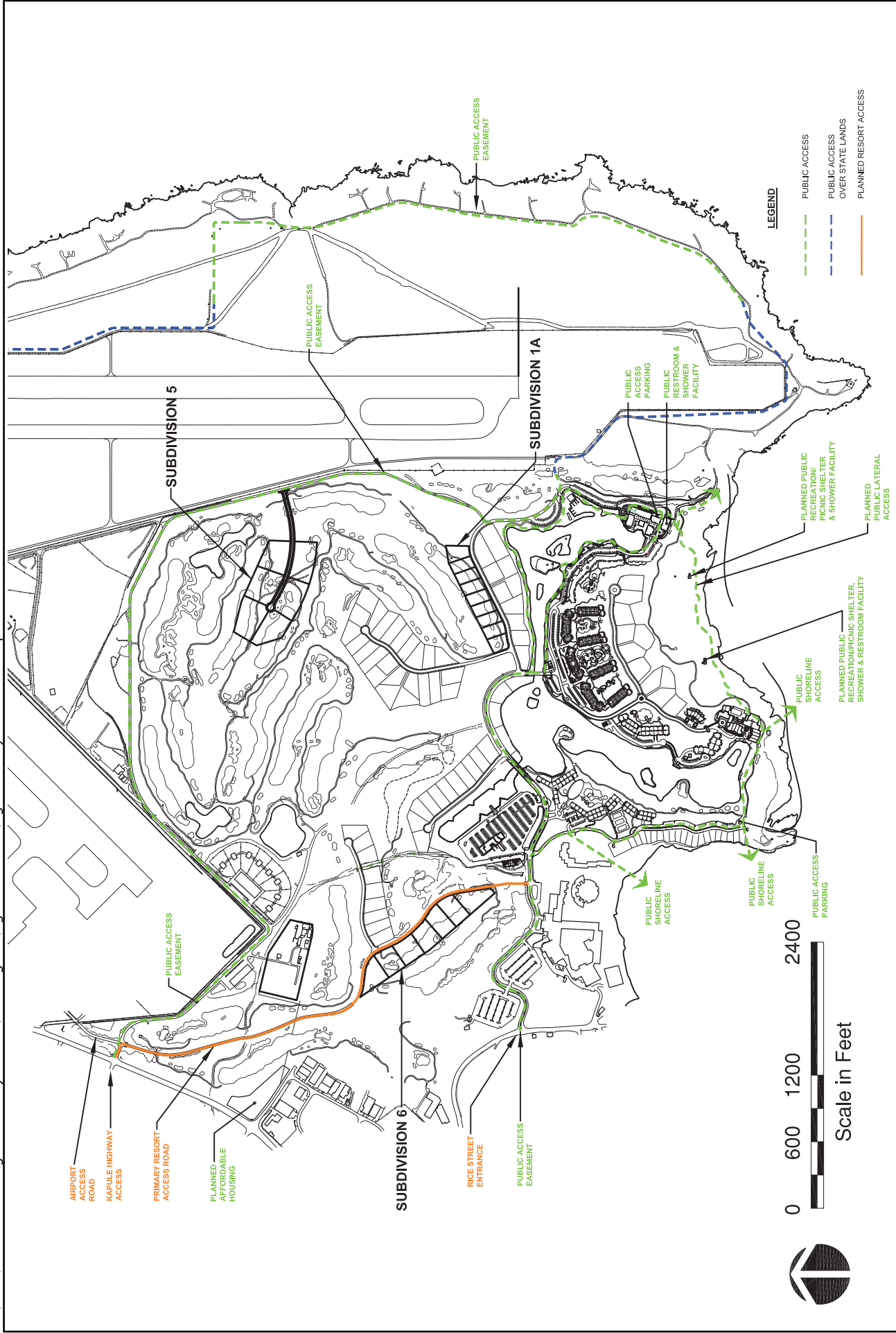


FIGURE 3-3
ROADWAY AND PUBLIC ACCESS PLAN

KAUAI LAGOONS RESORT DENSITY AMENDMENT PROJECT

- By age group, there is a lower proportion of people 20 to 64 years old in Lihue, but a higher proportion of those 65 and older than on Kauai;
- By racial mix, there are proportionately more Asians and less Whites and Native Hawaiian and other Pacific Islanders than Kauai;
- Households have a smaller average size, proportionately less married-couple families and more non-family householders than Kauai; and
- There are proportionately less vacant units.

Economy: According to the 2000 Census, the median household income for Lihue (CT 405) was 51,450, which is insignificantly lower than Kauai as a whole, yet the per capita income was 9.4 percent greater than Kauai.

**Table 3-1
Demographic Characteristics: 2000**

Subject	CT 405 (Lihue)		Kauai	
	Number	Percent	Number	Percent
Total population	5,162	100	58,463	100
AGE				
Under 5 Years	295	5.7	3,605	6.2
5 – 19 years	942	18.2	13,147	22.5
20 – 64 years	2,692	52.2	33,642	57.5
65 years and over	1,233	23.9	8,069	13.8
Median age (years)	44.7	--	38.4	--
RACE				
White	1,196	23.2	17,255	29.5
Black or African American	12	0.2	177	0.3
American Indian and Alaska Native	13	0.3	212	0.4
Asian	2,483	48.1	21,042	36.0
Native Hawaiian and other Pacific Islander	353	6.8	5,334	9.1
Two or more races	1,067	20.7	13,938	23.8
Other	38	0.7	505	0.9
HOUSEHOLD (BY TYPE)				
Total Households	2,014	100	20,183	100
Family households (families)	1,286	63.9	14,572	72.2
With own children under 18 years	576	28.6	6,865	34.0
Married-couple family	962	47.8	10,881	53.9
With own children under 18 years	353	17.5	4,842	24.0
Female householder, no husband present	231	11.5	2,582	12.8
With own children under 18 years	148	7.3	1,424	7.1
Nonfamily households	728	36.1	5,611	27.8
Average household size	2.50	--	2.87	--

**Table 3-1
Demographic Characteristics: 2000**

Subject	CT 405 (Lihue)		Kauai	
	Number	Percent	Number	Percent
Total population	5,162	100	58,463	100
HOUSING OCCUPANCY AND TENURE				
Total Housing Units	2,228	100	25,331	100
Occupied units	2,008	90.1	20,183	79.7
By owner	1,149	57.2	12,384	61.4
By renter	859	42.8	7,799	38.6
Vacant units	220	9.9	5,148	20.3
SOCIAL CHARACTERISTICS				
Population 25 years and over	3,751	100	38,872	100
High school graduate or higher	3,146	83.9	32,368	83.3
Bachelor's degree or higher	862	23.0	7,551	19.4
ECONOMIC CHARACTERISTICS				
In labor force (pop. 16 & over)	2,341	55.6	28,355	63.1
Median household income (dollars)	42,563	--	45,020	--
Median family income (dollars)	51,450	--	51,378	--
Per capita income (dollars)	22,211	--	20,301	--
<i>Source: U.S. Census Bureau, Census 2000 Summary*</i>				

Impacts and Mitigation Measures

Population and Housing: No significant impacts on the population and housing in Lihue are anticipated to result from the proposed land use changes and Project. The proposed 22 single-family residential units, which would be primary or secondary residences, are projected to result in a daily resident population of approximately 77 persons¹ at full build-out. This represents a minimal increase in population in comparison to the Islandwide population of 58,463 persons. Although the proposed residential units will be part of the Kauai Lagoons Resort, the single-family residences are anticipated to be primarily individually owned and owner-occupied based on other similar single-family resort residential developments within the State. Furthermore, those owners comprised of families typically occupy such residences for periods of time such as during the summer months or major holidays. As such, the population traits of the proposed Project would be more comparable to those of a typical single-family residential development rather than visitor accommodations.

The proposed Project will be part of the overall Kauai Lagoons Resort and, therefore, at most would induce a modest increase in secondary population growth such as new worker in-

¹ Based on a population density of 3.5 persons per dwelling unit for single-family dwelling units as established in Section 9-2.8 Parks and Playgrounds (d) (2) of the Kauai County Code of Ordinances (1987, as amended).

migration to the Island to support or sustain the proposed improvements. However, due to the anticipated owner-occupied nature of the proposed 22 single-family residences and the associated projected daily resident population of approximately 77 persons at full build-out, the Project's affect on any increase in secondary population growth will be minimal. With regard to secondary population impacts, planned infrastructure improvements (i.e., water, wastewater, drainage, and transportation) will mitigate the Project needs, as well as those of the Kauai Lagoons Resort, and are not expected to stimulate or induce growth outside of the Project and Resort areas.

The proposed Project will complement the surrounding resort uses and will not result in adverse environmental impacts affecting the community. Therefore, no disproportionate adverse impact on any group of people identified by factors such as race, ethnicity or socio-economic is anticipated.

From a social standpoint, the proposed Project will provide a benefit to the public as the oceanfront undeveloped Kauai Development Parcel will be conveyed to the County for public purposes upon the assignment of the 22-dwelling unit density to the Kauai Lagoons Resort. The proposed 22 single-family residential units and associated projected daily resident population of approximately 77 persons will have a minimal impact on the social welfare in the context of the larger community and the State. The Project will not have an adverse impact on existing recreational facilities or generate a significant demand for recreational facilities due to the associated marginal increase of residents resulting from the Project. The Project will also not generate a significant demand on student enrollment at the area public schools since given the resort nature of the development, the residents would typically include couples who are empty nesters, or families with school age children who tend to occupy the residences mostly during periods when schools are out of session or on extended summer breaks.

Upon completion of development, the proposed Project will be compatible with uses in the surrounding Resort areas since it will not generate excessive noise, visual or other environmental secondary impacts.

Economy: In the short term, the Project will bring about positive benefits to the local economy. This would include increased expenditures for construction, construction-related jobs and tax revenue. Direct economic benefits will result from construction expenditures both through the purchase of material from local suppliers and through the employment of local labor, thereby stimulating that sector of the economy. Indirect economic benefits would include benefits to local retail businesses resulting from construction activities.

In the long-term, the proposed Project will accommodate new single-family residential homes which will result in increases in State general excise tax revenue and in County property tax revenues. In addition, the payment of applicable development-related fees for the Project will be made.

With regard to secondary jobs and employment generated, construction of the proposed Project will contribute to employment opportunities and associated wages to off-site businesses. However, this will not create the need for new workers or companies, but will provide patronage for on-going businesses. Following build-out, secondary/supporting off-site employment will occur. The majority of these efforts will be filled by current employees of existing businesses.

3.14 Police and Fire

Police protection service for the proposed Project is provided by the County Police Department's Lihue Headquarters, Sectors 4 to 6, located approximately 0.5 mile-northwest of the Project Site on Kaana Street off of Kapule Highway.

Fire protection service for the proposed Project is provided by the County's Lihue Fire Station located approximately one-mile west of the Project Site on Rice Street.

Impacts and Mitigation Measures

The proposed Project will not adversely impact police and fire protection services. On-site security is planned for the proposed Project as part of the overall Resort Development which will alleviate some of the need for police services. Furthermore, the projected daily resident population of approximately 77 persons at full build-out resulting from the Project will have minimal impact on police services, especially since some of the residences would be secondary residences.

The Project will be designed and built in compliance with the applicable County fire code requirements. As such, the 22 single-family residential units will have minimal impact on fire services.

3.15 Medical Facilities

Emergency medical service is provided by American Medical Response, a private ambulance service contracted by the County to provide ambulance and paramedic services which is located at 3277 Palai Street, approximately 2 miles from the Project Site.

Health care services for residents of the Lihue area are available at the Wilcox Memorial Hospital located at 3420 Kuhio Highway. The Wilcox Memorial Hospital is operated by Hawaii Pacific Health and is located at the northern end of Lihue, about 2 miles from the Project Site. It consists of the main clinic and hospital that provides men's, women's, and children's health services, specialty services, elderly care, family support, a long-term care unit, and education and prevention services.

Impacts and Mitigation Measures

Since the proposed 22 single-family residential units would be primary or secondary residences with an anticipated daily resident population of approximately 77 persons at full build-out, the Project is not anticipated to generate any significant demands on medical assistance or facilities. The existing medical facilities and ambulance service will be adequate to serve the needs of the Project.

3.16 Schools

Public schools servicing the Project Site include Wilcox Elementary School (Grades K to 6) located approximately 3.25 miles northwest of the Resort Property, King Kaumualii Elementary School (Grades K to 6) located approximately 3.85 miles to the north of the Resort Property, Chiefess Kamakaha Middle School (Grades 6 to 8) located about 3.25 miles west of the Resort Property, and Kauai High School (Grades 9-12) located approximately 0.45 miles west of the Resort Property. According to the State Department of Education (DOE), these schools are currently operating below enrollment capacity. For school year 2007-2008, student enrollment at Wilcox Elementary School was 905 students, 523 students at King Kaumualii Elementary

School, 949 students at Chiefess Kamakahelei Middle School, and 1,271 students at Kauai High School.

Impacts and Mitigation Measures

Although the proposed 22 single-family residential units would be primary or secondary residences, given the resort nature of the development, the residents would typically include couples who are empty nesters, or families with school age children who tend to occupy the residences mostly during periods when schools are out of session or on extended summer breaks. Therefore, the Project will not generate a significant demand on student enrollment at the area schools.

3.17 Recreational Facilities

County parks in the region include Nawiliwili Beach Park, Niumalu Beach Park and Kalapaki Bay Memorial Park located southwest of the Project Site, and Hanamaulu Beach Park located north of the Project Site. The County also operates Vidinha Memorial Stadium located northwest of the Project Site which is used as a venue for public sporting events. State recreational facilities in the area include Ahukini Recreation Pier State Park at Ahukini Landing to the north of the Project Site, and the Nawiliwili Small Boat Harbor located southwest of the Project Site. Kalapaki Beach and Running Waters Beach are located south of the Project Site.

Existing public shoreline accessways within the Kauai Lagoons Resort include a shoreline access path near the Kiele Golf Hole No. 16, a shoreline access point from the former Inn on the Cliffs restaurant, and a beach access off of the makai end of Kalakapi Circle near the Kauai Marriott Resort and Beach Club. A Roadway and Public Access Plan is included as Figure 3-3. A total of 20 existing public beach access parking stalls are provided within the Resort, including ten (10) stalls at the makai end of Kalapaki Circle and Pali Kai Cottages and ten (10) stalls within the former Fashion Landing area. Existing public vehicular shoreline access within the Kauai Lagoons Resort is provided via Ninini Point Street which connects to the existing public vehicular access within the adjacent Lihue Airport property and which continues within the Kauai Development Parcel.

Impacts and Mitigation Measures

The construction and development of the proposed Project are not anticipated to significantly impact public recreational facilities. During construction of the Project improvements, existing public shoreline access within the Kauai Lagoons Resort will remain unaffected. Should there be a need to temporarily block public access routes during construction activities of the proposed Project, other alternative routes within the Resort Development will be provided during the interim period.

Since the proposed 22 single-family residential units would be primary or secondary residences, the Project will not generate a significant demand for recreational facilities due to the associated marginal increase of residents resulting from the Project.

From a cumulative standpoint, the provision of private, on-site recreational amenities within the Resort Development for the Resort's residents and guests, including outdoor recreational pool areas, a fitness center, and the golf course will lessen the Project's impact on public recreational facilities in the area.

Existing public shoreline accessways will be maintained within the Kauai Lagoons Resort, including the shoreline access near the Kiele Golf Hole No. 16, the shoreline access point from the former Inn on the Cliffs restaurant, and the beach access off of the makai end of Kalapaki Circle. The existing 20 public beach access parking stalls at the makai end of Kalapaki Circle and Pali Kai Cottages and within the former Fashion Landing area will continue to be provided as part of the Resort Development.

A pedestrian path around the lagoon, east of the second bridge along Hoolaulea Way and in the vicinity of Fashion Landing will be provided.

In accordance with Condition No. 9 of the Amended SMA Permit and Condition No. 7 of Zoning Ordinance No. PM-2006-383, the developers of the Resort Development, including the Petitioner/Applicant, will be providing public lateral shoreline access between the Inn on the Cliffs and Fashion Landing, and public recreational facilities, including public restrooms and shower facilities at the former Fashion Landing area (beneath the restaurant); a public recreation/picnic shelter and shower facility near Running Waters Beach, just mauka of the proposed public lateral shoreline access; and a public recreation/picnic shelter, shower and restroom facility further west and mauka of the proposed public lateral shoreline access.

3.18 Solid Waste Disposal

The County Department of Public Works (DPW) maintains an Island-wide solid waste collection and disposal system. The existing Kekaha Landfill located 1.3 miles northwest of the town of Kekaha on the southwest side of Kauai is the primary disposal site for solid waste on the Island. The County estimates that in the next three (3) and a half years, one cell of the Kekaha Landfill will reach capacity. Thereafter, the County has plans for a lateral expansion of the landfill to create a second cell that will extend the capacity of the landfill for an additional three (3) and a half years. The expansion of an additional cell will provide Kekaha Landfill with a total life expectancy of about seven (7) more years. The County is also in the process of evaluating eight (8) potential new landfill sites around the Island.

The closest refuse transfer station to the Project Site is located at the north end of Lihue Airport.

Impacts and Mitigation Measures

No significant impacts to solid waste disposal will be generated as a result of the construction and development of the proposed Project.

A construction phase solid waste management plan (SWMP) will be developed by the Petitioner/Applicant for the proposed Project which will include implementation of a trash management and recycling program to minimize impacts to the Kekaha Landfill.

Refuse generated by the proposed Project will be collected by a private refuse collection company and transported to the Kekaha Landfill for disposal. The Petitioner/Applicant will prepare a SWMP for the operations phase activities of the proposed Project which will provide for recycling of cardboard, metal, glass, paper, plastic, and green waste, as well as participation in the State's "high five" program. Furthermore, with the projected daily resident population of approximately 77 persons at full build-out resulting from the Project, there would be minimal impact on the Kekaha Landfill, especially since a portion of the residences would be secondary residences.

3.19 Utilities

The proposed Project will not adversely affect existing public utility systems, transport systems, facilities, and services.

3.19.1 Wastewater System

The County's Lihue Wastewater Treatment Plant (WWTP) is located within the northwestern portion of the Kauai Lagoons Resort, near the Lihue Airport. This secondary treatment plant has been upgraded to a present average design flow capacity of 2.5 million gallons per day (mgd), with current flows under 1.5 mgd. Sewage effluent from the WWTP is currently reclaimed for irrigation of the Kauai Lagoons Resort golf courses or disposed of in injection wells.

On July 9, 2008, the Kauai County Council conceptually approved and authorized negotiations for the County to enter into a partnership agreement with Kauai Lagoons LLC for improvements to the Lihue WWTP that will allow the plant to upgrade its treated R-2 effluent to R-1 quality level to comply with the DOH's effluent reuse criteria. On March 25, 2009, the Kauai County Council approved an agreement for Kauai Lagoons LLC to design and construct the R-1 filtration and disinfection system upgrade at the Lihue WWTP. The upgrade to R-1 quality water will enable the use of high quality reclaimed water for all irrigation needs for the Kauai Lagoons Resort's golf courses and landscaping for the resort and residential common areas. Upon completion of construction, the filtration and disinfection system upgrade improvements will be dedicated to the County by Kauai Lagoons LLC, and the County will operate and maintain the improvements. The subject filtration and disinfection system upgrade improvements implements the recommendations of the County DPW Wastewater Management Division's *Environmental Assessment for the Lihue Wastewater Treatment Plant Facilities Plan* dated May 2007. The land use permits for the proposed filtration and disinfection system upgrade improvements are being separately obtained by the County DPW Wastewater Management Division.

Kauai Lagoons LLC has an effluent use agreement with the County dated August 14, 2001 which allows Kauai Lagoons LLC to accept up to 1.5 mgd of R-2 treated effluent and a treatment capacity reservation of 150,000 gallons per day (gpd) at the Lihue WWTP to service additional resort developments. On March 25, 2009, the effluent use agreement was amended and approved by the Kauai County Council which increases the treatment capacity reservation for Kauai Lagoons LLC to 290,000 gpd, and provides for the effluent to the Resort to be R-1 quality upon dedication to and acceptance by the County of the R-1 filtration and disinfection system upgrade improvements at the Lihue WWTP.

Impacts and Mitigation Measures

Based on the County's Sewer Design Standards, the average sewer design flow for the proposed 22 single-family residential units is estimated at 8,800 gpd.

The proposed Project will be connected to the Lihue WWTP via a privately-owned and operated sewer collection system to be maintained by the Petitioner/Applicant and Kauai Lagoons LLC. The collection system for the proposed Project will include sewer laterals to be installed within the Project Site which will connect to nearby sewer mains within the Resort Development. The wastewater system for Subdivision 5 is proposed to consist of a private underground sewer pump station, force main and gravity sewer line. The underground sewer pump station will be

located adjacent to the eastern boundary of the Subdivision 5 site. A small enclosed structure to be located near the underground sewer pump station will house the control panel, emergency generator and generator fuel tank for the pump station. The waterproof structure will be constructed of material such as acoustical stainless steel or fiberglass. The force main will extend mauka from the Single-Family Subdivision 4 development within the Resort, and continue mauka within the golf course to the underground pump station.

From a cumulative standpoint, based on the County's Sewer Design Standards, the average sewer design flow for the overall Resort development, including the proposed Project, is estimated at 290,000 gpd. Based on the increased treatment capacity reservation of 290,000 gpd pursuant to the recently approved amended effluent use agreement, there is available capacity at the Lihue WWTP to accommodate the flows from the Resort development, including the proposed Project.

3.19.2 Water System

The County Department of Water (DOW) supplies the Kauai Lagoons Resort's potable water system through two (2) major water distribution systems. One 12-inch water line located off Haa Street in the Lihue Industrial Subdivision services the northern and eastern portions of the Resort Property through a 4-inch water meter. The second 12-inch water line located near Rice Street south of the Resort Property, which passes through the Kauai Marriott Resort and Beach Club, services the southern and western portions of the Resort Property through two (2) 6-inch water meters that are being shared by the Kauai Lagoons Resort, the adjacent Kauai Marriott Resort and Beach Club, and the nearby Pali Kai Homes.

The Resort Property is within the 393-foot pressure zone of DOW's potable water source that is supplied by nine (9) well sources, two (2) tunnel sources, and a surface water treatment plant source. The potable water is stored in five (5) existing storage tanks located in the vicinity of the Resort Property.

Impacts and Mitigation Measures

The potable water demand for the Project is based on the proposed 22 single-family residential units. Based on the County's Water Standards and the residential use proposed, the estimated average daily demand for the Project is 11,000 gallons per day (gpd).

From a cumulative standpoint, an Updated Water Study Report (May 2009) has been prepared by Wilson Okamoto Corporation to determine the adequacy of the existing water system and future water requirements to serve the proposed and planned developments within the Resort Development, including the proposed Project. The Updated Water Study Report has been submitted to the DOW for review and approval. The Updated Water Study Report is being prepared as an update to the initial Water Study Report for the Kauai Lagoons Resort (January 2005, Revised July 24, 2007), an Updated Water Study Report (May 2008), and a Final Updated Water Study Report (Revised November 25, 2008) which were all approved by the DOW by letters dated August 23, 2007, August 22, 2008, and December 1, 2008, respectively.

The potable water demand for the overall Kauai Lagoons Resort development is based on the number of residential units and other land uses proposed. Based on the County's Water Standards for the overall Resort Development, including the proposed Project, the estimated average daily demand is 341,200 gpd.

The existing 4-inch water meter will continue to serve the Resort Development and will be used to supply water to the approved planned initial phase of the Resort and proposed development in the revised master plan. The two (2) existing 6-inch water meters will also continue to serve the Resort Development and will be used to supply water to various approved and proposed developments within the Resort. Pursuant to DOW approval, a new 8-inch water meter will be installed at the existing 4-inch water meter location to supply water for the remainder of the Resort Development, including the proposed Project.

Currently, there is adequate source and storage for the proposed and approved planned Resort developments that will obtain water from the existing 4-inch water meter and the two (2) 6-inch water meters. The remainder of the proposed Resort Development to be served by the new 8-inch water meter to be installed at the location of the existing 4-inch water meter, including the proposed Project, will require additional domestic water supply. The Petitioner/Applicant will be coordinating with the DOW regarding additional source and storage requirements for the remainder of the Kauai Lagoons Resort development, including the proposed Project.

As the existing potable water transmission and distribution system is adequate, no transmission and distribution improvements are needed for the proposed Project. Water service to the Project Site will be provided by new water lines which will connect to existing water lines within the Resort Development. The water system within the Resort Development will be privately-owned and operated and will be maintained by the Petitioner/Applicant and Kauai Lagoons LLC.

Currently, water from the Resort's lagoons is used to irrigate areas makai of the lagoons, and R-2 quality water from the County's Lihue WWTP is reclaimed for irrigation of the Resort's golf course areas mauka of the lagoons. As previously indicated, Kauai Lagoons Resort has entered into an agreement with the County to design and construct a filtration and disinfection system upgrade at the Lihue WWTP that will allow the plant to upgrade its treated R-2 effluent to R-1 quality level to comply with the DOH's effluent reuse criteria. The upgrade to R-1 quality water will enable the use of high quality reclaimed water for all irrigation needs for the Kauai Lagoons Resort's golf courses and landscaping for the resort and residential common areas.

3.19.3 Drainage System

The Resort Property lies within an approximately 462-acre watershed area that is divided into eight (8) major drainage basins and encompasses the majority of the Resort. Currently, the majority of the runoff from the Resort Property sheet flows onto the golf courses and into the lagoons. Surface runoff converges into various drain inlets within the basins and to two (2) existing channels within the western and eastern portions of the Resort Property. The channel located within the western portion of the Resort Property (western drainage channel) encompasses a series of culverts and drain lines. The channel runs along the County's Lihue WWTP site, through the golf course, and eventually discharges into Nawiliwili Stream through a 2-cell box culvert located west of the Kauai Marriott Resort and Beach Club. The channel located within the eastern portion of the Resort Property (eastern drainage channel) runs through the golf course, eventually discharging into the ocean on the east side of the Fashion Landing complex.

Currently, storm water runoff from the Subdivision 1A site sheet flows into the Resort's lagoons located makai of the site. Storm water runoff from the Subdivision 5 site sheet flows onto the

Resort's golf course and into the existing eastern drainage channel, eventually flowing into the ocean. Runoff from the Subdivision 6 site sheet flows onto the Resort's golf course and into the existing western drainage channel, and ultimately into the ocean.

Impacts and Mitigation Measures

Construction of the proposed Project improvements will involve grading, excavation and trenching of areas presently developed as golf course use. Potential water quality impacts to nearshore coastal waters during construction of the proposed Project will be mitigated by adherence to State and County water quality regulations governing grading, excavation and stockpiling. Appropriate erosion and sediment controls will be instituted during Project grading operations and construction site work activities in compliance with the County's grading ordinance and the State DOH's NPDES General Permit for Storm Water Associated with Construction Activity. Mitigation measures will be instituted following site-specific assessments, incorporating appropriate structural and/or non-structural BMPs such as minimizing time of exposure between construction and re-vegetation, and implementing erosion control measures such as silt fences, graveled construction entrances, and sediment basins.

Development of the proposed Project will result in an increase in storm runoff since portions of the existing golf course areas within the Project Site will be replaced with non-permeable surfaces. The Project's proposed drainage system will be designed to control drainage flows and minimize impacts to the adjacent and nearby properties and to the nearshore coastal waters. The Project's drainage system will be designed to accommodate the increased storm runoff without increasing off-site impacts and will comply with the County's Drainage Standards. Following construction, exposed soils will have been graded, built and paved over, and landscaped which will control erosion.

Cumulatively, as the proposed and planned projects within the Resort development occur, the rate and quantity of runoff will change as a result of the proposed alterations to the existing natural topography and existing facilities within the area of development. A Master Drainage Study for the Kauai Lagoons Resort was prepared by Wilson Okamoto Corporation (August 2007, Revised January 2009) which was conditionally approved by the County DPW by letter dated February 18, 2009. As the Master Drainage Study comprehensively evaluates the drainage impacts and improvements needed to mitigate such impacts for the entire Resort Development, the assessment of impacts resulting from the proposed Project is discussed herein on a cumulative basis with the remainder of the Resort Development.

As the proposed developments within the Kauai Lagoons Resort occur, the rate and quantity of runoff will change as a result of the proposed alterations to the existing natural topography and existing facilities within the area of development. The existing runoff outside of and unaffected by the Resort Development is assumed to remain unchanged. To determine the size of the drainage facilities required to maintain existing drainage conditions, peak runoff rates and runoff volumes were calculated for the pre-development and post-development conditions. A 100-year, 24-hour storm event was used, except for the mauka-most and makai-most portions of the Resort Development where a 2-year, 24-hour storm event was used. The 2-year, 24-hour storm event was used to estimate the required storage because it generates a larger runoff volume than the 100-year, 24-hour storm event. The results were used to size detention basins such that post-development runoff volume will not exceed the pre-development run-off volume.

The Resort Development will result in an estimated increase of approximately 130 cubic feet per second (cfs) of runoff and an increase in runoff volume of 33.107 acre-feet. To accommodate the projected increase in runoff volume, a total of seven (7) detention basins will be provided throughout the Resort Development which will account for 8.187 acre-feet of the increase in runoff volume. The remaining 24.920 acre-feet will be diverted into the existing lagoons. The excess runoff proposed to be diverted into the lagoons is estimated to raise the water level of the lagoons by 8.9 inches. The maximum allowable increase in water level height of the lagoons is 24 inches, which is sufficient to accommodate the estimated 8.9-inch rise in water level. With the addition of the proposed detention basins and use of the existing lagoons, the flow rates and drainage patterns will be kept to pre-development conditions, and the runoff generated by the Resort Development will not adversely affect the adjacent properties and down-gradient areas.

As recommended in the Master Drainage Study, improvements to the western drainage channel will be undertaken by the Petitioner/Applicant and Kauai Lagoons LLC which will mitigate any potential flooding of the Lihue WWTP site. An approximately 1,500 linear-foot northern section of the western drainage channel running along the Lihue WWTP site would be channelized with material such as concrete rubble masonry (CRM) or concrete. The channel would be designed to convey the 100-year, 24-hour storm event, plus three (3) feet of freeboard over the normal depth. From that point makai, an approximately 1,000 linear-foot section of the western drainage channel would be lined with Composite Turf Reinforcement Mat (C-TRM) to prevent erosion. To preserve the function and capacity of the natural water courses and to preclude construction of building structures within the flood limits, the 100-year, 24-hour limits are designated as building setback limits on the Single-Family Subdivisions 2 and 3 subdivision map for the Resort Development. The existing eastern drainage channel does not require any improvements.

3.19.4 Electrical and Communications Systems

Electrical System: Electrical service for the Resort Property is available from Kauai Island Utility Cooperative (KIUC). The KIUC electrical substation which serves the Lihue area is located north of the Resort Property, with overhead transmission and distribution lines serving the Resort.

Communications and Cable Systems: The existing telephone service provided by Hawaiian Telcom enters the Resort Property from Rice Street through underground cables.

The existing cable television (CATV) is provided by Oceanic Time Warner Cable. The existing system enters the Resort Property from the western portion of the Property and terminates at the existing golf clubhouse.

Impacts and Mitigation Measures

KIUC currently supplies the electrical power that enters from the western portion of the Resort Property. Based on preliminary consultation with KIUC, the existing electrical system is generally adequate and no problems are anticipated in the provision of electrical supply to service the proposed Project. Extension of existing service lines to the proposed Project will be required.

Service for both telephone and CATV will be provided for the proposed Project. Extension of existing service lines to the proposed Project will be required.

4. RELATIONSHIP TO LAND USE PLANS AND POLICIES

The proposed Project's consistency with relevant State and County land use plans and policies is discussed below.

4.1 State Land Use District

The State Land Use Law, Chapter 205, HRS, is intended to preserve, protect and encourage the development of lands in the State for uses that are best suited to the public health and welfare of Hawaii's people. The State Land Use Commission classifies all lands in the State into four (4) land use districts: Urban, Agricultural, Conservation, and Rural. The Project Site is located within the State Agricultural and Urban Districts as shown in Figure 4-1. Subdivision 1A is mostly located within the State Agricultural District, except for an approximately 0.4-acre area within the southeast portion which is within the State Urban District. Subdivision 5 is located within the State Agricultural District, and Subdivision 6 and the surrounding remnant General Plan Open designation area are located within the State Urban District.

Development of Subdivisions 1A and 5, which will involve the placement of single-family residential uses within the existing golf course, will require the reclassification of 14.6 acres from the State Agricultural District to the State Urban District as shown in Figure 4-2. An approximately 0.4-acre area within the southeast portion of Subdivision 1A is currently within the State Urban District and, therefore, will not be part of the reclassification. This State Land Use District Boundary amendment will be subject to review and recommendation by the County Planning Commission and approval by the County Council since the area of reclassification is less than 15 acres.

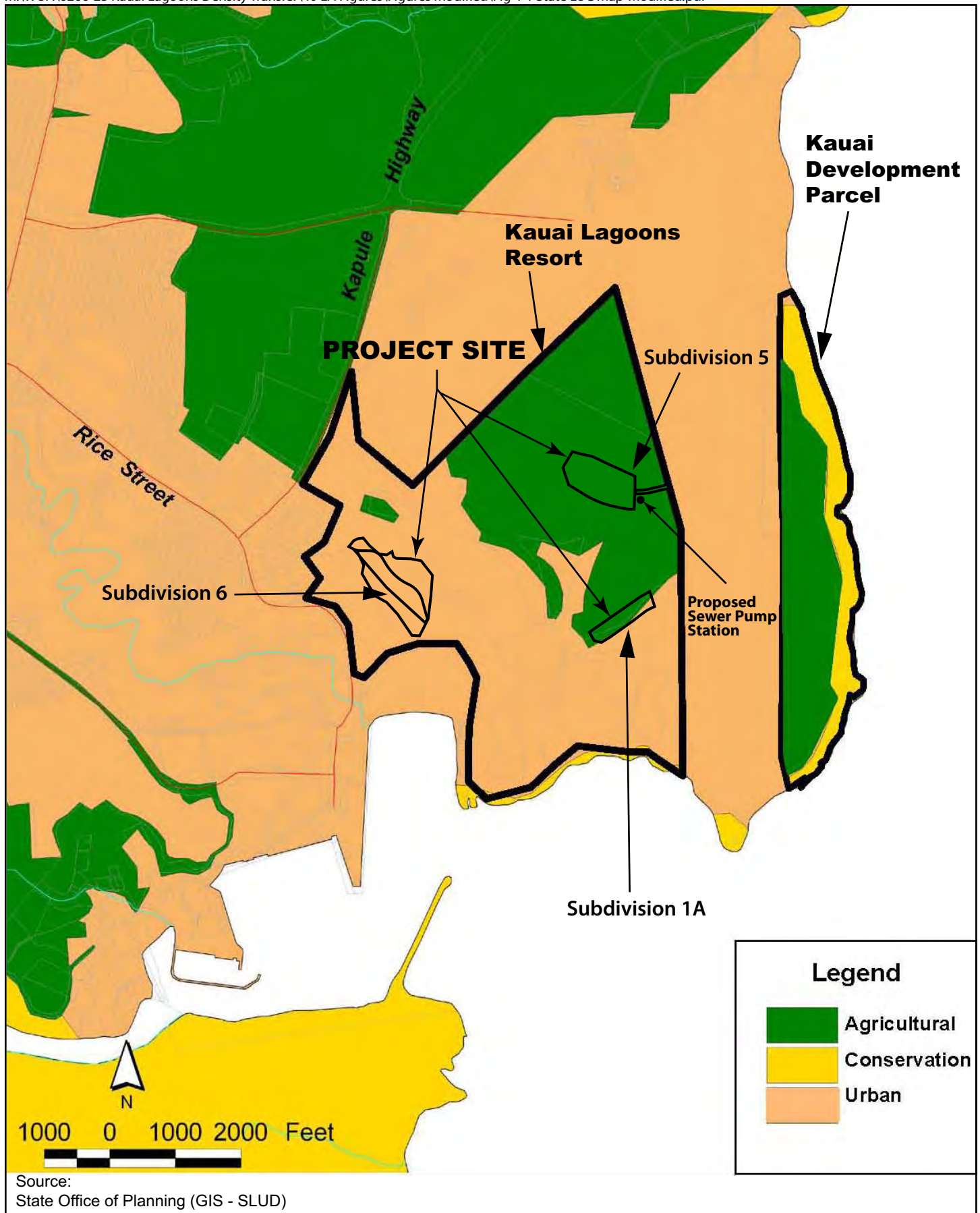
The standards for determining the boundaries for the Urban District include eight (8) areas which are listed and discussed below:

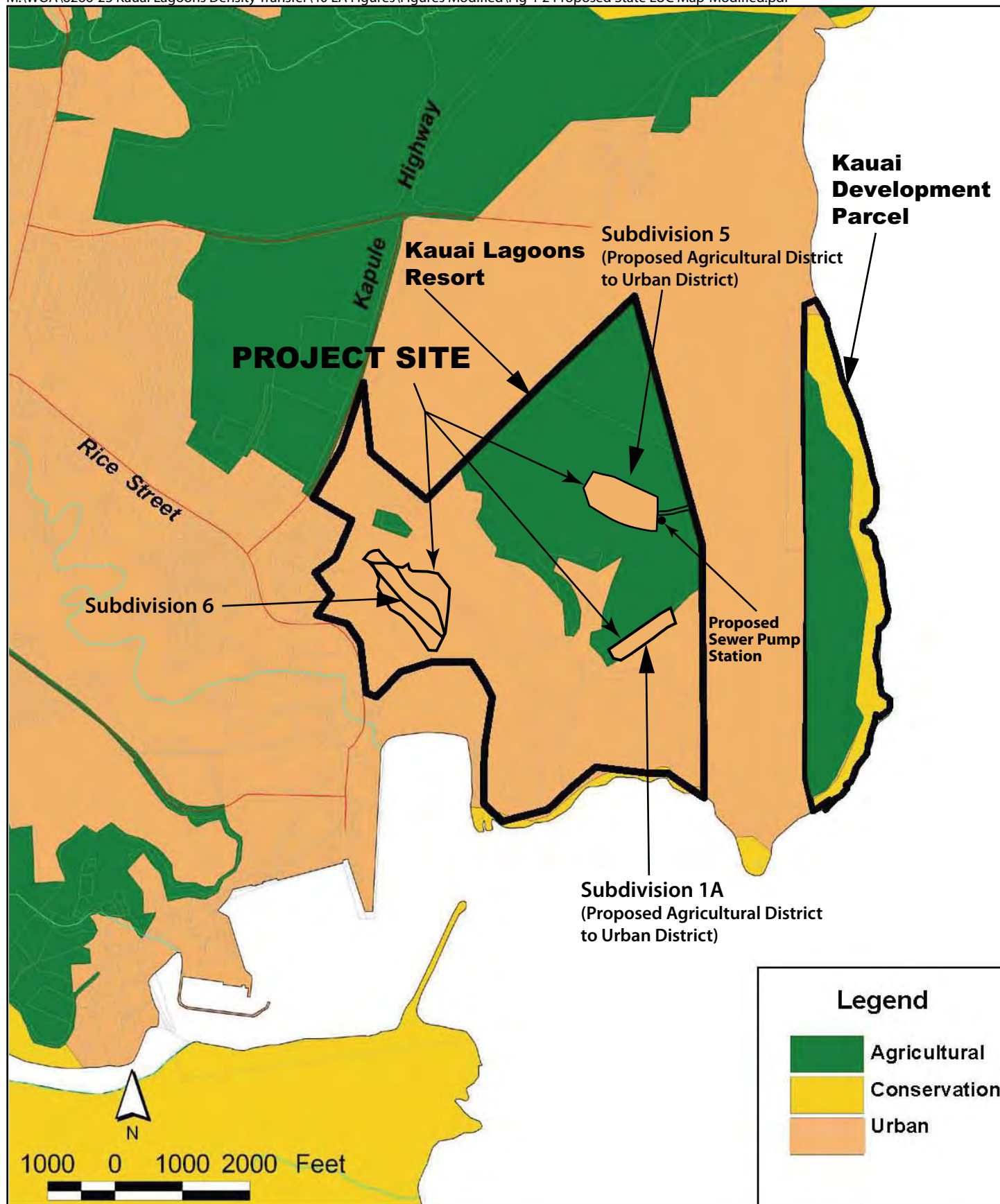
- (1) *It shall include lands characterized by "city-like" concentrations of people, structures, streets, urban level of services and other related land uses;*

Subdivisions 1A and 5 are proposed to be part of the planned Resort Development and, therefore, are located in close proximity to Lihue Town and in the nearby vicinity of the Lihue Airport, Kauai Marriott Resort and Beach Club, Lihue Industrial Park, and other Urban District lands used for public facilities, commercial, industrial, and resort uses.

- (2) *It shall take into consideration the following specific factors:*

- (A) *Proximity to centers of trading and employment except where the development would generate new centers of trading and employment;*
- (B) *Availability of basic services such as schools, parks, wastewater systems, solid waste disposal, drainage, water, transportation systems, public utilities, and police and fire protection; and*
- (C) *Sufficient reserve areas for foreseeable urban growth;*





Source:
State Office of Planning (GIS - SLUD)

FIGURE 4-2
PROPOSED STATE LAND USE DISTRICTS MAP

KAUAI LAGOONS RESORT DENSITY AMENDMENT PROJECT

Subdivisions 1A and 5 are proposed to be part of the planned Resort Development and, therefore, are located in close proximity to centers of trading and employment including Lihue Town, Nawiliwili Harbor, Kalapaki commercial area, Lihue Industrial Park, and Kauai Marriott Resort and Beach Club, and public facilities including the Lihue Airport, U.S. Post Office, and the judiciary complex.

Subdivisions 1A and 5 are in close proximity to public transportation systems, utilities and services. The public roads providing access to the Project Site include Kāpule Highway and Rice Street which also lead to the Lihue Airport, Lihue Town, Nawiliwili Harbor, and the Puhi area.

The County Police Department's Lihue Headquarters is located approximately 0.7 mile northwest of Subdivisions 1A and 5 on Kaana Street off of Kapule Highway, and the County's Lihue Fire Station is located approximately one mile to the west on Rice Street. The County DPW has plans for lateral expansion of the Kekaha Landfill which would extend its total life expectancy of about seven (7) more years. The Petitioner/Applicant will prepare a construction phase SWMP and an operational phase SWMP for the proposed Project.

The County's Lihue WWTP is located approximately 0.5 mile to the west/northwest of Subdivisions 1A and 5. A 290,000 gpd treatment capacity reservation at the Lihue WWTP has been provided for the Resort Development which will accommodate the flows from the Resort, including the proposed Project. As the proposed Project will require additional domestic water supply, the Petitioner/Applicant will be coordinating with the DOW regarding additional source and storage requirements. The proposed Project's drainage system will be designed to accommodate the increased storm runoff without increasing off-site impacts and will comply with the County's Drainage Standards. Electrical and communications systems services are available to the Subdivisions 1A and 5 sites.

As the proposed 22 single-family residential units would be primary or secondary residences, the Project will minimize the need for schools. In addition, public schools serving the Project area have adequate capacity to accommodate additional students. A variety of public parks are located in the vicinity of the Project, including Nawiliwili Beach Park, Niumalu Beach Park, Hanamaulu Beach Park, Kalapaki Bay Memorial Park, and Ahukini Recreation Pier State Park. The provision of private, on-site recreational amenities within the Resort Development for the Resort's residents and guests will lessen the Project's impact on public recreational facilities in the area.

The Subdivisions 1A and 5 sites are a logical extension of urbanization in the region since they are located adjacent to urban lands within the Resort Development and are in close proximity to Lihue Town, Lihue Airport, the Nawiliwili area, and the Kauai Marriott Resort and Beach Club.

- (3) *It shall include lands with satisfactory topography, drainage, and reasonably free from the danger of any flood, tsunami, unstable soil conditions, and other adverse environmental effects;*

The existing topography of the Subdivisions 1A and 5 sites is relatively flat and is determined by the existing golf course contours within each site. Within the Subdivision 1A site, the elevations range from approximately 110 feet above msl within most of the site to about 100 feet above msl near the eastern end. The elevations of the Subdivision 5 site range from approximately 110 feet above msl within the central portion to about 96 feet above msl near the southeast portion.

Storm water runoff from the Subdivision 1A site sheet flows into the Resort's lagoons located makai of the site. Storm runoff from the Subdivision 5 site sheet flows onto the Resort's golf course and into the existing eastern drainage channel, eventually flowing into the ocean.

According to the Flood Insurance Rate Map (FIRM) prepared by the Federal Emergency Management Agency (FEMA), the Subdivisions 1A and 5 sites are located within Zone "X", defined as "Areas determined to be outside the 0.2% annual chance floodplain".

- (4) *Land contiguous with existing urban areas shall be given more consideration than non-contiguous land, and particularly when indicated for future urban use on state or county general plans;*

The Subdivisions 1A and 5 sites are contiguous with existing urban areas, including the surrounding Kauai Lagoons Resort. The Kauai Lagoons Resort is in turn contiguous with existing urban areas including the Lihue Airport to the north and east; commercial, industrial, public facilities, and residential areas to the west; and resort, commercial, and residential uses to the south. The Lihue District Land Use Map of the County's General Plan designates the Subdivisions 1A and 5 sites as Resort.

- (5) *It shall include lands in appropriate locations for new urban concentrations and shall give consideration to areas of urban growth as shown on the state and county general plans;*

The Subdivisions 1A and 5 sites are consistent with the designation of new urban concentrations and urban growth areas as shown on the County land use plans. The Lihue District Land Use Map of the County's General Plan designates the Subdivisions 1A and 5 sites as Resort.

- (6) *It may include lands which do not conform to the standards in paragraphs (1) to (5):*
- (A) *When surrounded by or adjacent to existing urban development; and*
 - (B) *Only when those lands represent a minor portion of this district;*

The Subdivisions 1A and 5 sites conform to the referenced paragraphs (1) to (5).

- (7) *It shall not include lands, the urbanization of which will contribute toward scattered spot urban development, necessitating unreasonable investment in public infrastructure or support services; and*

The Subdivisions 1A and 5 sites are contiguous with existing urban areas, including the surrounding Kauai Lagoons Resort. The Kauai Lagoons Resort is in turn contiguous with existing urban areas including the Lihue Airport to the north and east; commercial, industrial, public facilities, and residential areas to the west; and resort, commercial, and residential uses to the south. Therefore, the Subdivisions 1A and 5 sites are a logical extension of urbanization in the vicinity and will not contribute toward scattered or spot urban development. The proposed Project will include all required on- and off-site infrastructure improvements to minimize the burden on public systems. The Project is not anticipated to have any significant impacts on public services in the area as discussed in paragraph (2) above.

- (8) *It may include lands with a general slope of twenty per cent or more if the commission finds that those lands are desirable and suitable for urban purposes and that the design and construction of controls, as adopted by any federal, state, or county agency, are adequate to protect the public health, welfare and safety, and the public's interests in the aesthetic quality of the landscape.*

The existing topography of the Subdivisions 1A and 5 sites is relatively flat and is determined by the existing golf course contours within each site. Within the Subdivision 1A site, the elevations range from approximately 110 feet above msl within most of the site to about 100 feet above msl near the eastern end. The elevations of the Subdivision 5 site range from approximately 110 feet above msl within the central portion to about 96 feet above msl near the southeast portion.

4.2 Hawaii State Plan

Hawaii State Plan: The proposed Project is consistent with the following applicable goals, objectives and policies of the Hawaii State Plan, Chapter 226, Hawaii Revised Statutes (HRS):

Section 226-8 Objectives and policies for the economy – visitor industry.

(b)(4) Encourage cooperation and coordination between the government and private sectors in developing and maintaining well-designed, adequately serviced visitor industry and related developments which are sensitive to neighboring communities and activities.

The low-density character of the proposed single-family residences coupled with the extensive open space of the adjacent golf course areas will create an attractive environment complementary to the remainder of the Resort Development and neighboring uses.

Section 226-11 Objectives and policies for the physical environment – land-based, shoreline and marine resources.

(b)(6) Encourage the protection of rare or endangered plant and animal species and habitats native to Hawaii.

It is likely that the construction activity associated with the modification of habitat within the Project Site will temporarily disturb avian species, including the five (5) endangered species known from within the Resort Property. The Petitioner/Applicant and Kauai Lagoons LLC are in close coordination with the USFWS and the State DLNR DOFAW on developing measures to address potential impacts of the Project construction on the endangered Nene and other waterbird species. The Kauai Lagoons LLC entered into a Memorandum of Agreement (MOA) with the USFWS executed in January 2009 which details the extensive measures the Kauai Lagoons LLC implemented during the 2008-09 Nene breeding season, and will continue to implement, for the purposes of avoiding take of and providing certain conservation benefits to these species. These measures include enhancing nesting habitat areas, conducting endangered species awareness training for all Kauai Lagoons LLC and construction contractor employees, performing pre-construction surveys, utilizing designated biological and construction monitors, installing and maintaining protective fencing, posting and enforcing speed limits within the Resort Property, posting warning signs, providing centralized parking for construction crews, providing appropriate trash receptacles at construction sites, conducting predator trapping, developing and implementing emergency response protocols for dealing with injured birds, and conducting extensive and continual monitoring of Nene and waterbird breeding and presence on the Resort Property.

The Petitioner/Applicant and Kauai Lagoons LLC are also actively engaged with the USFWS and the State DLNR DOFAW in preparing a joint Federal-State Habitat Conservation Plan (HCP) in accordance with the requirements of Section 10 of the Endangered Species Act, as amended, and §195-D, HRS. This HCP will govern both the development operations, including development of the Project Site, and ongoing golf operations at the Kauai Lagoons Resort. The USFWS conducted an internal consultation on the terms of the MOA under Section 7 of the Endangered Species Act and issued a Biological Opinion on January 26, 2009. The Biological Opinion authorized certain incidental take in connection with the Resort Development through August 2009. Under the MOA, Kauai Lagoons LLC and the USFWS have committed to use their best efforts to complete before that date the HCP process for additional construction and for long-term Resort operations. The terms of the MOA allow for it to be extended if the HCP process is not complete by August 31, 2009. Furthermore, the Petitioner/Applicant and Kauai Lagoons LLC are funding the USFWS and State DLNR DOFAW efforts in the translocation of Nene to other suitable areas on the Island.

The proposed Project also poses a potential secondary threat to two (2) listed pelagic seabird species, Hawaiian Petrel (*Pterodroma sandwichensis*) and Newell's Shearwater (*Puffinus auricularis newelli*), both of which regularly over-fly the Project Site between April and the end of November each year. Both species are at risk of being downed by interactions with unshielded lighting and collisions with man-made structures when disoriented by lights. To reduce the potential for interactions between nocturnally flying Hawaiian Petrels and Newell's Shearwaters with external lights and man-made structures, any external lighting planned for the Project will be shielded or of the cut-off luminaire or indirect lighting types, and/or directed downward. The use of spotlights aimed upward or spotlighting of structures and landscaping within the Project

Site will be prohibited. In addition, night time construction activities will not be undertaken in conjunction with the development of the proposed Project.

Section 226-12 Objectives and policies for the physical environment – scenic, natural beauty, and historic resources.

(b)(1) Promote the preservation of views and vistas to enhance the visual and aesthetic enjoyment of mountains, ocean, scenic landscapes, and other natural features.

(b)(5) Encourage the design of developments and activities that complement the natural beauty of the islands.

Views of the proposed Project from coastal areas will be non-existent due to the inland location of the Project Site. The proposed subdivision nearest to the coastline is Subdivision 6 which is located well over 1,000 feet inland (mauka) from the nearest shoreline.

Any visual impacts from public vantage points will be mitigated by developing the proposed Project in accordance with the applicable development standards of the County's CZO relative to building height and envelopes, setbacks, etc. The development will also minimize the intrusion of buildings on the visual environment through architectural design criteria and landscaping deemed appropriate for the surrounding Resort development.

Sec. 226-13 Objectives and policies for the physical environment – land, air and water quality.

(b)(3) Promote effective measures to achieve desired quality in Hawaii's surface, ground, and coastal waters.

(b)(5) Reduce the threat to life and property from erosion, flooding, tsunamis, hurricanes, earthquakes, volcanic eruptions, and other natural or man-induced hazards and disasters.

(b)(7) Encourage urban developments in close proximity to existing services and facilities.

The Project's proposed drainage system will be designed to control drainage flows and minimize impacts to the adjacent and nearby properties and to the nearshore coastal waters. The Project's drainage system will be designed to accommodate the increased storm runoff without increasing off-site impacts and will comply with the County's Drainage Standards. As part of the overall Resort Development, a total of seven (7) detention basins will be provided throughout the Resort to accommodate the projected increase in storm runoff volume, with the remaining excess storm runoff to be diverted into the Resort's lagoons. With the addition of the proposed detention basins and use of the existing lagoons, the flow rates and drainage patterns will be kept to pre-development conditions, and the runoff generated by the Resort Development will not adversely affect the adjacent properties and down-gradient area.

The proposed Project is not located within a flood hazard zone. According to the FIRM prepared by the FEMA, the Project Site is located within Zone "X", defined as "Areas determined to be outside the 0.2% annual chance floodplain".

The Project Site is a logical extension of urbanization in the region since it is located adjacent to urban lands within the Resort Development and is in close proximity to Lihue Town, Lihue Airport, the Nawiliwili area, and the Kauai Marriott Resort and Beach Club. The Project Site is also in close proximity to public transportation systems, utilities and services.

4.3 Hawaii Coastal Zone Management (CZM) Program

The National Coastal Zone Management Program was created through passage of the Coastal Zone Management Act of 1972. Hawaii's Coastal Zone Management Program, adopted as Chapter 205A, HRS, provides a basis for protecting, restoring and responsibly developing coastal communities and resources. A discussion of the Project's consistency with the objectives and policies of the Coastal Zone Management Program is provided below.

(1) Recreational Resources

Objective:

Provide coastal recreational opportunities accessible to the public.

Policies

- (A) *Improve coordination and funding of coastal recreational planning and management; and*
- (B) *Provide adequate, accessible, and diverse recreational opportunities in the coastal zone management area by:*
 - (i) *Protecting coastal resources uniquely suited for recreational activities that cannot be provided in other areas;*
 - (ii) *Requiring replacement of coastal resources having significant recreational value, including but not limited to surfing sites, fishponds, and sand beaches, when such resources will be unavoidably damaged by development; or requiring reasonable monetary compensation to the state for recreation when replacement is not feasible or desirable;*
 - (iii) *Providing and managing adequate public access, consistent with conservation of natural resources, to and along shorelines with recreational value;*
 - (iv) *Providing an adequate supply of shoreline parks and other recreational facilities suitable for public recreation;*
 - (v) *Ensuring public recreational use of county, state, and federally owned or controlled shoreline lands and waters having recreational value consistent with public safety standards and conservation of natural resources;*
 - (vi) *Adopting water quality standards and regulating point and non-point sources of pollution to protect, and where feasible, restore the recreational value of coastal waters.*
 - (vii) *Developing new shoreline recreational opportunities, where appropriate, such as artificial lagoons, artificial beaches, and artificial reefs for surfing and fishing; and*
 - (viii) *Encouraging reasonable dedication of shoreline areas with recreational value for public use as part of discretionary approvals or permits by the land use commission, board of land and natural resources, county planning commissions; and crediting such dedication against the requirements of Section 46-6, HRS.*

As part of the overall Resort Development, coastal recreational activities will be enhanced through increased public beach access and the provision of public beach access parking and public recreation/picnic shelters, public restrooms and shower facilities within the Resort.

Existing public shoreline accessways will be maintained within the Kauai Lagoons Resort, including the shoreline access near the Kiele Golf Hole No. 16, the shoreline access point from the former Inn on the Cliffs restaurant, and the beach access off of the makai end of Kalapaki Circle. The existing 20 public beach access parking stalls at the makai end of Kalapaki Circle and Pali Kai Cottages and within the former Fashion Landing area will continue to be provided as part of the Resort Development.

In accordance with Condition No. 9 of the Amended SMA Permit and Condition No. 7 of Zoning Ordinance No. PM-2006-383, the developers of the Resort Development, including the Petitioner/Applicant, will be providing public lateral shoreline access between the Inn on the Cliffs and Fashion Landing, and public recreational facilities, including public restrooms and shower facilities at the former Fashion Landing area (beneath the restaurant); a public recreation/picnic shelter and shower facility near Running Waters Beach, just mauka of the proposed public lateral shoreline access; and a public recreation/picnic shelter, shower and restroom facility further west and mauka of the proposed public lateral shoreline access.

The Project's proposed drainage system will be designed to control drainage flows and minimize impacts to the adjacent and nearby properties and to the nearshore coastal waters. The Project's drainage system will be designed to accommodate the increased storm runoff without increasing off-site impacts and will comply with the County's Drainage Standards.

(2) Historic Resources

Objective:

Protect, preserve and, where desirable, restore those natural and manmade historic and prehistoric resources in the coastal zone management area that are significant in Hawai'iian and American history and culture.

Policies:

- (A) *Identify and analyze significant archaeological resources;*
- (B) *Maximize information retention through preservation of remains and artifacts or salvage operations; and*
- (C) *Support state goals for protection, restoration, interpretation, and display of historic resources.*

The areas comprising the Project Site have been developed into golf course use. An archaeological reconnaissance survey in February 1980 was conducted on portions of the Resort Property by Archaeological Research Center Hawaii, Inc. The TMKs surveyed included (4) 3-5-01: 82, 83, 119 and portions 27, 115-118 and 120. The report noted that the area had been previously impacted by sugar cane cultivation and cattle grazing and no archaeological or historic sites were found. The report recommended archaeological clearance with no further investigation (Letter Report: Archaeological Reconnaissance of Ninini Point Area, February 27, 1980).

The SHPD, in a letter dated October 27, 2008 in conjunction with this EA, a copy which is included in Chapter 9 Consultation, Section 9.1 Pre-Assessment Consultation of this document, has determined that "no historic properties will be affected" by the proposed Project since the subject area has been previously assessed in a prior archaeological inventory.

(3) Scenic and Open Space Resources

Objective:

Protect, preserve, and where desirable, restore or improve the quality of coastal scenic and open space resources.

Policies:

- (A) *Identify valued scenic resources in the coastal zone management area;*
- (B) *Ensure that new developments are compatible with their visual environment by designing and locating such developments to minimize the alteration of natural landforms and existing public views to and along the shoreline;*
- (C) *Preserve, maintain, and, where desirable, improve and restore shoreline open space and scenic resources; and*
- (D) *Encourage those developments which are not coastal dependent to locate in inland areas.*

Due to its inland location within the Resort Property, the Project Site is not visible from public vantage points. The Project Site is not visible from the nearest major public roadways of Kapule Highway and Rice Street due to its inland location and distance from those roadways. Views of the Project Site from coastal areas are also non-existent due to its location well inland (mauka) from the coastline.

Within the Kauai Lagoons Resort, development of the proposed Project will alter the visual landscape from its relatively open state to one of urban use. However, as the proposed Project will be part of the Resort Development, the change in views will be of an intensification of the existing use.

Views of the proposed Project from coastal areas will be non-existent due to the inland location of the Project Site. The proposed subdivision nearest to the coastline is Subdivision 6 which is located well over 1,000 feet inland (mauka) from the nearest shoreline.

Any visual impacts from public vantage points will be mitigated by developing the proposed Project in accordance with the applicable development standards of the County's CZO relative to building height and envelopes, setbacks, etc. The development will also minimize the intrusion of buildings on the visual environment through architectural design criteria and landscaping deemed appropriate for the surrounding Resort development.

(4) Coastal Ecosystems

Objective:

Protect valuable coastal ecosystems, including reefs, from disruption and minimize adverse impacts on all coastal ecosystems.

Policies:

- (A) *Improve the technical basis for natural resource management;*
- (B) *Preserve valuable coastal ecosystems, including reefs, of significant biological or economic importance;*

- (C) *Minimize disruption or degradation of coastal water ecosystems by effective regulation of stream diversions, channelization, and similar land and water uses, recognizing competing water needs; and*
- (D) *Promote water quantity and quality planning and management practices that reflect the tolerance of fresh water and marine ecosystems and prohibit land and water uses which violate state water quality standards.*

Potential water quality impacts to near shore coastal waters during construction of the Project will be mitigated by adherence to State and County water quality regulations governing grading, excavation and stockpiling. A NPDES General Permit for Storm Water Associated with Construction Activity administered by the State DOH will be required to control storm water discharges. The County's grading ordinance includes provisions related to reducing and minimizing the discharge of pollutants associated with soil disturbing activities in grading, grubbing and stockpiling. Mitigation measures will be instituted following site-specific assessments, incorporating appropriate structural and/or non-structural BMPs such as minimizing time of exposure between construction and re-vegetation, and implementing erosion control measures such as silt fences, graveled construction entrances, and sediment basins.

The Project's proposed drainage system will be designed to control drainage flows and minimize impacts to the adjacent and nearby properties and to the nearshore coastal waters. The Project's drainage system will be designed to accommodate the increased storm runoff without increasing off-site impacts and will comply with the County's Drainage Standards. As part of the overall Resort Development, a total of seven (7) detention basins will be provided throughout the Resort to accommodate the projected increase in storm runoff volume, with the remaining excess storm runoff to be diverted into the Resort's lagoons. With the addition of the proposed detention basins and use of the existing lagoons, the flow rates and drainage patterns will be kept to pre-development conditions, and the runoff generated by the Resort Development will not adversely affect the adjacent properties and down-gradient area.

(5) *Economic Uses*

Objective:

Provide public or private facilities and improvements important to the State's economy in suitable locations.

Policies:

- (A) *Concentrate coastal dependent development in appropriate areas;*
- (B) *Ensure that coastal dependent developments such as harbors and ports, and coastal related development such as visitor facilities and energy generating facilities, are located, designed, and constructed to minimize adverse social, visual, and environmental impacts in the coastal zone management area; and*
- (C) *Direct the location and expansion of coastal dependent developments to areas presently designated and used for such developments and permit reasonable long-term growth at such areas, and permit coastal dependent development outside of presently designated areas when:*
 - (i) *Use of presently designated locations is not feasible;*
 - (ii) *Adverse environmental effects are minimized; and*
 - (iii) *The development is important to the State's economy.*

The Kauai Lagoons Resort, of which the proposed Project will be located within, is a designated resort destination in the County's General Plan. The proposed Project will be designed to minimize adverse social, visual and environmental impacts in the coastal area.

(6) *Coastal Hazards*

Objectives:

Reduce hazard to life and property from tsunami, storm waves, stream flooding, erosion, subsidence and pollution.

Policies

- (A) *Develop and communicate adequate information about storm wave, tsunami, flood, erosion, subsidence, and point and nonpoint source pollution hazards;*
- (B) *Control development in areas subject to storm wave, tsunami, flood, erosion, hurricane, wind, subsidence, and point and nonpoint pollution hazards;*
- (C) *Ensure that developments comply with requirements of the Federal Flood Insurance Program;*
- (D) *Prevent coastal flooding from inland projects; and*
- (E) *Develop a coastal point and nonpoint source pollution control program.*

The Project Site is not located within a flood hazard zone. According to the FIRM prepared by the FEMA, the Project Site is located within Zone "X", defined as "Areas determined to be outside the 0.2% annual chance floodplain".

The Project's proposed drainage system will be designed to control drainage flows and minimize impacts to the adjacent and nearby properties and to the nearshore coastal waters. The Project's drainage system will be designed to accommodate the increased storm runoff without increasing off-site impacts and will comply with the County's Drainage Standards.

(7) *Managing Development*

Objective:

Improve the development review process, communication and public participation in the management of coastal resource and hazards.

Policies:

- (A) *Use, implement, and enforce existing law effectively to the maximum extent possible in managing present and future coastal zone development;*
- (B) *Facilitate timely processing of applications for development permits and resolve overlapping of conflicting permit requirements; and*
- (C) *Communicate the potential short and long-term impacts of proposed significant coastal developments early in their life-cycle and in terms understandable to the public to facilitate public participation in the planning and review process.*

Government agencies, organizations and the general public are being notified of the proposed Project, and being given an opportunity to comment on the Project through the environmental review and land use approvals process. Short- and long-term impacts have been assessed in this Environmental Assessment.

(8) Public Participation

Objective:

Stimulate public awareness, education, and participation in coastal management.

Policies:

- (A) *Maintain a public advisory body to identify coastal management problems and to provide policy advice and assistance to the coastal zone management program;*
- (B) *Disseminate information on coastal management issues by means of educational materials, published reports, staff contact, and public workshops for persons and organizations concerned with coastal-related issues, developments, and government activities; and*
- (C) *Organize workshops, policy dialogues, and site-specific mediations to respond to coastal issues and conflicts.*

Government agencies, organizations and the general public are being notified of the proposed Project, and being given an opportunity to comment on the Project through the environmental review and land use permit process.

(9) Beach Protection

Objective:

Protect beaches for public use and recreation.

Policies:

- (A) *Locate new structures inland from the shoreline setback to conserve open space and to minimize loss of improvements due to erosion;*
- (B) *Prohibit construction of private erosion-protection structures seaward of the shoreline, except when they result in improved aesthetic and engineering solutions to erosion at the sites and do not interfere with existing recreational and waterline activities; and*
- (C) *Minimize the construction of public erosion-protection structures seaward of the shoreline.*

The proposed Project does not involve the construction of improvements in the shoreline setback or require any erosion-protection structures. At its closest point, the Project Site is located well over 1,000 feet inland (mauka) from the nearest shoreline.

(10) Marine Resources

Objective:

Implement the State's ocean resources management plan.

Policies:

- (A) *Exercise an overall conservation ethic, and practice stewardship in the protection, use, and development of marine and coastal resources;*
- (B) *Assure that the use and development of marine and coastal resources are ecologically and environmentally sound and economically beneficial;*

- (C) *Coordinate the management of marine and coastal resources and activities management to improve effectiveness and efficiency;*
- (D) *Assert and articulate the interests of the State as a partner with federal agencies in the sound management of ocean resources within the United States exclusive economic zone;*
- (E) *Promote research, study, and understanding of ocean processes, marine life, and other ocean resources in order to acquire and inventory information necessary to understand how ocean development activities relate to and impact upon ocean and coastal resources; and*
- (F) *Encourage research and development of new, innovative technologies for exploring, using, or protecting marine and coastal resources.*

The proposed Project is not anticipated to have any adverse impact on marine resources. The proposed Project will comply with the State water quality regulations and County grading and erosion control standards and requirements.

4.4 County of Kauai General Plan

The County's General Plan provides broad policy statements to guide land use regulations, new developments and facilities, and planning for County facilities and services. Relevant sections of the General Plan and their consistency with the proposed Project are as follows:

General Plan Designation: The Lihue District Land Use Map of the County General Plan designates the Project Site as Open and Resort as shown in Figure 4-3. Within the Project Site, the Subdivisions 1A and 5 sites are designated Resort and the Subdivision 6 site and adjacent approximately 12.0-acre remnant area designated Open.

The Project proposes to expand the Kauai Lagoons' Resort-designated area from the Open designation by approximately 19.1 acres to encompass the Subdivision 6 site and the remnant Open area as shown in Figure 4-4. The areas of amendment include the Kiele Golf Hole Nos. 6, 7 and 8 located in the western portion of the Resort Development.

The policy for the Open designation is as follows (Section 5.3.1 Policy):

- (a) *The intent of the Open designation is to preserve, maintain or improve the natural characteristics of non-urban land and water areas that:*
 - (1) *are of significant value to the public as scenic or recreation resources;*
 - (2) *perform essential physical and ecological functions important to the welfare of surrounding lands, waters, and biological resources;*
 - (3) *have the potential to create or exacerbate soil erosion or flooding on adjacent lands;*
 - (4) *are potentially susceptible to natural hazards such as flood, hurricane, tsunami, coastal erosion, landslide or subsidence; or*
 - (5) *form a cultural, historic or archaeological resource of significant public value.*

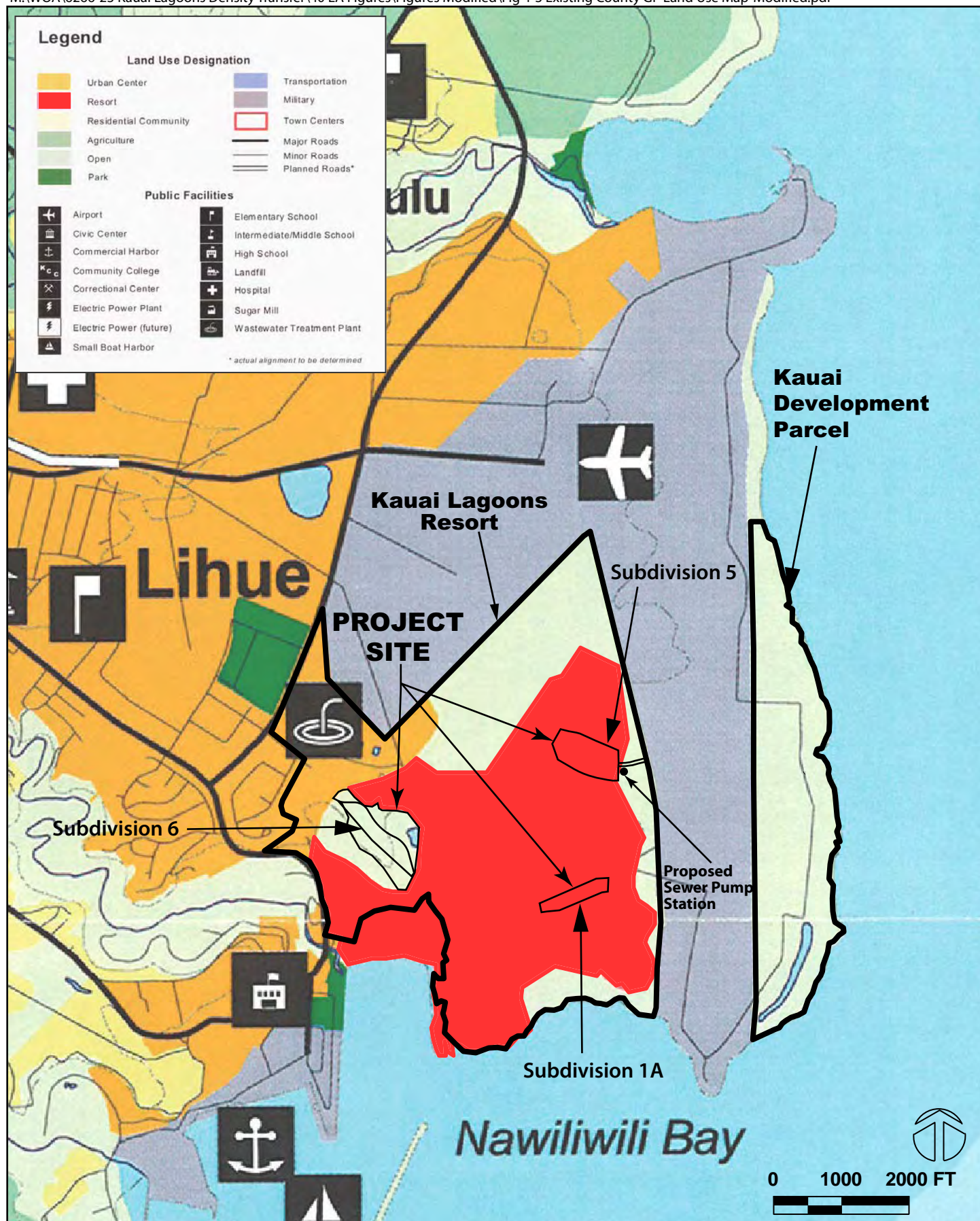
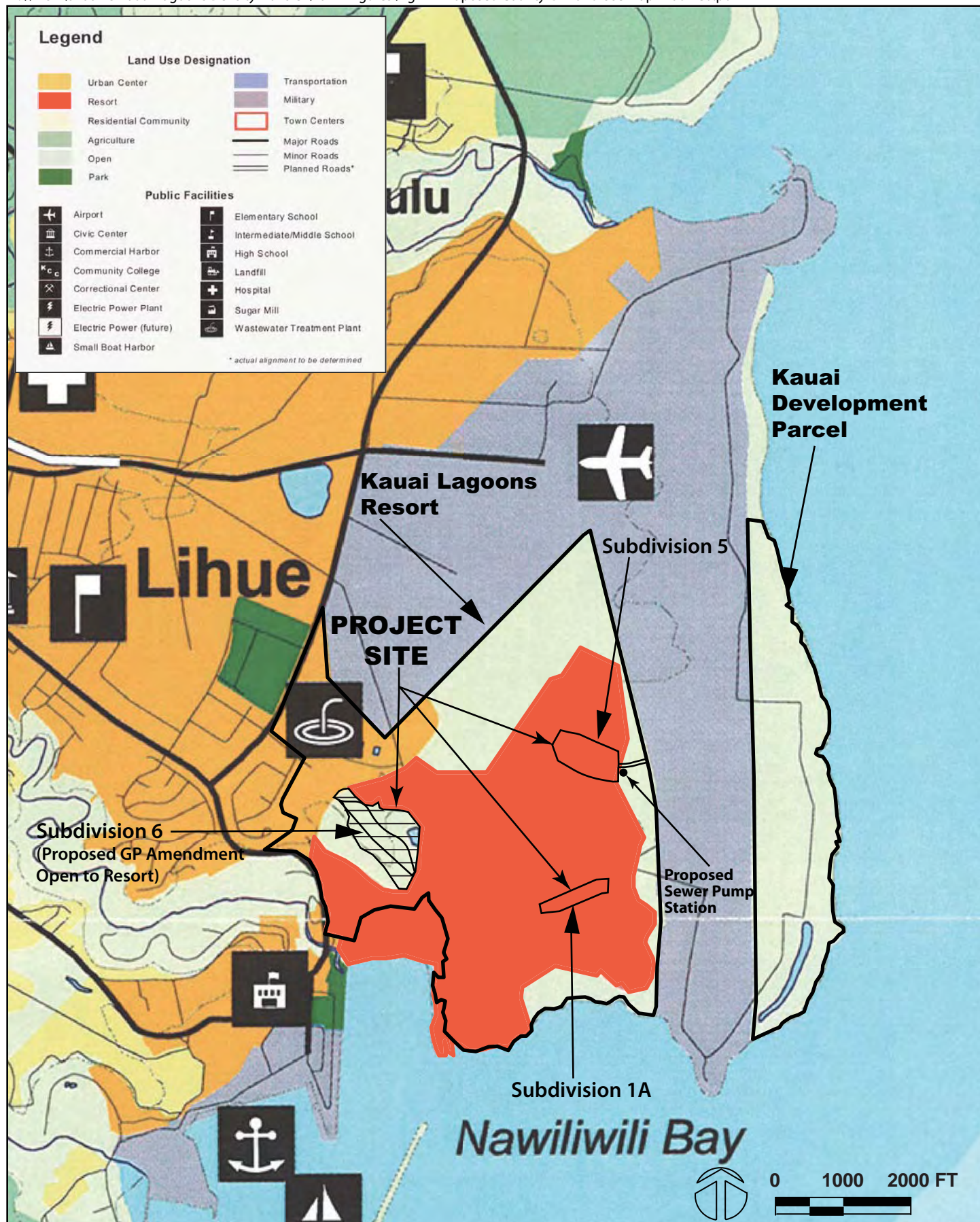


FIGURE 4-3
EXISTING KAUAI GENERAL PLAN LAND USE MAP



LEGEND:

- Proposed GP Amendment Area from Open to Resort Designation

Source:
County of Kauai General Plan, November 2000

**FIGURE 4-4
PROPOSED KAUAI GENERAL PLAN LAND USE MAP**

KAUAI LAGOONS RESORT DENSITY AMENDMENT PROJECT

- (b) *Lands designated Open shall include: important landforms such as mountains, coastal bluffs, cinder cones, and stream valleys; native plant and wildlife habitat; areas of predominantly steep slopes (20 percent or greater); beaches and coastal areas susceptible to coastal erosion or hurricane, tsunami, or storm-wave inundation; wetlands and flood plains; important scenic resources; and known natural, historic and archaeological resources. Open shall also include parks, golf courses, and other areas committed to outdoor recreation*
- (c) *Lands designated Open shall remain predominantly free of development involving buildings, paving and other construction. With the exception of kuleanas and other small lots of record, any construction that is permitted shall be clearly incidental to the use and open character of the surrounding land.*

The lands within the Subdivision 6 site and the remnant area are designated as Open due to their existing golf course use. These Open-designated lands do not otherwise possess any significant ecological, historic/cultural, scenic, or flood mitigation values typically attributed to the Open District.

The policy for the proposed land use Resort reclassification is designated as follows (Section 5.4.2.1 Policy):

- (a) *Lands included within the Resort designation shall be used predominantly for housing and serving visitors to Kaua'i. In addition to hotels and multi- and single-family dwellings used for transient lodging, the Resort designation shall provide for commercial, recreational and public facilities that serve visitors or support the visitor industry. Lands designated Resort may also be used for residential purposes, including resort employee housing.*
 - (b) *Resort-designated areas shall be served with wastewater treatment plants and shall have the full range of urban services.*
 - (c) *The Resort designation shall be reserved for a limited number of locations.*
- (2) *Secondary resort destinations include Nukoli'i and Līhu'e.*

The Kauai Lagoons Resort is a designated resort destination in the General Plan. Subdivisions 1A and 5 are consistent with this designated resort destination. The proposed land use map amendment for Subdivision 6 is consistent with the Resort designation which allows for single-family dwellings and residential use. The Kauai Lagoons Resort is served by the adjacent County's Lihue WWTP. A wide range of urban services is available in nearby Lihue Town located approximately 1 mile northwest of the Resort Development.

The proposed designation of the approximately 12.0-acre remnant area from the General Plan Open to Resort is intended only to provide for a more uniform boundary of the Resort designation and not for additional density purposes.

General Plan Policies: The proposed Project is consistent with the following applicable policies that concern the needs of the people and function of government. These areas include Scenic Views; Historic and Archaeological Resources; Watersheds, Streams, and Water Quality; Visitor Industry; and Scenic Roadway Corridors. The proposed Project is in consonance with the following objectives and policies of the General Plan:

3.2 Scenic Views

3.2.1 Policy

- (a) *The County shall observe the following general principles in maintaining scenic resources:*

(1) Preserve public views that exhibit a high degree of intactness or vividness..

(2) Preserve the scenic qualities of lowland/open space features, such as the shoreline, the edge of a coastal bluff, a marsh, a fishpond, or a historic or cultural property. Structures should not impede or intrude upon public views of the feature and should not alter the character of the immediate area around the land feature, historic or cultural property.

Due to its inland location within the Resort Property, the Project Site is not visible from public vantage points. The Project Site is not visible from the nearest major public roadways of Kapule Highway and Rice Street due to its inland location and distance from those roadways. Views of the Project Site from coastal areas are also non-existent due to its location well inland (mauka) from the coastline.

Within the Kauai Lagoons Resort, development of the proposed Project will alter the visual landscape from its relatively open state to one of urban use. However, as the proposed Project will be part of the Resort Development, the change in views will be of an intensification of the existing use.

Views of the proposed Project from coastal areas will be non-existent due to the inland location of the Project Site. The proposed subdivision nearest to the coastline is Subdivision 6 which is located well over 1,000 feet inland (mauka) from the nearest shoreline.

Any visual impacts from public vantage points will be mitigated by developing the proposed Project in accordance with the applicable development standards of the County's CZO relative to building height and envelopes, setbacks, etc. The development will also minimize the intrusion of buildings on the visual environment through architectural design criteria and landscaping deemed appropriate for the surrounding Resort development.

3.3 Historic and Archaeological Resources

3.3.2.1 Policy

3.3.2.2 Historic Properties

Preserve important archaeological and historic sites and provide: (1) a buffer area between the site and adjacent uses; and (2) public pedestrian access, as appropriate on to the site.

The areas comprising the Project Site have been developed into golf course use. An archaeological reconnaissance survey in February 1980 was conducted on portions of the Resort Property by Archaeological Research Center Hawaii, Inc. The TMKs surveyed included (4) 3-5-01: 82, 83, 119 and portions 27, 115-118 and 120. The report noted that the area had been previously impacted by sugar cane cultivation and cattle grazing and no archaeological or historic sites were found. The report recommended archaeological clearance with no further investigation (Letter Report: Archaeological Reconnaissance of Ninini Point Area, February 27, 1980).

The SHPD, in a letter dated October 27, 2008 in conjunction with this EA, a copy which is included in Chapter 9 Consultation, Section 9.1 Pre-Assessment Consultation of this document, has determined that “no historic properties will be affected” by the proposed Project since the subject area has been previously assessed in a prior archaeological inventory.

No significant impacts on archaeological/historic resources within the Project Site are anticipated from the construction and development of the proposed Project as the site is currently developed with golf course use. In the event that any archaeological sites, significant cultural deposits, or human skeletal remains are found during construction activities of the proposed Project, all work will immediately cease pending consultation with the SHPD. The treatment of any remains or artifacts will be in accordance with procedures obtained by the Kauai/Niihau Islands Burial Council and the SHPD.

3.4 Watersheds, Streams and Water Quality

3.4.2 Policy

(a) New Development

- (1) Reduce average annual post-development sediment in runoff (total suspended solids), so that it is no greater than pre-development levels.*
- (2) Maintain post-development peak runoff rate and average volume at levels similar to pre-development.*
- (3) Work with other government agencies and community organizations to seek ways of reducing all types of nonpoint source water pollutants.*

(b) Site Development Plan, design and develop sites to:

- (1) Protect areas that provide important water quality benefits – i.e., wetlands;*
- (2) Protect areas that are particularly susceptible to erosion and sediment loss – i.e., stream banks;*

- (3) *Promote the use of permeable surfaces for driveways and parking and limit increases of impervious areas;*
 - (4) *Limit land disturbance activities such as clearing and grading, and cut and fill to reduce erosion and sediment loss;*
 - (5) *Avoid disturbance of natural drainage features and vegetation.*
- (c) *Construction Site Erosion and Sediment control*
 - (1) *Reduce erosion and, to the extent practicable, retain sediment onsite during and after construction.*
 - (2) *Prior to land disturbance, prepare and implement an approved erosion and sediment control plan or similar administrative document that contains erosion and sediment control provisions.*

Potential water quality impacts to near shore coastal waters during construction of the Project will be mitigated by adherence to State and County water quality regulations governing grading, excavation and stockpiling. A NPDES General Permit for Storm Water Associated with Construction Activity administered by the State DOH will be required to control storm water discharges. The County's grading ordinance includes provisions related to reducing and minimizing the discharge of pollutants associated with soil disturbing activities in grading, grubbing and stockpiling. Mitigation measures will be instituted following site-specific assessments, incorporating appropriate structural and/or non-structural BMPs such as minimizing time of exposure between construction and re-vegetation, and implementing erosion control measures such as silt fences, graveled construction entrances, and sediment basins.

Development of the proposed Project will result in an increase in storm runoff since portions of the existing golf course areas within the Project Site will be replaced with non-permeable surfaces. The Project's proposed drainage system will be designed to control drainage flows and minimize impacts to the adjacent and nearby properties and to the nearshore coastal waters. The Project's drainage system will be designed to accommodate the increased storm runoff without increasing off-site impacts and will comply with the County's Drainage Standards.

Cumulatively, as the proposed and planned projects within the Resort development occur, the rate and quantity of runoff will change as a result of the proposed alterations to the existing natural topography and existing facilities within the area of development. Development of the overall Kauai Lagoons Resort improvements will result in an estimated increase of approximately 130 cubic feet per second (cfs) of runoff and an increase in runoff volume of 33.107 acre-feet. To accommodate the projected increase in runoff volume, a total of seven (7) detention basins will be provided throughout the Kauai Lagoons Resort development which will account for as much as 8.187 acre-feet of the increase in runoff volume. The remaining 24.920 acre-feet will be diverted into the existing lagoons. The excess runoff proposed to be diverted into the lagoons is estimated to raise the water level of the lagoons by 8.9 inches. The maximum allowable increase in water level height of the lagoons is 24 inches, which is sufficient to accommodate the estimated 8.9-inch rise in water level. With the addition of the proposed

detention basins and use of the existing lagoons, the flow rates and drainage patterns will be kept to pre-development conditions, and the runoff generated by the Resort Development will not adversely affect the adjacent properties and down-gradient areas.

4.2 Visitor Industry

4.2.8 Policy

4.2.8.1 Supply of Visitor Units and Location of Resort Development

- (a) *Encourage and support resort development on lands planned and zoned for resort use, primarily at Princeville, Kapa'a-Wailua, and Po'ipu.*

The proposed Project is consistent with the County's General Plan Resort designation which provides for single-family dwellings and residential use.

5.5 Scenic Roadway Corridors

5.5.1 Policy

- (a) *The purpose of designating Scenic Roadway Corridors is to conserve open space, scenic features, and views within and along Kaua'i's most heavily-traveled routes. The policy of conservation recognizes the vital function of these roadways in meeting the public need for transportation. It also recognizes the legitimate desire of private landowners to make economic use of their lands. The intent of this policy is to establish basic principles for roadway design and land use within these scenic corridors and to provide a basis for County action to establish programs and regulations to implement them.*
- (b) *Scenic Roadway Corridors are primarily designated in areas between towns where the surrounding lands are primarily designated Agriculture and Open. Where a Scenic Roadway Corridor is designated with a town or adjoins an area planned for urban use, the primary intent is to promote setbacks, landscaping, and views of scenic features. Scenic Roadway Corridors are intended to provide design guidance but not to restrict the principal land uses of urban areas.*

The Heritage Resources Map for the Lihue Planning District designates the portion of Kāpule Highway fronting the Resort Property as a Scenic Roadway Corridor. The proposed Project will not be visible from Kāpule Highway due to its inland location and distance from that roadway. The proposed Subdivision 6 site, which is the nearest subdivision to Kāpule Highway, is located approximately 0.3-mile inland and southeast from the roadway at its closest point.

General Plan Charter Amendment: The provisions of the 2008 County Charter Amendment which added Section 3.19 Implementation of the General Plan to the County Charter (the "Charter Amendment") was approved by the voters of Kauai County on November 4, 2008. The Charter Amendment as included on the Ballot Question and Text of Amendment reads as follows:

Section 3.19. Implementation of the General Plan

A. The power to process and to issue any zoning, use, subdivision, or variance permit for more than one transient accommodation unit shall be vested in and exercisable exclusively by the council. As used in this Section, 'transient accommodation unit' shall mean an accommodation unit or a portion thereof in a hotel, timeshare facility, resort condominium, fractional ownership facility, vacation rental unit or other similarly-used dwelling that is rented or used by one or more persons for whom such accommodation unit is not the person's primary residence under the Internal Revenue Code.

B. Any applicant seeking the issuance of a zoning, use, subdivision or variance permit for more than one accommodation unit shall certify to the planning department whether any use of the units as a transient accommodation unit is projected by the applicant. Prior to granting any such permit for a transient accommodation unit, the council shall conduct a public hearing and make a finding that granting such permit would be consistent with the planning growth range of the general plan and in the best interests of the county and its people. Approval of any such application shall require a favorable vote of two thirds (2/3) of the entire membership of the council. Appeals of any decision by the council relating to such permits must be instituted in the circuit court within thirty (30) days after entrance of the final decision of the council.

C. The council may by ordinance authorize the planning commission to process and issue such permits, or certain of them, on terms and conditions as the council may deem advisable, only upon the council's enactment of a rate of growth ordinance that limits the rate of increase in the number of transient accommodation units in the county to no greater than one-and-one-half percent (1.5%) per annum on a multi-year average basis, or such growth rate that is within the planning growth range of a future general plan adopted pursuant to Section 14.08.

D. The council shall adopt such ordinances, laws, rules and regulations as are necessary to carry out the terms and intent of this amendment to the Charter.

E. If any provision of this amendment shall be held by a final order of a court of competent jurisdiction to be invalid, all of the other terms of the amendment shall remain in full force and effect."

The Petitioner/Applicant will continue to work with the County in determining what effect, if any, the General Plan Charter Amendment has on the proposed Project and how best to respond to that issue.

4.5 County of Kauai Lihue Development Plan

The County's *Lihue Development Plan* (1976) establishes long-range designations for commercial, industrial, residential and other land uses. The Development Plan is intended to provide the Lihue area with organized and more detailed criteria and standards to implement the objectives of the County General Plan. The Development Plan land use designations of the Project Site include Agriculture, Resort, Open, and Golf Course.

The proposed Project is consistent with the Development Plan's policies for the Niumalu-Nawiliwili area, specifically the following:

The major assets of this area which should be preserved and enhanced include the resort areas... The overall Development Plan is based on more visitor activity as one ingredient for growth. The areas shown for new resort use appear both feasible and desirable additions to the existing resort areas. Because of the public interest in the shoreline, development of new resort facilities should include contiguous public access to those areas.

The goals, objectives and policies that provide overall guidance to the implementation of the Lihue Development Plan and with which the proposed Project is consistent are as follows:

Economic

- *The following general goals have been adopted relative to formulating the economic elements of the Lihue Development Plan:*
 - a) *Increase employment quality and opportunity*
 - b) *Maintain a stable and healthy economy*

In the short term, the Project will bring about positive benefits to the local economy. This would include increased expenditures for construction, construction-related jobs and tax revenue. Direct economic benefits will result from construction expenditures both through the purchase of material from local suppliers and through the employment of local labor, thereby stimulating that sector of the economy. Indirect economic benefits would include benefits to local retail businesses resulting from construction activities.

In the long-term, the proposed Project will accommodate new single-family residential homes which will result in increases in State general excise tax revenue and in County property tax revenues.

4.6 County of Kauai Comprehensive Zoning Ordinance

The County's Comprehensive Zoning Ordinance (CZO) sets forth standards for land development and construction of buildings and other structures in the County. The CZO establishes land use districts and delineates the respective types of permitted uses and the development that can occur in those districts.

The zoning designation for the Project Site is Open District (O) and Residential District (R-2) which currently encompasses areas of the Resort Development's existing golf course as shown in Figure 4-5. The majority of the Project Site is located within the Open District (O), except for an approximately 0.4-acre area within the southeast portion of Subdivision 1A that is within the Residential District (R-2). A zoning amendment from the Open District (O) to the Residential District (R-2) totaling 21.6 acres will be required to accommodate the three (3) proposed single-family residential subdivisions consisting of 22 single-family residential lots as shown in Figure 4-6.



KAUAI LAGOONS RESORT DENSITY AMENDMENT PROJECT



WILSON OKAMOTO
CORPORATION
ENGINEERS / PLANNERS / CONSULTANTS

The current Visitor Destination Area (VDA) boundaries within the Resort Development are proposed to be expanded by approximately 9.2 acres to encompass the Subdivision 6 site and an adjacent approximately 2.1-acre Open District (O) zoned area to accommodate the future realignment of the southern portion of Pāhola Drive (formerly known as Limo Road).

A Use Permit will be required for the proposed private underground sewer pump station to be located within the Open District (O) adjacent to Subdivision 5. In accordance with the provisions of Sections 8-8.2 and 8-8.3 of the County's CZO, the proposed underground sewer pump station is not a generally permitted use within the Open District (O) and, therefore, requires a Use Permit.

A Class IV Zoning Permit will be required since a Use Permit is required and for the development of the private underground sewer pump station and the 22 single-family residential lots.

4.7 County of Kauai Special Management Area

A portion of the Project Site is located within the County's Special Management Area (SMA) boundary established pursuant to the Hawaii Coastal Zone Management Law, Chapter 205A, HRS as shown in Figure 4-7. Specifically, the Subdivision 6 site and the majority of the existing adjacent remnant County General Plan Open designation area are located within the SMA. A SMA Use Permit will be required from the County for any activities defined as "development" under the SMA rules.

The subdivision of the Subdivision 6 site from the adjacent golf course parcel and the further subdivision of the site into seven (7) single-family residential lots, along with the construction of the site improvements, will require a SMA Use Permit. It is presumed that subsequent SMA Permits will not be required for construction of the residences within Subdivision 6, whether by individual homeowners, the Petitioner/Applicant, or the developer.

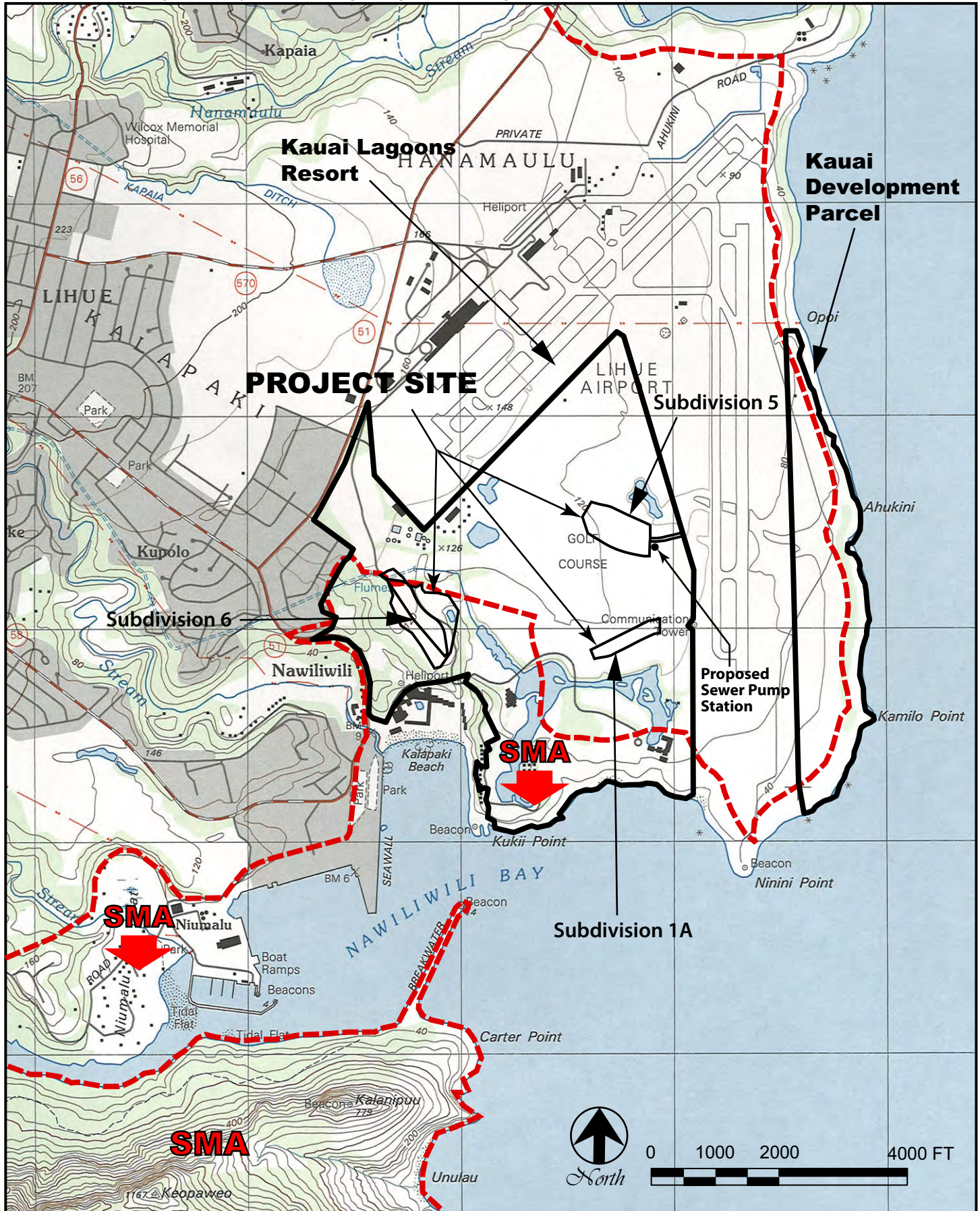


FIGURE 4-7
COUNTY SPECIAL MANAGEMENT AREA MAP

KAUAI LAGOONS RESORT DENSITY AMENDMENT PROJECT

5. ALTERNATIVES TO THE PROPOSED ACTION

5.1 No Action Alternative

Under the No Action Alternative, the proposed Project would not be undertaken since there would be no assignment of the density equivalent to the calculated density of 22 dwelling units from the Kauai Development Parcel to the Kauai Lagoons Resort. The oceanfront Kauai Development Parcel would be allowed to be developed pursuant to the provisions regulating the development of that parcel as set forth in Condition No. 23 of Zoning Ordinance No. PM-2006-383. In accordance with the Condition, a maximum of 11 dwelling units are currently allowed to be developed on that parcel. More importantly, the No Action Alternative would preclude the proposed benefit to the public since the oceanfront parcel would not be conveyed to the County for public purposes.

The No Action Alternative would also preclude all other short- and long-term beneficial and adverse physical, environmental and socio-economic impacts described in this Environmental Assessment.

5.2 Alternative Locations

The proposed locations of the three (3) Project subdivisions within the Resort Property were determined based on the reconfiguration and relocation of specific holes of the Kiele Golf Course that were undertaken pursuant to the Amended SMA Permit. The reconfiguration and relocation of the golf holes, in conjunction with modifications of other areas of the golf course, were necessary to allow for a Par 72 championship Kiele Golf Course. Furthermore, the areas within the Resort Property that are currently zoned for such single-family residential use like the proposed Project are already master planned to accommodate the current 750-unit density cap established for the Resort. Therefore, Subdivisions 1A and 5 are precluded from being located within areas of the Resort Property designated in the State Urban District and in the County-zoned Residential and Resort Districts. Likewise, Subdivision 6 is precluded from being located within areas of the Resort Property designated Resort in the County General Plan's land use map and in the County-zoned Residential and Resort Districts.

6. REQUIRED PERMITS AND APPROVALS

The following is a list of permits and approvals that will be required prior to construction and development of the proposed Project.

State of Hawaii

Department of Health

- National Pollutant Discharge Elimination System (NPDES) Permit for Storm Water Associated with Construction Activity

County of Kauai

Planning Department

- State Land Use District Boundary Amendment
- County General Plan Amendment
- County Zoning Amendment
- County Visitor Destination Area Amendment
- Special Management Area Use Permit
- Use Permit
- Class IV Zoning Permit
- Subdivision

Department of Public Works

- Grading Permit
- Building Permit
- Sewer System Requirements
- Drainage System Requirements

Department of Water:

- Water Master Plan Approval
- Water and Water System Requirements

Other Agencies

Utility Companies

- Utility Service Requirements

7. NOTICE OF DETERMINATION

A. Petitioner/Applicant

MORI Golf (Kauai), LLC
3351 Hoolaulea Way, Suite 201
Lihue, Kauai, Hawaii 96766

Contact: Mr. Steve Busch, Regional Vice President – Development Management
Telephone: (808) 241-2061
Facsimile: (808) 241-2065

B. Approving Agency

County of Kauai Planning Department
4444 Rice Street, Suite 473
Lihue, Kauai, Hawaii 96766

C. Description of Proposed Action

The proposed Project includes the assignment of a density equivalent to the calculated density of 22 dwelling units from an approximately 138-acre oceanfront parcel located adjacent to and east of the Lihue Airport to the existing Kauai Lagoons Resort. Upon the assignment of density to the Kauai Lagoons Resort, the 22 dwelling units will be developed as 22 single-family residential lots within three (3) separate single-family residential subdivisions within the Kauai Lagoons Resort's 27-hole golf course complex. Development of the 22 single-family residential lots will require that the underlying State Land Use District Boundary, County General Plan, County Zoning, and County Visitor Destination Area designations of the affected golf course lands be amended to the appropriate State and County land use designations. With the proposed density assignment of the 22 dwelling units to the Kauai Lagoons Resort, the density cap for the Resort will be increased from the current maximum density of 750 dwelling units established under Condition No. 1 of Zoning Ordinance No. PM-2006-383 to a total maximum density of 772 dwelling units, exclusive of the Resort's 31 affordable housing units.

Following the assignment of density, the 138-acre oceanfront parcel will be conveyed to the County of Kauai for public purposes based upon an agreement to be entered into between the County and Kauai Development LLC, the current owner of the 138-acre parcel. The future use of the 138-acre parcel will be determined by the County at a later time following conveyance of the land to them.

D. Determination and Reasons Supporting Determination

The Kauai Lagoons Resort Density Amendment Project Draft EA was filed with the State Office of Environmental Quality Control (OEQC) and published in the May 23, 2009 publication of *The Environmental Notice*. A total of 13 comment letters were received during the 30-day public review period which ended on June 22, 2009. Based on the significance criteria set forth in Section 11-200-12 of Title 11, Chapter 200, Administrative Rules, State Department of Health, the County of Kauai Planning Department has determined that the proposed Project will not

have a significant effect on the environment and that a Finding of No Significant Impact (FONSI) will be filed with the State Office of Environmental Quality Control (OEQC).

The findings supporting this determination are discussed below:

1) Involves an irrevocable commitment to loss or destruction of any natural or cultural resource;

The proposed Project will not involve the loss or destruction of any natural or cultural resources. The Project Site has been previously cultivated and developed with golf course use.

2) Curtails the range of beneficial uses of the environment;

The intention is to commit the Project Site to the proposed use over the long-term. The proposed Project will not curtail the beneficial uses of the environment since the Project Site is an appropriate site in terms of surrounding land uses and previous golf course development in the area.

3) Conflicts with the state's long-term environmental policies or goals and guidelines as expressed in Chapter 344 HRS, and any revisions thereof and amendments thereto, court decisions, or executive orders;

The proposed Project is consistent with the State's applicable long-term environmental policies and goals set forth in Chapter 344, HRS.

Since the Project Site does not contain a unique botanical habitat, no significant impacts on flora are anticipated from the construction and development of the proposed Project. No habitat of a proposed or listed, threatened or endangered plant species will be disturbed as a result of the proposed Project. Upon construction of the proposed Project, the existing landscaping within the Project Site will be replaced with new landscaping within the individual single-family lots. The lot landscaping will be undertaken separately by either the developer or individual lot owners in accordance with established design guidelines.

It is likely that the construction activity associated with the modification of habitat within the Project Site will temporarily disturb avian species, including the five (5) endangered species known from within the Resort Property. The Petitioner/Applicant and Kauai Lagoons LLC are in close coordination with the U.S. Fish and Wildlife Service (USFWS) and the State DLNR Division of Forestry and Wildlife (DOFAW) on developing measures to address potential impacts of the Project construction on the endangered Nene and other waterbird species. The Kauai Lagoons LLC entered into a Memorandum of Agreement (MOA) with the USFWS executed in January 2009 which details the extensive measures the Kauai Lagoons LLC implemented during the 2008-09 Nene breeding season, and will continue to implement, for the purposes of avoiding take of and providing certain conservation benefits to these species. These measures include enhancing nesting habitat areas, conducting endangered species awareness training for all Kauai Lagoons LLC and construction contractor employees, performing pre-construction surveys, utilizing designated biological and construction monitors, installing and maintaining protective fencing, posting and enforcing speed limits within the Resort Property, posting warning signs, providing centralized parking for construction crews, providing appropriate trash receptacles at construction sites, conducting predator trapping,

developing and implementing emergency response protocols for dealing with injured birds, and conducting extensive and continual monitoring of Nene and waterbird breeding and presence on the Resort Property.

The Petitioner/Applicant and Kauai Lagoons LLC are also actively engaged with the USFWS and the State DLNR DOFAW in preparing a joint Federal-State Habitat Conservation Plan (HCP) in accordance with the requirements of Section 10 of the Endangered Species Act, as amended, and §195-D, HRS. This HCP will govern both the development operations, including development of the Project Site, and ongoing golf operations at the Kauai Lagoons Resort. The USFWS conducted an internal consultation on the terms of the MOA under Section 7 of the Endangered Species Act and issued a Biological Opinion on January 26, 2009. The Biological Opinion authorized certain incidental take in connection with the Resort Development through August 2009. Under the MOA, Kauai Lagoons LLC and the USFWS have committed to use their best efforts to complete before that date the HCP process for additional construction and for long-term Resort operations. The terms of the MOA allow for it to be extended if the HCP process is not complete by August 31, 2009. Furthermore, the Petitioner/Applicant and Kauai Lagoons LLC are funding the USFWS and State DLNR DOFAW efforts in the translocation of Nene to other suitable areas on the Island.

The proposed Project also poses a potential secondary threat to two (2) listed pelagic seabird species, Hawaiian Petrel (*Pterodroma sandwichensis*) and Newell's Shearwater (*Puffinus auricularis newelli*), both of which regularly over-fly the Project Site between April and the end of November each year. Both species are at risk of being downed by interactions with unshielded lighting and collisions with man-made structures when disoriented by lights. To reduce the potential for interactions between nocturnally flying Hawaiian Petrels and Newell's Shearwaters with external lights and man-made structures, any external lighting planned for the Project will be shielded or of the cut-off luminaire or indirect lighting types, and/or directed downward. The use of spotlights aimed upward or spotlighting of structures and landscaping within the Project Site will be prohibited. In addition, night time construction activities will not be undertaken in conjunction with the development of the proposed Project.

Views of the proposed Project from coastal areas will be non-existent due to the inland location of the Project Site. The proposed subdivision nearest to the coastline is Subdivision 6 which is located well over 1,000 feet inland (mauka) from the nearest shoreline. Any visual impacts from public vantage points will be mitigated by developing the proposed Project in accordance with the applicable development standards of the County's CZO relative to building height and envelopes, setbacks, etc.

Development of the proposed Project will result in an increase in storm runoff since portions of the existing golf course areas within the Project Site will be replaced with non-permeable surfaces. The Project's proposed drainage system will be designed to control drainage flows and minimize impacts to the adjacent and nearby properties and to the nearshore coastal waters. The Project's drainage system will be designed to accommodate the increased storm runoff without increasing off-site impacts and will comply with the County's Drainage Standards.

A construction phase solid waste management plan (SWMP) will be developed by the Petitioner/Applicant for the proposed Project which will include implementation of a trash management and recycling program to minimize impacts to the Kekaha Landfill. Refuse

generated by the proposed Project will be collected by a private refuse collection company and transported to the Kekaha Landfill for disposal. The Petitioner/Applicant will prepare a SWMP for the operations phase activities of the proposed Project which will provide for recycling of cardboard, metal, glass, paper, plastic, and green waste, as well as participation in the State's "high five" program.

4) Substantially affects the economic or social welfare of the community or State;

In the short term, the Project will bring about positive benefits to the local economy. This would include increased expenditures for construction, construction-related jobs and tax revenue. Direct economic benefits will result from construction expenditures both through the purchase of material from local suppliers and through the employment of local labor, thereby stimulating that sector of the economy. Indirect economic benefits would include benefits to local retail businesses resulting from construction activities.

In the long-term, the proposed Project will accommodate new single-family residential homes which will result in increases in State general excise tax revenue and in County property tax revenues. In addition, the payment of any applicable development-related fees for the Project will be made.

From a social standpoint, the proposed Project will provide a benefit to the public as the oceanfront undeveloped Kauai Development Parcel will be conveyed to the County for public purposes upon the assignment of the density equivalent to the calculated density of 22 dwelling units to the Kauai Lagoons Resort. The proposed 22 single-family residential units and associated projected daily resident population of approximately 77 persons will have a minimal impact on the social welfare in the context of the larger community and the State. The Project will not have an adverse impact on existing recreational facilities or generate a significant demand for recreational facilities due to the associated marginal increase of residents resulting from the Project. The Project will also not generate a significant demand on student enrollment at the area public schools since given the resort nature of the development, the residents would typically include couples who are empty nesters, or families with school age children who tend to occupy the residences mostly during periods when schools are out of session or on extended summer breaks.

5) Substantially affects public health;

The proposed Project is not anticipated to adversely affect public health.

Based on the official Calendar Year 1991 noise contours established by the FAR Part 150 Noise Compatibility Planning Program undertaken by the State DOT-A, the proposed Project is planned to be within the 55 to 65 DNL noise contours of the adjacent Lihue Airport operations. For all residential development located between the 60 to 65 DNL noise contours, design guidelines will be established which would set forth the various door, window and exterior building envelope treatment measures to be followed in the construction of the units to achieve an interior noise level of 45 DNL. The Project's design guidelines will be specific in referencing this requirement for interior noise mitigation as needed.

In accordance with Condition No. 14 of Zoning Ordinance No. PM-2006-383, the Petitioner/Applicant, Kauai Lagoons LLC, and KD Kapule LLC, owners and developers of the Resort Development, have granted to the State DOT-A a Grant of Avigation and Noise Easement dated October 14, 2008 and recorded in the State Bureau of Conveyances as Document No. 2008-162922 pertaining to the operations of the adjacent Lihue Airport. The Grant of Avigation and Noise Easement sets forth covenants and restrictions with regard to the potential adverse impacts on the Resort Property from noise, fumes, smoke, vibrations, and other substances and phenomena resulting from aircraft operations at the Lihue Airport.

6) Involves substantial secondary impacts, such as population changes or effects on public facilities;

The proposed Project will be part of the overall Kauai Lagoons Resort and, therefore, at most would induce a modest increase in secondary population growth such as new worker immigration to the Island to support or sustain the proposed improvements. However, due to the anticipated owner-occupied nature of the proposed 22 single-family residences and the associated projected daily resident population of approximately 77 persons at full build-out, the Project's affect on any increase in secondary population growth will be minimal. With regard to secondary population impacts, planned infrastructure improvements (i.e., water, wastewater, drainage, and transportation) will mitigate the Project needs, as well as those of the Kauai Lagoons Resort, and are not expected to stimulate or induce growth outside of the Project and Resort areas. In conjunction with the proposed Project, specific public facilities will be upgraded to address the immediate local impacts of the Project. Payment of associated development-related fees (i.e., environmental impact assessment or park dedication fees, infrastructure facilities charges, etc.) for the Project will also be made.

7) Involves a substantial degradation of environmental quality;

The proposed Project is not anticipated to result in a substantial degradation of environmental quality. The Project Site is currently developed with golf course use and will be developed into 22 single-family residential lots.

Views of the proposed Project from coastal areas will be non-existent due to the inland location of the Project Site. The proposed subdivision nearest to the coastline is Subdivision 6 which is located well over 1,000 feet inland (mauka) from the nearest shoreline. Any visual impacts from public vantage points will be mitigated by developing the proposed Project in accordance with the applicable development standards of the County's CZO relative to building height and envelopes, setbacks, etc.

The Project's proposed drainage system will be designed to control drainage flows and minimize impacts to the adjacent and nearby properties and to the nearshore coastal waters. The Project's drainage system will be designed to accommodate the increased storm runoff without increasing off-site impacts and will comply with the County's Drainage Standards.

8) Is individually limited but cumulatively has a considerable effect upon the environment or involves a commitment for larger actions;

Given the low density of the proposed 22 single-family residential lots and its use as primary or secondary residences and the associated projected daily resident population of approximately 77 persons at full build-out, the proposed Project is not anticipated to have a cumulative considerable effect upon the environment, nor will it involve a commitment for larger actions.

From a cumulative standpoint, the provision of private, on-site recreational amenities within the Kauai Lagoons Resort Development for the Resort's residents and guests, including outdoor recreational pool areas, a fitness center, and the golf course will lessen the Project's impact on public recreational facilities in the area.

The nominal peak hour trips projected to be generated by the proposed Project during the AM and PM peak traffic periods will not result in the need for any additional traffic improvements beyond those to be undertaken by the Petitioner/Applicant and Kauai Lagoons LLC in conjunction with the overall Kauai Lagoons Resort Development as set forth in the MOA currently under review by the DOT Highways Division and to ultimately be executed. The updated TIR conducted in June 2009 for the Kauai Lagoons Resort Development forecast traffic volumes for the Year 2022, the anticipated full build-out date for the Resort Development, and also accounted for the cumulative impact of the Resort Development with other nearby proposed and planned developments, including the proposed Wailani development located within a portion of the former Lihue-Hanamaulu Master Plan development, the proposed Vidinha Stadium Complex expansion located adjacent to Hoolako Street west of Kāpule Highway, and the planned Lihue Airport master plan improvements located adjacent to the Resort, along with general projected growth in the region.

The Project's proposed drainage system will be designed to control drainage flows and minimize impacts to the adjacent and nearby properties and to the nearshore coastal waters. Cumulatively with the development of the overall Kauai Lagoons Resort improvements, an estimated increase of approximately 130 cubic feet per second (cfs) of storm water runoff and an increase in runoff volume of 33.107 acre-feet will result from the Resort Development, including the proposed Project. To accommodate the projected increase in runoff volume, a total of seven (7) detention basins will be provided throughout the Resort Development which will account for as much as 8.187 acre-feet of the increase in runoff volume. The remaining 24.920 acre-feet will be diverted into the existing lagoons. With the addition of the proposed detention basins and use of the existing lagoons, the flow rates and drainage patterns will be kept to pre-development conditions, and the runoff generated by the Resort Development will not adversely affect the adjacent properties and down-gradient areas.

The planned infrastructure improvements for water and wastewater will mitigate the Project's needs, as well as those of the overall Kauai Lagoons Resort Development, and therefore are not anticipated to have a considerable cumulative effect.

9) Substantially affects a rare, threatened or endangered species, or its habitat;

It is likely that the construction activity associated with the modification of habitat within the Project Site will temporarily disturb avian species, including the five (5) endangered species

known from within the Resort Property. The Petitioner/Applicant and Kauai Lagoons LLC are in close coordination with the USFWS and the State DLNR DOFAW on developing measures to address potential impacts of the Project construction on the endangered Nene and other waterbird species. The Kauai Lagoons LLC entered into a Memorandum of Agreement (MOA) with the USFWS executed in January 2009 which details the extensive measures the Kauai Lagoons LLC implemented during the 2008-09 Nene breeding season, and will continue to implement, for the purposes of avoiding take of and providing certain conservation benefits to these species. These measures include enhancing nesting habitat areas, conducting endangered species awareness training for all Kauai Lagoons LLC and construction contractor employees, performing pre-construction surveys, utilizing designated biological and construction monitors, installing and maintaining protective fencing, posting and enforcing speed limits within the Resort Property, posting warning signs, providing centralized parking for construction crews, providing appropriate trash receptacles at construction sites, conducting predator trapping, developing and implementing emergency response protocols for dealing with injured birds, and conducting extensive and continual monitoring of Nene and waterbird breeding and presence on the Resort Property.

The Petitioner/Applicant and Kauai Lagoons LLC are also actively engaged with the USFWS and the State DLNR DOFAW in preparing a joint Federal-State Habitat Conservation Plan (HCP) in accordance with the requirements of Section 10 of the Endangered Species Act, as amended, and §195-D, HRS. This HCP will govern both the development operations, including development of the Project Site, and ongoing golf operations at the Kauai Lagoons Resort. The USFWS conducted an internal consultation on the terms of the MOA under Section 7 of the Endangered Species Act and issued a Biological Opinion on January 26, 2009. The Biological Opinion authorized certain incidental take in connection with the Resort Development through August 2009. Under the MOA, Kauai Lagoons LLC and the USFWS have committed to use their best efforts to complete before that date the HCP process for additional construction and for long-term Resort operations. The terms of the MOA allow for it to be extended if the HCP process is not complete by August 31, 2009. Furthermore, the Petitioner/Applicant and Kauai Lagoons LLC are funding the USFWS and State DLNR DOFAW efforts in the translocation of Nene to other suitable areas on the Island.

The proposed Project also poses a potential secondary threat to two (2) listed pelagic seabird species, Hawaiian Petrel (*Pterodroma sandwichensis*) and Newell's Shearwater (*Puffinus auricularis newelli*), both of which regularly over-fly the Project Site between April and the end of November each year. Both species are at risk of being downed by interactions with unshielded lighting and collisions with man-made structures when disoriented by lights. To reduce the potential for interactions between nocturnally flying Hawaiian Petrels and Newell's Shearwaters with external lights and man-made structures, any external lighting planned for the Project will be shielded or of the cut-off luminaire or indirect lighting types, and/or directed downward. The use of spotlights aimed upward or spotlighting of structures and landscaping within the Project Site will be prohibited. In addition, night time construction activities will not be undertaken in conjunction with the development of the proposed Project.

10) Detrimentially affects air or water quality or ambient noise levels;

During construction, dust and noise from construction activities will be unavoidable. Potential air quality impacts will be mitigated by complying with the State DOH Administrative Rules, Title

11, Chapter 60, Air Pollution. With regard to noise, mitigation measures such as the use of properly muffled construction equipment and incorporation of State DOH construction noise limits pursuant to the provisions of the State DOH Administrative Rules, Title 11, Chapter 46, Community Noise Control are applicable to the Project.

No significant air quality impacts are anticipated from the development of the proposed Project. The ambient air quality levels would be most affected by vehicular and emissions in the form of CO generated by Project-related traffic and development, although the elevated concentrations are anticipated to be nominal and dissipate.

In the vicinity of the Resort Property, ambient noise levels associated with increases in vehicular traffic generated by the proposed Project will not adversely impact nearby uses due to the nominal increase in vehicular traffic generated by the Project and the relatively self-contained nature and design of the Resort Development.

Potential water quality impacts to near shore coastal waters during construction of the Project will be mitigated by adherence to State and County water quality regulations governing grading, excavation and stockpiling. A NPDES General Permit for Storm Water Associated with Construction Activity administered by the State DOH will be required to control storm water discharges. The County's grading ordinance includes provisions related to reducing and minimizing the discharge of pollutants associated with soil disturbing activities in grading, grubbing and stockpiling. Mitigation measures will be instituted following site-specific assessments, incorporating appropriate structural and/or non-structural BMPs such as minimizing time of exposure between construction and re-vegetation, and implementing erosion control measures such as silt fences, graveled construction entrances, and sediment basins.

Development of the proposed Project will result in an increase in storm runoff since portions of the existing golf course areas within the Project Site will be replaced with non-permeable surfaces. The Project's proposed drainage system will be designed to control drainage flows and minimize impacts to the adjacent and nearby properties and to the nearshore coastal waters. The Project's drainage system will be designed to accommodate the increased storm runoff without increasing off-site impacts and will comply with the County's Drainage Standards.

11) Affects or is likely to suffer damage by being located in an environmentally sensitive area;

The proposed Project is not located within a flood hazard zone. According to the FIRM prepared by the FEMA, the Project Site is located within Zone "X", defined as "Areas determined to be outside the 0.2% annual chance floodplain".

12) Substantially affects scenic vistas and viewplanes identified in county or state plans or studies;

The Heritage Resources Map for the Lihue Planning District in the County's General Plan designates the portion of Kāpule Highway fronting the Resort Property as a Scenic Roadway Corridor. The proposed Project will not be visible from Kāpule Highway due to its inland location and distance from that roadway. The proposed Subdivision 6 site, which is the nearest subdivision to Kāpule Highway, is located approximately 0.3-mile inland and southeast from the roadway at its closest point.

Views of the proposed Project from coastal areas will be non-existent due to the inland location of the Project Site. The proposed subdivision nearest to the coastline is Subdivision 6 which is located well over 1,000 feet inland (mauka) from the nearest shoreline.

Any visual impacts from public vantage points will be mitigated by developing the proposed Project in accordance with the applicable development standards of the County's CZO relative to building height and envelopes, setbacks, etc. The development will also minimize the intrusion of buildings on the visual environment through architectural design criteria and landscaping deemed appropriate for the surrounding Resort development.

13) Requires substantial energy consumption;

The proposed Project will consume a relatively insignificant amount of energy in the course of construction and development. The application of green principles and strategies will be considered for the proposed Project, to the extent deemed economically feasible, to achieve energy efficient design.

8. REFERENCES

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18. Wilson Okamoto Corporation. *Hawaii Water Plan, Water Resource Protection Plan*. Prepared for the State of Hawaii Department of Land and Natural Resources, Commission on Water Resource Management. June 2008.
19. Wilson Okamoto Corporation. *Kauai Lagoons Resort Master Drainage Study*. Prepared for Kauai Lagoons LLC, MORI Golf (Kauai), LLC, KD Kapule LLC. August 2007, Rev. November 2007, Rev. May 2008, Rev. September 2008, Rev. January 2009.
20. Wilson Okamoto Corporation. *Traffic Impact Report Update for the Proposed Kauai Lagoons Resort*. Prepared for Kauai Lagoons LLC. June 2009.
21. Wilson Okamoto Corporation. *Updated Water Study Report for Kauai Lagoons Resort*. May 2009.

9. CONSULTATION

9.1 Pre-Assessment Consultation

The following agencies were consulted during the pre-assessment phase of the Draft EA. Those who formally replied with verbal or written comments are indicated by an asterisk (*). All written comments and responses are reproduced herein.

Federal

- U.S. Army Corps of Engineers
- * U.S. Fish and Wildlife Service
- * U.S. Department of Agriculture, Natural Resources Conservation Service

State of Hawaii

- Department of Agriculture
- Department of Business, Economic Development and Tourism
- Department of Business, Economic Development and Tourism, Land Use Commission
- * Department of Business, Economic Development and Tourism, Office of Planning
- Department of Health
- Department of Health, Office of Environmental Quality Control
- Department of Land and Natural Resources
- * Department of Land and Natural Resources, Land Division
- Department of Land and Natural Resources, Land Division, Kauai District
- * Department of Land and Natural Resources, Historic Preservation Division
- * Department of Education
- Department of Transportation
- * Department of Transportation, Airports Division
- Office of Hawaiian Affairs

County of Kauai

- Office of the Mayor
- Office of the County Clerk
- Planning Department
- Department of Parks and Recreation
- * Department of Public Works, Engineering Division
- * Department of Public Works, Building Division
- * Department of Public Works, Division of Wastewater Management
- Department of Public Works, Division of Solid Waste Management
- * Department of Water
- Housing Agency
- * Police Department
- Fire Department

9.2 Draft Environmental Assessment Consultation

The following agencies and organizations were consulted during the public review period of the Draft EA. Those who formally replied are indicated by an asterisk (*). All written comments and responses are reproduced herein.

Federal

- * U.S. Army Corps of Engineers
- U.S. Fish and Wildlife Service
- U.S. Department of Agriculture, Natural Resources Conservation Service
- * U.S. Department of Agriculture, Animal and Plant Health Inspection Service, Wildlife Services

State of Hawaii

- Department of Agriculture
- Department of Business, Economic Development and Tourism
- Department of Business, Economic Development and Tourism, Land Use Commission
- * Department of Business, Economic Development and Tourism, Office of Planning
- * Department of Health
- Department of Health, Office of Environmental Quality Control
- Department of Land and Natural Resources
- Department of Land and Natural Resources, Land Division
- * Department of Land and Natural Resources, Engineering Division
- * Department of Land and Natural Resources, Commission on Water Resource Management
- Department of Land and Natural Resources, Land Division, Kauai District
- Department of Land and Natural Resources, Division of Forestry and Wildlife, Kauai District
- Department of Land and Natural Resources, Historic Preservation Division
- * Department of Education
- * Department of Transportation
- Department of Transportation, Airports Division
- * Office of Hawaiian Affairs

County of Kauai

- Office of the Mayor
- Office of the County Clerk
- Planning Department
- Department of Parks and Recreation
- * Department of Public Works, Engineering Division
- Department of Public Works, Building Division
- * Department of Public Works, Division of Wastewater Management
- Department of Public Works, Division of Solid Waste Management
- * Department of Water
- Housing Agency
- Police Department
- Fire Department

Others

- * Sierra Club, Kauai Group of the Hawaii Chapter
Lihue Public Library

Pre-Assessment Consultation Correspondence



United States Department of the Interior



FISH AND WILDLIFE SERVICE

Pacific Islands Fish and Wildlife Office
300 Ala Moana Boulevard, Room 3-122, Box 50088
Honolulu, Hawaii 96850

In Reply Refer To:
2009-TA-0010

RECEIVED
OCT 27 2008

OCT 24 2008

WILSON OKAMOTO CORPORATION

Wilson Okamoto Corporation
1907 South Beretania Street, Suite 400
Honolulu, Hawaii 96826

Subject: Kauai Lagoons Resort Density Amendment Pre-Application for Draft Environmental Assessment, Kauai Lagoons Resort, Kalapaki, Lihue, Kauai, Hawaii [TMK (4) 3-05-001:102, (4) 3-05-001:27 (por.) and 168 (por.)]

Dear Mr. Sato:

The U.S. Fish and Wildlife Service (Service) appreciates the opportunity to review and comment on the proposed Kauai Lagoons Resort Density Amendment Project in preparation of a Draft Environmental Assessment pursuant to Chapter 343, Hawaii Revised Statutes. These comments are provided in accordance with authorities mandating Federal oversight of environmental resources including: the Endangered Species Act of 1973 (16 U.S.C. 1531 *et. seq.*), as amended (ESA) and the Migratory Bird Treaty Act (16 U.S.C 153 *et. seq.*), as amended (MBTA).

Kauai Development, LLC, and MORI Golf, LLC, intend to enter into an agreement with the County of Kauai for a proposed increase of 22 residential dwellings located in three subdivisions within a total of about 22 acres of the Resort's existing golf courses and as a phase in a larger development consisting of 750 resort residential units and various support facilities. The increase in density is being assigned from an approximately 138-acre undeveloped oceanfront parcel owned by Kauai Development, LLC [TMK (4):3-05-001:102], located adjacent to the east of Lihue Airport.

The federally endangered Hawaiian goose or nēnē (*Branta sandvicensis*), as well as the four endangered waterbirds, the Hawaiian stilt or ae'o (*Himantopus mexicanus knudseni*), Hawaiian duck or koloa mapu (*Anas wyvilliana*), Hawaiian coot or 'alae ke'ok'eo (*Fulica alai*), and Hawaiian common moorhen or 'alae 'ula (*Gallinula chloropus sandvicensis*), are known to occur within the proposed project area. In addition, two federally protected seabirds, the endangered Hawaiian petrel (*Pterodroma sandwichensis*) and threatened Newell's shearwater (*Puffinus auricularis newelli*) likely fly over the resort property. The following migratory birds protected under the MBTA, the Pacific golden plover or kolea (*Pluvialis fulva*) and Black-crowned night heron or 'auku'u (*Nycticorax nycticorax*) have been observed on Kauai Lagoons property,

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Hawaiian short-eared owl or pueo (*Asio flammeus sandwichensis*) is known to occur on adjacent airport property, and the Wedge-tailed shearwater or 'ua'u (*Puffinus pacificus*) is known to nest in areas adjacent to the proposed development.

Nene and Waterbirds

The population of nēnē in the Lihue-Kauai Lagoons area is estimated at 210 to 220 individuals (DOFAW 2008). Nēnē are known to occur on Kauai Lagoons property year-round and up to 50 nest sites have been documented throughout the Resort's golf course and surrounding areas. Therefore, pre-construction activities such as vegetation removal and grading, installation of infrastructure and utilities, as well as construction of residential dwellings may negatively impact federally-protected species.

Data also indicate that dogs, both feral and domestic, and feral cats, are a primary cause of death of nēnē on Kauai. Similarly, feral cats and dogs, especially near urban areas are a serious problem negatively impacting recovery of the four federally endangered waterbird species. Additionally, the wedge-tailed shearwater, a ground nester, is susceptible to predation by feral cats and dogs.

The nēnē have been also identified by the U.S. Department of Agriculture Wildlife Services for species-specific population management due to the potential for bird-aircraft interactions on the adjacent Lihue Airport Property.

Seabirds

Artificial lights have posed serious hazards to seabirds on Kauai for nearly three decades. During the time period from September 15 to December 15, fledgling Newell's shearwater and Hawaiian petrel attempt to fly from mountain nest sites out to the sea. As they traverse this route, many seabirds are attracted to artificial lighting. Distracted by lights, seabirds circle the area until they are exhausted and fall out of the sky, an event known as "fallout." Once "grounded", seabirds are extremely vulnerable to predation, starvation, and being struck by vehicles.

In order to minimize adverse impacts to federally-protected seabird species, such as the threatened Newell's Shearwater, endangered Hawaiian petrel, and migratory Wedge-tailed shearwater, if external lighting will be used in connection with the proposed project, all external lighting sources should be only of the following types: shielded lights, cut-off luminaries, or indirect lighting. Spotlights aimed upward or spotlighting of structures and landscaping on the project site should be prohibited. Similarly, night construction should be prohibited.

Incidental Take and Habitat Conservation Planning

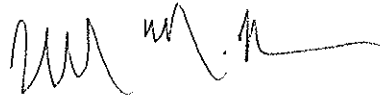
Section 10 of the Act provides for non-Federal entities and/or private individuals, such as Kauai Development, LLC and Mori Golf, LLC, to obtain an incidental take permit that exempts their activity from take prohibitions of section 9 of the Act. As stated in the proposed amendment for Special Management Area Use Permit (U)-2005-8, on page SMA-26 (November 2007), Kauai

Lagoons will work with the Service to address impacts to federally-protected species as a result of construction and ongoing operations of the Kauai Lagoons Resort by developing a Habitat Conservation Plan (HCP) in accordance with Section 10 of the ESA. We concur that it is appropriate for the project proponents to apply for an Incidental Take Permit (ITP) for the proposed project pursuant to Section 10(a)(2)(B) of the Act. The applicant should also be working concurrently with the State of Hawaii Department of Land and Natural Resources to meet the requirements of Hawaii Revised Statutes §195-D in developing the HCP.

We recommend that the Draft Environmental Assessment address potential impacts to the species listed above from the proposed project as well as cumulative impacts resulting from the pre-construction, construction, and operational activities across the Resort's overall 138-acre development. Specifically, we recommend that the county approval process for this project include a condition that a Federal Incidental Take Permit be obtained prior to any construction for this phase of the development.

Thank you for the opportunity to offer our comments on the proposed amendment and application. If you have any questions or concerns, please contact James Kwon, of my staff at (808) 792-9400.

Sincerely,

A handwritten signature in black ink, appearing to read 'Patrick Leonard', with a stylized flourish at the end.

for Patrick Leonard
Field Supervisor

cc: County of Hawaii, Planning Department
Paula Hartzell, DOFAW



6266-23
May 8, 2009

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Mr. Patrick Leonard, Field Supervisor
United States Department of the Interior
Fish and Wildlife Service
Pacific Islands Fish and Wildlife Office
Box 50088
Honolulu, Hawaii 96850

Subject: Pre-Assessment Consultation
Draft Environmental Assessment (EA)
Kauai Lagoons Resort Density Amendment Project
Tax Map Keys: (4) 3-5-01: 27 (Por.), 102, and 168 (Por.)
Kalapaki, Lihue, Island of Kauai, Hawaii

Dear Mr. Leonard:

Thank you for your letter of October 24, 2008 (Ref: 2009-TS-0010) regarding the subject Project. We offer the following responses to your comments, which responses reflect written agreements entered into with the U.S. Fish and Wildlife Service (USFWS) and the associated conservation measures implemented by Kauai Lagoons in the past six (6) months since your letter was issued.

The subject Project is a relatively small component of the overall development of additional and improved facilities at the Kauai Lagoons Resort that is currently in progress. The USFWS has previously provided comments to the County of Kauai on other aspects of the overall Resort project, which resulted in close coordination between Kauai Lagoons LLC, the USFWS and the State Department of Land and Natural Resources (DLNR), Division of Forestry and Wildlife (DOFAW) on developing measures to address potential impacts of project construction on the endangered Nene and other waterbird species. Most recently, the Kauai Lagoons LLC entered into a Memorandum of Agreement (MOA) with the USFWS (executed in January 2009) which detailed the extensive measures the Kauai Lagoons LLC implemented during the 2008-09 Nene breeding season, and will continue to implement, for the purposes of avoiding take of and providing certain conservation benefits to these species. These measures include enhancing nesting habitat areas, conducting endangered species awareness training for all Kauai Lagoons LLC and construction contractor employees, performing pre-construction surveys, utilizing both biological monitors and construction monitors, installing and maintaining protective fencing, posting and enforcing speed limits within the Resort Property, posting warning signs, providing centralized parking for construction crews, providing appropriate trash receptacles at construction sites, conducting predator trapping, developing and implementing emergency response protocols for dealing with injured birds, and conducting extensive and continual monitoring of Nene and waterbird breeding and presence on the Resort Property. As has been reported to the USFWS directly by Kauai Lagoons LLC, these efforts resulted in the most successful and productive Nene breeding season ever experienced at the Kauai Lagoons Resort.

The USFWS conducted an internal consultation on the terms of the MOA under Section 7 of the Endangered Species Act and issued a Biological Opinion on January 26, 2009. The Biological Opinion authorized certain incidental take in connection with the Resort project through August 2009. Under the MOA, the Kauai Lagoons LLC and the USFWS have committed to use their best efforts to complete before that date the Habitat



6266-23
Letter to Mr. Patrick Leonard
May 8, 2009
Page 2

Conservation Plan (HCP) process for additional construction and for long-term Resort operations. The terms of the MOA allow for it to be extended, and based on discussions between the parties Kauai Lagoons LLC expects that the MOA will be extended, if the HCP process is not complete by that date.

With respect to seabird species, consistent with the USFWS' prior comments on the overall Resort project, all new external lighting planned for the Project will be shielded or of the cut-off luminaire or indirect lighting types, and/or directed downward. The use of spotlights aimed upward or spotlighting of structures and landscaping within the Project Site will be prohibited. In addition, night time construction activities will not be undertaken in conjunction with the development of the proposed Project. Seabird issues will also be addressed in the HCP.

The above information will be included in the Draft EA. The Draft EA will also address the cumulative impacts to the listed species within the Kauai Lagoons Resort resulting from the construction and operational activities of the overall Resort development.

Please note that the future use of the 138-acre parcel from which the density will be assigned will be determined by the County of Kauai at a later time following conveyance of the land to them. Therefore, a separate environmental review process may be undertaken for the use of this parcel at a later time, as may be required.

Your letter, along with this response, will be included in the forthcoming Draft EA. We appreciate your participation in the pre-assessment consultation phase of the Project.

Sincerely,

Ronald A. Sato, AICP
Project Manager

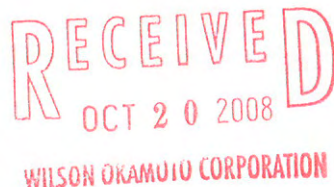
cc: Ms. Paula Hartzell, State DLNR DOFAW
Mr. Steve Busch, MORI Golf (Kauai), LLC



Natural Resources Conservation Service
P.O. Box 5004 Rm. 4-118
Honolulu, HI 96850
808-541-2600

October 15, 2008

Mr. Ronald A. Sato, ACIP
Wilson Okamoto Corporation
1907 South Beretania Street, Suite 400
Honolulu, Hawaii 96826



Dear Mr. Sato,

Thank you for providing the NRCS the opportunity to review the Kauai Lagoons Resort Density Amendment, Pre-Assessment Consultation for Draft Environmental Assessment (EA) Kalapaki, Lihue, Kauai, Hawaii. Please find enclosed the NRCS Soil Survey Map, soil reports, and a map indicating areas of Important Farmlands. The important Farmlands map has been enclosed for your aid in determining if a Farmland Impact Conversion Rating Form (AD-1006) is needed for this project. Typically, this form is required on projects that convert farmlands into non-farmland uses, and have federal dollars attached to the project. See the website link below for more information on the Farmland Protection Policy Act, and a copy of the AD-1006 form, with instructions. For the Kauai Lagoons Resort Project it appears most of the area has already undergone conversion from farmland to other uses, however if any potential farmland areas will be converted it may fall under the Farmland Protection Policy Act.

The soil mapping does not identify any hydric soils in this project area. Hydric soils identify potential areas of wetlands. If wetlands do exist, any proposed impacts to these wetlands would need to demonstrate compliance with the "Clean Water Act", and may need an Army Corp of Engineers 404 permit.

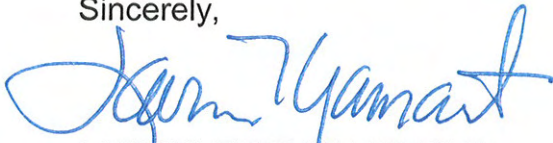
The enclosed Soil Survey Map identifies all soil map units in the project area. The soil reports provide selected soil properties and interpretations, e.g., limitations for Local Roads and Streets, Dwellings Without Basements, soil layers with USDA Textures, and Engineering Classifications. The limitation ratings for the selected uses, Dwellings Without Basements and Local Roads and Streets, range from somewhat limited to very limited. These ratings do not preclude the intended land use, however they do identify potential limitations for the use, which may require corrective measures, increase costs, and/or require continued maintenance.

Kauai Lagoons Resort Density Amendment
Page 2

The NRCS Soil Survey is a general planning tool and does not eliminate the need for an onsite investigation. If you have any questions concerning the soils or interpretations for this project please call, Tony Rolfes, Assistant State Soil Scientist, (808) 541-2600 x129, or email, Tony.Rolfes@hi.usda.gov.

NRCS - Farmland Protection Policy Act Website:
<http://www.nrcs.usda.gov/programs/fppa/>

Sincerely,



LAWRENCE T. YAMAMOTO
Director
Pacific Islands Area

cc: Michael Robotham, Assistant Director for Soil Science and Natural Resource
Assessments, USDA-NRCS, Honolulu, HI

Enclosures:

Soils map For Kauai Lagoons Resort



NRCS
7/2008

0 480 960 1,920 2,880 3,840 Feet

Legend

- Approx. Project Area
- Soil Map Units

Important Farmlands map For Kauai Lagoons Resort



NRCS
7/2008

0 480 960 1,920 2,880 3,840 Feet

Legend

 Approx. Project Area


Important Farmlands

<all other values>

AGTYPE

 Prime Farmland

 Unique Farmland

 Statewide Important

Map Unit Legend

Island of Kauai, Hawaii

Map symbol	Map unit name
BL	Badland
HfB	Halii gravelly silty clay, 3 to 8 percent slopes
LhB	Lihue silty clay, 0 to 8 percent slopes
LhC	Lihue silty clay, 8 to 15 percent slopes
LhE2	Lihue silty clay, 25 to 40 percent slopes, eroded
LIB	Lihue gravelly silty clay, 0 to 8 percent slopes
LIC	Lihue gravelly silty clay, 8 to 15 percent slopes
Mr	Mokuleia fine sandy loam
rRR	Rough broken land

Selected Soil Interpretations

Island of Kauai, Hawaii

[The information in this table indicates the dominant soil condition but does not eliminate the need for onsite investigation. The table shows only the top five limitations for any given soil. The soil may have additional limitations]

*This soil interpretation was designed as a "limitation" as opposed to a "suitability". The numbers in the value columns range from 0.01 to 1.00. The larger the value, the greater the potential limitation.

Map symbol and soil name	Pct. of map unit	ENG - Dwellings With Basements *		ENG - Lawn, Landscape, Golf Fairway *		ENG - Local Roads and Streets *	
		Rating class and limiting features	Value	Rating class and limiting features	Value	Rating class and limiting features	Value
BL:							
Badland	100	Not rated		Not rated		Not rated	
HfB:							
Halii, gravelly	100	Not limited		Very limited		Very limited	
				Too clayey	1.00	Low strength	1.00
				Large stones content	0.08		
				Gravel content	0.01		
LhB:							
Lihue	100	Not limited		Very limited		Very limited	
				Too clayey	1.00	Low strength	1.00
LhC:							
Lihue	100	Somewhat limited		Very limited		Very limited	
		Slope	0.63	Too clayey	1.00	Low strength	1.00
				Slope	0.63	Slope	0.63
LhE2:							
Lihue	100	Very limited		Very limited		Very limited	
		Slope	1.00	Too clayey	1.00	Slope	1.00
				Slope	1.00	Low strength	1.00
LIB:							
Lihue, gravelly	100	Not limited		Very limited		Very limited	
				Too clayey	1.00	Low strength	1.00
				Gravel content	0.05		
LIC:							
Lihue, gravelly	100	Somewhat limited		Very limited		Very limited	
		Slope	0.63	Too clayey	1.00	Low strength	1.00
				Slope	0.63	Slope	0.63
				Gravel content	0.05		
Mr:							
Mokuleia	100	Very limited		Very limited		Very limited	
		Flooding	1.00	Carbonate content	1.00	Flooding	1.00
				Flooding	0.60		
				Droughty	0.16		

Selected Soil Interpretations

Island of Kauai, Hawaii

Map symbol and soil name	Pct. of map unit	ENG - Dwellings With Basements *		ENG - Lawn, Landscape, Golf Fairway *		ENG - Local Roads and Streets *	
		Rating class and limiting features	Value	Rating class and limiting features	Value	Rating class and limiting features	Value
rRR: Rough broken land	100	Very limited		Very limited		Very limited	
		Slope	1.00	Slope	1.00	Slope	1.00
		Depth to soft bedrock	0.46	Depth to bedrock	0.46	Low strength	1.00
				Large stones content	0.01		

Island of Kauai, Hawaii

This report shows only the major soils in each map unit. Others may exist.

Engineering Properties

Island of Kauai, Hawaii

Map symbol and soil name	Depth	USDA texture	Classification		Fragments		Percent passing sieve number--					Liquid limit	Plasticity index
			Unified	AASHTO	>10 Inches	3-10 Inches	4	10	40	200			
<i>In</i> <i>Pct</i>													
LhE2: Lihue	0-6	Silty clay	MH-K (propose d)	A-7	0	0	95-100	95-100	95-100	95-100	90-100	50-60	15-25
	6-60	Silty clay	MH-K (propose d)	A-7	0	0-5	95-100	95-100	95-100	95-100	90-100	50-60	15-25
LIB: Lihue, gravelly	0-12	Gravelly silty clay	MH-K (propose d)	A-7	0	0-5	65-75	65-75	65-75	65-75	60-70	50-60	15-25
	12-60	Silty clay	MH-K (propose d)	A-7	0	0-5	95-100	95-100	95-100	95-100	90-100	50-60	15-25
LIC: Lihue, gravelly	0-12	Gravelly silty clay	MH-K (propose d)	A-7	0	0-5	65-75	65-75	65-75	65-75	60-70	50-60	15-25
	12-60	Silty clay	MH-K (propose d)	A-7	0	0-5	95-100	95-100	95-100	95-100	90-100	50-60	15-25
Mr: Mokuleia	0-16	Fine sandy loam	CL-ML, ML, SC-SM, SM	A-4	0	0	90-100	85-95	65-75	65-75	35-65	20-30	NP-10
	16-50	Loamy sand, Sand	SC-SM, SM, SP	A-1, A-2, A-3	0	0-5	85-95	80-90	40-60	40-60	5-20	0-14	NP

Engineering Properties

Island of Kauai, Hawaii

Map symbol and soil name	Depth	USDA texture	Classification		Fragments		Percent passing sieve number--					Liquid limit	Plasticity index
			Unified	AASHTO	>10 Inches	3-10 Inches	4	10	40	200			
<i>In</i> <i>Pct</i>													
rRR: Rough broken land	0-8	Silty clay loam	MH-A (propose d), MH-O (propose d)	A-7	0-5	0-5	90-100	90-100	85-100	80-95	50-60	10-20	
	8-30	Silty clay, Silty clay loam	MH-A (propose d), MH-O (propose d)	A-7	0-5	0-5	90-100	90-100	85-100	80-95	50-60	10-20	
	30-60	Bedrock	---	---	0	0	0	0	0	0	0	NP	

Water Features

Island of Kauai, Hawaii

Map symbol and soil name	Hydrologic group	Surface runoff	Month	Water table		Ponding		Flooding		
				Upper limit	Lower limit	Surface depth	Duration	Frequency	Duration	Frequency
Ft										
BL: Badland	D	High	Jan-Dec			---	---	None	---	None
HfB: Hali, gravelly	B	Medium	Jan-Dec			---	---	None	---	None
LhB: Lihue	B	Low	Jan-Dec			---	---	None	---	None
LhC: Lihue	B	Medium	Jan-Dec			---	---	None	---	None
LhE2: Lihue	B	High	Jan-Dec			---	---	None	---	None
LIB: Lihue, gravelly	B	Low	Jan-Dec			---	---	None	---	None
LIC: Lihue, gravelly	B	Medium	Jan-Dec			---	---	None	---	None

This report shows only the major soils in each map unit. Others may exist.

Water Features

Island of Kauai, Hawaii

Map symbol and soil name	Hydrologic group	Surface runoff	Month	Water table		Ponding		Flooding		
				Upper limit	Lower limit	Surface depth	Duration	Frequency	Duration	Frequency
				<i>Ft</i>	<i>Ft</i>	<i>Ft</i>				
Mr: Mokuleia	B	Very low	January	---	---	---	---	None	Very brief	Occasional
			February	---	---	---	---	None	Very brief	Occasional
			March	---	---	---	---	None	Very brief	Occasional
			April	14.0-20.0	10.0-20.0	10.0-20.0	10.0-20.0	None	Very brief	Rare
			May	20.0-30.0	10.0-20.0	10.0-20.0	10.0-20.0	None	Very brief	Rare
			June	20.0-30.0	10.0-20.0	10.0-20.0	10.0-20.0	None	Very brief	Rare
			July	20.0-30.0	10.0-20.0	10.0-20.0	10.0-20.0	None	Very brief	Rare
			August	20.0-30.0	10.0-20.0	10.0-20.0	10.0-20.0	None	Very brief	Rare
			September	20.0-30.0	10.0-20.0	10.0-20.0	10.0-20.0	None	Very brief	Rare
			October	20.0-30.0	10.0-20.0	10.0-20.0	10.0-20.0	None	Very brief	Occasional
			November	20.0-30.0	10.0-20.0	10.0-20.0	10.0-20.0	None	Very brief	Occasional
			December	20.0-30.0	10.0-20.0	10.0-20.0	10.0-20.0	None	Very brief	Occasional

RR:

Rough broken land

Very high

Jan-Dec

4

None

⋮

None



6266-23
May 8, 2009

Mr. Lawrence T. Yamamoto, Director, Pacific Islands Area
United States Department of Agriculture
Natural Resources Conservation Service
P.O. Box 5004, Room 4-118
Honolulu, Hawaii 96850

1907 South Beretania Street
Artesian Plaza, Suite 400
Honolulu, Hawaii, 96826 USA
Phone: 808.946.2277
Fax: 808.946.2253
www.wilsonokamoto.com

Subject: Pre-Assessment Consultation
Draft Environmental Assessment (EA)
Kauai Lagoons Resort Density Amendment Project
Tax Map Keys: (4) 3-5-01: 27 (Por.), 102, and 168 (Por.)
Kalapaki, Lihue, Island of Kauai, Hawaii

Dear Mr. Yamamoto:

Thank you for your letter of October 15, 2008 regarding the subject Project.

A Farmland Impact Conversion Rating Form (AD-1006) is not required for the proposed Project. The Project Site is currently developed with golf course use and no agricultural activities presently occur.

It is acknowledged that the soil mapping does not identify any hydric soils within the Project Site. There are no wetlands located within or in the immediate vicinity of the Project Site.

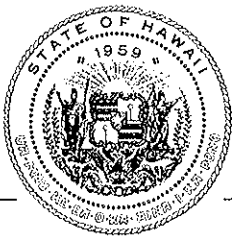
The Draft EA will include a discussion of the soil types within the Project Site as classified by the U.S. Department of Agriculture Natural Resources Conservation Service.

Your letter, along with this response, will be included in the forthcoming Draft EA. We appreciate your participation in the pre-assessment consultation phase of the Project.

Sincerely,

Ronald A. Sato, AICP
Project Manager

cc: Mr. Steve Busch, MORI Golf (Kauai), LLC



DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM

LINDA LINGLE
GOVERNOR
THEODORE E. LIU
DIRECTOR
MARK K. ANDERSON
DEPUTY DIRECTOR
ABBEY SETH MAYER
DIRECTOR
OFFICE OF PLANNING

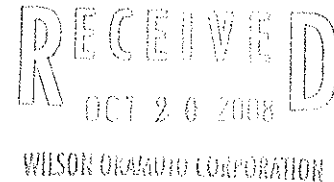
OFFICE OF PLANNING

235 South Beretania Street, 6th Floor, Honolulu, Hawaii 96813
Mailing Address: P.O. Box 2359, Honolulu, Hawaii 96804

Telephone: (808) 587-2846
Fax: (808) 587-2824

Ref. No. P-12288

October 17, 2008



Mr. Ronald A. Sato, AICP
Wilson Okamoto Corporation
1907 South Beretania Street, Suite 400
Honolulu, Hawaii 96826

Dear Mr. Sato:

Subject: Kauai Lagoons Resort Density Amendment
Pre-Assessment Consultation for an Environmental Assessment (EA)
TMK(s): 3-05-001: 27 (por.), 102, and 168 (por.)
Kalapaki, Lihue, Kauai, Hawaii

Thank you for sending the Office of Planning (OP) a Pre-Assessment Consultation for an Environmental Assessment for the above referenced proposal to reclassify 14.96 acres of land from the State Agricultural District to the State Urban District to develop 15 lots in two subdivisions (1A and 5). We note that the proposal also includes Subdivision 6, which will contain 7 lots, but is already within the State Urban District. The Petitioner is requesting an increase in density within the Kauai Lagoons Resort area in exchange for the conveyance of a 138-acre oceanfront parcel, TMK 3-05-001: 102, located east of the Lihue Airport to the County of Kauai for public purposes. The Resort is located adjacent to the Lihue Airport.

The Office of Planning recommends that the Draft Environmental Assessment address the following issues:

1. **Water Resources** – Water resource protection and water quality are critical State issues. If the proposed project is within a designated Water Management Area, please include information on the drinking water and non-potable water sources that will be available for use by the project.
2. **Agricultural Lands** – Preservation of important agricultural lands is a priority for the State and Counties. Please discuss how the loss of these lands can be justified or how other lands of equal importance can be protected.

3. **Affordable Housing** – Increasing the supply of affordable housing is a critical State and County issue. Please discuss specifically how the Petitioner plans to meet the County affordable housing requirements.
4. **Public Health** – If the project will have a potential to generate hazardous materials or result in the possible contamination of the air, soil, or water, please discuss how public health and safety will be protected.
5. **Cultural, Archaeological, and Historic Resources** – Please include an inventory of cultural and historic sites with monitoring and preservation plans approved by the State Historic Preservation Division. Please discuss how access for Native Hawaiians for traditional and customary practices will be preserved, to include visual landmarks if applicable.
6. **Environmental, Recreational, and Scenic Resources** – Please include an inventory of flora and fauna on the project site and any required protection. Consider in the design of your field observations including both wet and dry season surveys to capture the fullest range of flora and fauna. Please include a description of recreational uses on or near the project site. A description of scenic resources should also be included.
7. **Coastal Zone Management (CZM)** – The State oversees protection of natural, cultural, and economic resources within the coastal zone, which is defined as all lands of the State and the area extending seaward from the shoreline to the limit of the State's police power and management authority, including the United States territorial sea (§205A-1, Hawaii Revised Statutes). Please discuss how the proposed project will balance the competing values of economic development and preservation of coastal resources, including the following CZM objective areas.
 - a. **Coastal and Ocean Resources** – The State has an affirmative duty to protect Hawaii's nearshore waters. Please discuss important coastal and marine resources and ecosystems that may be impacted by the proposed project. Please discuss how stormwater and wastewater generated by the project will be prevented from reducing the quality of nearshore waters.
 - b. **Coastal and Other Hazards** – Please describe any natural hazard conditions that are relevant to the site, such as the risk from flooding, storm surge and shoreline erosion, tsunami inundation, volcanic hazards, wildfires, etc. Please describe the measures that are proposed to mitigate any hazard impacts.

8. **Impact on State Facilities** – The EA should include a discussion on the impacts on State-funded facilities, including schools, highways, harbors, and airports. The EA should cite the mitigation measures proposed to be used in the development of the project. We note that the Lihue Airport is adjacent to the development. Your office has provided a map indicating that the 65 dnl noise contour is adjacent to subdivision 5. The State Department of Transportation, Airports Division should be contacted to provide more specific comments on the location of additional residential units adjacent to the airport.
9. **Conformance with County Plan Designations and Urban Growth or Rural Community Boundaries** – The Assessment should discuss the proposed project's consistency with the County land use plans. If the proposed project is not consistent with the County plans, would require a County plan amendment, or lies outside a County urban growth or rural community boundary, then the Assessment should provide an analysis and discussion of the following:
 - a. **Alternative Sites Considered** – The Assessment should describe and discuss alternative sites that were considered for the project, and discuss why the project could not be accommodated on lands within the urban growth or rural community boundary, if the County plan delineates such boundaries, or on land already designated by the County for similar uses.
 - b. **Impact on Surrounding Lands** – The Assessment should discuss what the impacts of changing the County plan designation or extending the urban growth or rural community boundary would have on the surrounding lands.
 - c. **Significant Public Benefit** – The Assessment should discuss what, if any, public benefits are provided by the proposed project above that are already required under existing approval and permitting requirements.

The Office recommends that the EA/EIS process be used as a means to identify and incorporate sustainable design and development practices, including green building practices, in the proposed project. The Office of Environmental Quality Control's *Guidelines for Sustainable Building Design in Hawai'i* and the U.S. Green Building Council's Leadership in Energy and Environmental Design (LEED) programs for new construction and its pilot program for neighborhood development offer guidelines and checklists for this purpose. The adoption of sustainable building and development practices has long-term environmental, social, and economic benefits to Hawaii's residents and communities.

The Assessment should discuss the U.S. Green Building Council's LEED for Neighborhood Development (ND) pilot program. The LEED-ND pilot program recognizes projects that successfully protect and enhance the overall health, natural environment, and

quality of life of communities. The rating system which is used in the program encourages smart growth, promotes efficient energy and water use, and the location and design of neighborhoods to reduce transportation impacts. The EA should include a preliminary overview of LEED-ND features that could be incorporated into the project using the current U.S. Green Building Council's checklist for the program. Hawai'i Built Green and Zero-Net Energy Green Homes are two additional programs that should be looked at and referenced when describing features that are being considered to reduce your project's impacts.

Reducing water usage of a home or building may earn credit towards Leadership in Energy and Environmental Design (LEED) certification. More information on LEED certification is available at <http://www.usgbc.org/leed>. A listing of fixtures certified by the EPA as having high water efficiency can be found at <http://www.epa.gov/watersense/pp/index.htm>.

We recommend the use of best management practices (BMP) for stormwater management to minimize the impact of the project to the existing area's hydrology while maintaining on-site infiltration and preventing polluted runoff from storm events. Stormwater management BMP's may earn credit toward LEED certification. More information on stormwater BMP's can be found at <http://hawaii.gov/dbedt/czm/initiative/lid.php>.

The Office of Planning looks forward to receiving the EA with the potential impacts and proposed mitigation measures for the above issues. If you have any questions, please call Lorene Maki in the Land Use Division at 587-2888.

Sincerely,

A handwritten signature in black ink, appearing to read 'Abbey Seth Mayer', with a long horizontal flourish extending to the right.

Abbey Seth Mayer
Director

c: Ms. Katherine Kealoha, OEQC
Mr. Orlando Davidson, LUC



6266-23
May 8, 2009

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Mr. Abbey Seth Mayer, Director
State of Hawaii
Department of Business, Economic Development & Tourism
Office of Planning
P.O. Box 2359
Honolulu, Hawaii 96804

Subject: Pre-Assessment Consultation
Draft Environmental Assessment (EA)
Kauai Lagoons Resort Density Amendment Project
Tax Map Keys: (4) 3-5-01: 27 (Por.), 102, and 168 (Por.)
Kalapaki, Lihue, Island of Kauai, Hawaii

Dear Mr. Mayer:

Thank you for your letter of October 17, 2008 (Ref: P-12288) regarding the subject Project. We offer the following responses in the order of your comments:

1. **Water Resources** - The proposed Project is not within a designated Ground Water Management Area or Surface Water Management Area according to the State Department of Land and Natural Resources (DLNR), Commission on Water Resource Management's *Hawaii Water Plan, Water Resource Protection Plan* (June 2008).
2. **Agricultural Lands** – The Project Site is currently developed with golf course use and no agricultural activities presently occur. This information will be included in the Draft EA.
3. **Affordable Housing** - As part of the agreement in assigning the density equivalent to the calculated density of 22 dwelling units from the approximately 138-acre undeveloped oceanfront parcel owned by Kauai Development LLC to the Kauai Lagoons Resort, and the subsequent conveyance of the oceanfront parcel from Kauai Development LLC to the County of Kauai for public purposes, the County Housing Agency has indicated that the 138-acre parcel would be used to meet the land-in-lieu alternative to satisfy the workforce housing requirement for the proposed Project.
4. **Public Health** – The proposed Project is not anticipated to adversely affect public health. The Project Site is currently developed with golf course use and will be developed into 22 single-family residential lots.
5. **Cultural, Archaeological, and Historic Resources** – No significant impacts on archaeological/historic resources within the Project Site are anticipated from the construction and development of the proposed Project as the site is currently developed with golf course use. The State DLNR Historic Preservation Division (SHPD), in a letter dated October 27, 2008 in conjunction with this EA, has determined that "no historic properties will be affected" by the proposed Project since the subject area has been previously assessed in a prior archaeological inventory. This information will be included in the Draft EA.



The construction and development of the proposed Project will not affect existing public shoreline access within the Kauai Lagoons Resort.

6. **Environmental, Recreational, and Scenic Resources** – The Draft EA will include a discussion of the existing vegetation and fauna within the Project Site.

It is likely that the construction activity associated with the modification of habitat within the Project Site will temporarily disturb avian species, including the five (5) endangered species known from within the Resort Property. The Petitioner/Applicant and Kauai Lagoons LLC are in close coordination with the U.S. Fish and Wildlife Service (USFWS) and the State DLNR Division of Forestry and Wildlife (DOFAW) on developing measures to address potential impacts of the Project construction on the endangered Nene and other waterbird species. The Kauai Lagoons LLC entered into a Memorandum of Agreement (MOA) with the USFWS executed in January 2009 which details the extensive measures the Kauai Lagoons LLC implemented during the 2008-09 Nene breeding season, and will continue to implement, for the purposes of avoiding take of and providing certain conservation benefits to these species. These measures include enhancing nesting habitat areas, conducting endangered species awareness training for all Kauai Lagoons LLC and construction contractor employees, performing pre-construction surveys, utilizing designated biological and construction monitors, installing and maintaining protective fencing, posting and enforcing speed limits within the Resort Property, posting warning signs, providing centralized parking for construction crews, providing appropriate trash receptacles at construction sites, conducting predator trapping, developing and implementing emergency response protocols for dealing with injured birds, and conducting extensive and continual monitoring of Nene and waterbird breeding and presence on the Resort Property.

The Petitioner/Applicant and Kauai Lagoons LLC are also actively engaged with the USFWS and the State DLNR DOFAW in preparing a joint Federal-State Habitat Conservation Plan (HCP) in accordance with the requirements of Section 10 of the Endangered Species Act, as amended, and §195-D, HRS. This HCP will govern both the development operations, including development of the Project Site, and ongoing golf operations at the Kauai Lagoons Resort. The USFWS conducted an internal consultation on the terms of the MOA under Section 7 of the Endangered Species Act and issued a Biological Opinion on January 26, 2009. The Biological Opinion authorized certain incidental take in connection with the Resort Development through August 2009. Under the MOA, Kauai Lagoons LLC and the USFWS have committed to use their best efforts to complete before that date the HCP process for additional construction and for long-term Resort operations. The terms of the MOA allow for it to be extended if the HCP process is not complete by August 31, 2009. Furthermore, the Petitioner/Applicant and Kauai Lagoons LLC are funding the USFWS and State DLNR DOFAW efforts in the translocation of Nene to other suitable areas on the Island.

The proposed Project also poses a potential secondary threat to two (2) listed pelagic seabird species, Hawaiian Petrel (*Pterodroma sandwichensis*) and Newell's Shearwater (*Puffinus auricularis newelli*), both of which regularly over-fly



the Project Site between April and the end of November each year. Both species are at risk of being downed by interactions with unshielded lighting and collisions with man-made structures when disoriented by lights. To reduce the potential for interactions between nocturnally flying Hawaiian Petrels and Newell's Shearwaters with external lights and man-made structures, any external lighting planned for the Project will be shielded or of the cut-off luminaire or indirect lighting types, and/or directed downward. The use of spotlights aimed upward or spotlighting of structures and landscaping within the Project Site will be prohibited. In addition, night time construction activities will not be undertaken in conjunction with the development of the proposed Project.

This information will be included in the Draft EA.

The Draft EA will include a discussion of the recreational uses near the Project Site.

The County of Kauai General Plan's Heritage Resources Map for the Lihue Planning District designates the portion of Kāpule Highway fronting the Kauai Lagoons Resort as a Scenic Roadway Corridor. The proposed Project will not be visible from Kāpule Highway due to its inland location and distance from that roadway. The proposed Subdivision 6 site, which is the nearest Project subdivision to Kāpule Highway, is located approximately 0.3-mile inland and southeast from the roadway at its closest point. This information will be included in the Draft EA.

7. **Coastal Zone Management (CZM)** - The Draft EA will include a discussion of the proposed Project's consistency with the objectives and policies of the Coastal Zone Management Program.

- a. **Coastal Ocean Resources** – Potential water quality impacts to near shore coastal waters during construction of the Project will be mitigated by adherence to State and County water quality regulations governing grading, excavation and stockpiling. A National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Associated with Construction Activity administered by the State Department of Health (DOH) will be required to control storm water discharges. The County's grading ordinance includes provisions related to reducing and minimizing the discharge of pollutants associated with soil disturbing activities in grading, grubbing and stockpiling. Mitigation measures will be instituted following site-specific assessments, incorporating appropriate structural and/or non-structural Best Management Practices (BMPs) such as minimizing time of exposure between construction and re-vegetation, and implementing erosion control measures such as silt fences, graveled construction entrances, and sediment basins.

Development of the proposed Project will result in an increase in storm runoff since portions of the existing golf course areas within the Project Site will be replaced with non-permeable surfaces. The Project's proposed drainage system will be designed to control drainage flows and minimize



6266-23

Letter to Mr. Abbey Seth Mayer

May 8, 2009

Page 4

impacts to the adjacent and nearby properties and to the nearshore coastal waters. The Project's drainage system will be designed to accommodate the increased storm runoff without increasing off-site impacts and will comply with the County's Drainage Standards.

This information will be included in the Draft EA.

The proposed Project will be connected to the County of Kauai's Lihue Wastewater Treatment Plant (WWTP) located within the northwestern portion of the Kauai Lagoons Resort, near the Lihue Airport. Kauai Lagoons LLC has recently entered into an agreement with the County to design and construct an R-1 filtration and disinfection system upgrade at the Lihue WWTP. This will allow the WWTP to upgrade its treated R-2 effluent to R-1 quality level to comply with the DOH's effluent reuse criteria. This information will be included in the Draft EA.

- b. **Coastal and Other Hazards** – The proposed Project is not located within a flood hazard zone. According to the Flood Insurance Rate Map (FIRM) prepared by the Federal Emergency Management Agency (FEMA), the Project Site is located within Zone "X", defined as "Areas determined to be outside the 0.2% annual chance floodplain". This information will be included in the Draft EA.

- 8. **Impact on State Facilities** – The Draft EA will include a discussion on the impacts of the proposed Project on schools and nearby highways. The Project will not have an impact on harbors and the Lihue Airport. The State Department of Transportation, Airports Division (DOT-A) has been consulted in the pre-assessment consultation process and their comment letter will be included in the Draft EA.

In accordance with Condition No. 14 of Zoning Ordinance No. PM-2006-383 for the Kauai Lagoons Resort, the Petitioner/Applicant, Kauai Lagoons LLC and KD Kapule LLC, owners and developers of the Resort, have granted to the State DOT-A a Grant of Avigation and Noise Easement dated October 14, 2008 and recorded in the State Bureau of Conveyances as Document No. 2008-162922 pertaining to the operations of the adjacent Lihue Airport. The Grant of Avigation and Noise Easement sets forth covenants and restrictions with regard to the potential adverse impacts on the Kauai Lagoons Resort from noise, fumes, smoke, vibrations, and other substances and phenomena resulting from aircraft operations at the Lihue Airport.

Based on the official Calendar Year 1991 noise contours established by the Federal Aviation Regulations (FAR) Part 150 Noise Compatibility Planning Program, the proposed Project is planned to be within the 55 to 65 DNL noise contours. Condition No. 9 of Zoning Ordinance No. PM-2006-383 provides in part that:

No residential, condominium, or hotel units shall be constructed within areas greater than the 60 DNL noise contour of the Lihue Airport; provided,



6266-23

Letter to Mr. Abbey Seth Mayer

May 8, 2009

Page 5

however, that such uses may be permitted within the 60 to 65 DNL noise contours, if there is an accompanying mitigation of interior noise to the 45 DNL noise level.

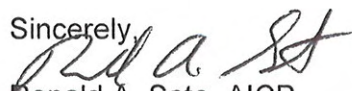
The Petitioner/Applicant intends to fully comply with this condition. The Project's design guidelines will be specific in referencing this requirement for interior noise mitigation as needed. For all residential development located between the 60 to 65 DNL noise contours, design guidelines will be established which would set forth the various door, window and exterior building envelope treatment measures to be followed in the construction of the units to achieve an interior noise level of 45 DNL.

9. **Conformance with County Plan Designations and Urban Growth or Rural Community Boundaries** – A discussion of the proposed Project's consistency with the County's land use plans will be included in the Draft EA.
 - a. **Alternative Site Considered** – The Draft EA will include a discussion of the reasons that the proposed Project could not be accommodated on lands already designated by the County plans for similar uses.
 - b. **Impact on Surrounding Lands** – Discussion of the impacts resulting from the proposed County General Plan amendment from the Open designation to the Resort designation for Subdivision 6 on the surrounding lands will be included in the Draft EA.
 - c. **Significant Public Benefit** – The need for the proposed Project is to assign the density which is equivalent to the calculated density of 22 dwelling units from the 138-acre undeveloped oceanfront parcel to the Kauai Lagoons Resort. This will allow, by agreement, for the oceanfront parcel to be conveyed to the County of Kauai for public purposes. This information will be included in the Draft EA.

The proposed Project proposes to incorporate the application of Leadership in Energy and Environmental Design (LEED) standards and strategies, to the extent deemed economically feasible, to achieve sustainable site, utilities and building development. The Draft EA will include a discussion of the green principles and strategies being proposed for the Project, which are also integrated with the overall Kauai Lagoons Resort development.

Your letter, along with this response, will be included in the forthcoming Draft EA. We appreciate your participation in the pre-assessment consultation phase of the Project.

Sincerely,



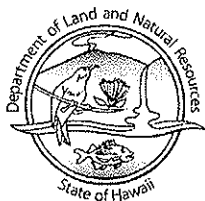
Ronald A. Sato, AICP
Project Manager

cc: Mr. Orlando Davidson, State Land Use Commission
Mr. Steve Busch, MORI Golf (Kauai), LLC

LINDA LINGLE
GOVERNOR OF HAWAII



LAURA H. THIELEN
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

October 3, 2008

Wilson Okamoto Corporation
1907 South Beretania Street Suite 400
Honolulu, Hawaii 96826

RECEIVED
OCT 6 2 2008

Attention: Mr. Ronald A. Sato

WILSON OKAMOTO CORPORATION

Gentlemen:

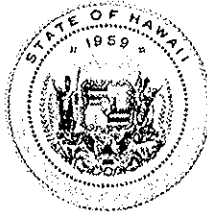
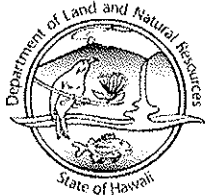
Subject: Pre-assessment consultation for draft environmental assessment for Kauai
Lagoons Resort Density Amendment

Thank you for the opportunity to review and comment on the subject matter. The Department of Land and Natural Resources' (DLNR) has no other comments to offer on the subject matter. Should you have any questions, please feel free to call our office at 587-0433. Thank you.

Sincerely,


Morris M. Atta
Administrator

LINDA LINGLE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

LAURA H. THIELEN
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

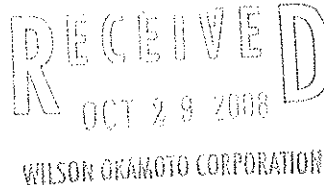
RUSSELL Y. TSUJI
FIRST DEPUTY

KEN C. KAWAHARA
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAROLAWA ISLAND RESERVE COMMISSION
LAND
STATE PARKS

October 27, 2008

Mr. Ronald Sato, AICP
Wilson Okamoto Corporation
1907 South Beretania Street, Suite 400
Honolulu, Hawai'i 96826



LOG NO: 2008.4479
DOC NO: 0810WT48
Archaeology

Dear Mr. Sato:

**SUBJECT: National Historic Preservation Act (NHPA) Section 106 Review –
Kaua'i Lagoons Resort Density Amendment, Pre-Assessment Consultation for Draft
Environmental Assessment (EA), Kalapaki, Lihue, Kaua'i, Hawai'i
TMK: (4)3-5-001:27 (por.), 102 and 168 (por.)**

Thank you for the opportunity to comment on the aforementioned project. We received the submitted documents on September 8, 2008. The proposed undertaking is the development of three subdivision in Kaua'i Lagoons Resort.

We concur that **no historic properties will be affected** by this undertaking because:

- ☐ Intensive cultivation has altered the land
- ☐ Residential development/urbanization has altered the land
- ☐ Previous grubbing/grading has altered the land
- ☐ An accepted archaeological inventory survey (AIS) found no historic properties
- ☐ SHPD previously reviewed this project and mitigation has been completed
- ☒ Other: *This area has been previously assessed via an Archaeological Inventory.*

In the event that historic resources, including human skeletal remains, are identified during the construction activities, all work needs to cease in the immediate vicinity of the find, the find needs to be protected from additional disturbance and please contact SHPD at (808) 692-8015.

Please contact Wendy Tolleson at (808) 692-8024 if you have any questions or concerns regarding this letter.

Aloha,

A handwritten signature in cursive script that reads "Nancy A. McMahon".

Nancy A. McMahon (Deputy SHPO)
State Historic Preservation Officer



6266-23
May 8, 2009

1907 South Beretania Street
Artesian Plaza, Suite 400
Honolulu, Hawaii, 96826 USA
Phone: 808.946.2277
Fax: 808.946.2253
www.wilsonokamoto.com

Ms. Nancy A. McMahon, Deputy State Historic Preservation Officer
State of Hawaii
Department of Land and Natural Resources
Historic Preservation Division
P.O. Box 621
Honolulu, Hawaii 96809

Subject: Pre-Assessment Consultation
Draft Environmental Assessment (EA)
Kauai Lagoons Resort Density Amendment Project
Tax Map Keys: (4) 3-5-01: 27 (Por.), 102, and 168 (Por.)
Kalapaki, Lihue, Island of Kauai, Hawaii

Dear Ms. McMahon:

Thank you for your letter of October 27, 2008 (LOG NO: 2008.4479, DOC NO: 0810WT48 Archaeology) concurring that no historic properties will be affected by the undertaking of the proposed Project since this area has been previously assessed via an Archaeological Inventory.

The Petitioner/Applicant acknowledges that in the event any archaeological sites, significant cultural deposits, or human skeletal remains are found during construction activities of the proposed Project, all work will immediately cease pending consultation with the SHPD. The treatment of any remains or artifacts will be in accordance with procedures obtained by the Kauai/Niihau Islands Burial Council and the SHPD.

This information will be included in the Draft EA.

Your letter, along with this response, will be included in the forthcoming Draft EA. We appreciate your participation in the pre-assessment consultation phase of the Project.

Sincerely,

Ronald A. Sato, AICP
Project Manager

cc: Mr. Steve Busch, MORI Golf (Kauai), LLC



STATE OF HAWAII
DEPARTMENT OF EDUCATION
P.O. BOX 2360
HONOLULU, HAWAII 96804

OFFICE OF THE SUPERINTENDENT

RECEIVED
OCT 20 2008

WILSON OKAMOTO CORPORATION

October 17, 2008

Mr. Ronald A. Sato, Project Manager
Wilson Okamoto Corporation
1907 South Beretania Street
Honolulu, Hawai'i 96826

Dear Mr. Sato:

Subject: Early Consultation on the Kaua'i Lagoons Resort Density Amendment Project,
Lihue, Kaua'i, TMK: 3-05-001: por. 27, 102 and por. 168

The Department of Education has reviewed your request for early consultation on the proposal to increase the density of the Kaua'i Lagoons project by 22 single-family units, for a total of 772 dwelling units.

The 2007 Legislature passed a bill establishing school impact fees. The bill became Act 245 and is in the process of being implemented. Under this new law, it is possible that the Kauai complex would be identified as a school impact district which would mean a requirement to pay an impact fee by the project. We currently do not know the amount of the fee per residential unit in the project, but we should have a better idea early in 2009.

If you have any questions, please call Heidi Meeker of the Facilities Development Branch at 377-8301.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Patricia Hamamoto".

Patricia Hamamoto
Superintendent

PH:jmb

c: Randolph Moore, Assistant Superintendent, OSFSS
William Arakaki, CAS, Kapaa/Kauai/Waimea Complex Areas



6266-23
May 8, 2009

1907 South Beretania Street
Artesian Plaza, Suite 400
Honolulu, Hawaii, 96826 USA
Phone: 808.946.2277
Fax: 808.946.2253
www.wilsonokamoto.com

Ms. Patricia Hamamoto, Superintendent
State of Hawaii
Department of Education
P.O. Box 2360
Honolulu, Hawaii 96804

Subject: Pre-Assessment Consultation
Draft Environmental Assessment (EA)
Kauai Lagoons Resort Density Amendment Project
Tax Map Keys: (4) 3-5-01: 27 (Por.), 102, and 168 (Por.)
Kalapaki, Lihue, Island of Kauai, Hawaii

Dear Ms. Hamamoto:

Thank you for your letter of October 17, 2008 regarding the subject Project.

Since the proposed 22 single-family residential units within the Kauai Lagoons Resort would be primary or secondary residences, the Project will not generate a significant demand on student enrollment at the area schools. Therefore, based on criteria of proportionality, the school impact fee, when implemented, would appear to not be applicable to the proposed Project.

Your letter, along with this response, will be included in the forthcoming Draft EA. We appreciate your participation in the pre-assessment consultation phase of the Project.

Sincerely,

Ronald A. Sato, AICP
Project Manager

cc: Mr. Steve Busch, MORI Golf (Kauai), LLC

LINDA LINGLE
GOVERNOR



STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
AIRPORTS DIVISION
400 Rodgers Boulevard, Suite 700
Honolulu, Hawaii 96819-1880

BRENNON T. MORIOKA
DIRECTOR

Deputy Directors
MICHAEL D. FORMBY
FRANCIS PAUL KEENO
BRIAN H. SEKIGUCHI
JIRO A. SUMADA

IN REPLY REFER TO:

AIR-EP
08.0108

October 15, 2007

Mr. Gary T. Okamoto
President
Wilson Okamoto Corporation
1907 South Beretania Street
Artesian Plaza, Suite 400
Honolulu, Hawaii 96826

RECEIVED
OCT 21 2008

WILSON OKAMOTO CORPORATION

Dear Mr. Okamoto:

Subject: Kauai Lagoons Resort Density Amendment
Pre-Assessment Consultation for Draft Environmental Assessment (EA)

In reply to your letter dated September 29, 2008, regarding the Pre-Assessment Consultation for the Draft EA, we have the following comments:

1. The impacts on the dwelling units from the aircraft noise, fumes and vibration originating at Lihue Airport should be addressed in the EA.
2. Overflights from aircraft arrivals and departures may also have a noise impact on the dwelling units.

Please have your staff call Mr. Stephen Takashima, Head Planner, at (808) 838-8810, to clarify any questions you may have.

Sincerely,

A handwritten signature in black ink, appearing to read "B. H. Sekiguchi".

BRIAN H. SEKIGUCHI
Deputy Director-Airports



6266-23
May 8, 2009

1907 South Beretania Street
Artesian Plaza, Suite 400
Honolulu, Hawaii, 96826 USA
Phone: 808.946.2277
Fax: 808.946.2253
www.wilsonokamoto.com

Mr. Brian H. Sekiguchi, Deputy Director - Airports
State of Hawaii
Department of Transportation
Airports Division
400 Rodgers Boulevard, Suite 700
Honolulu, Hawaii 96819-1880

Subject: Pre-Assessment Consultation
Draft Environmental Assessment (EA)
Kauai Lagoons Resort Density Amendment Project
Tax Map Keys: (4) 3-5-01: 27 (Por.), 102, and 168 (Por.)
Kalapaki, Lihue, Island of Kauai, Hawaii

Dear Mr. Sekiguchi:

Thank you for your letter of October 15, 2008 (Ref.: AIR-EP 08.0108) regarding the subject Project.

In accordance with Condition No. 14 of Zoning Ordinance No. PM-2006-383 for the Kauai Lagoons Resort, the Petitioner/Applicant, Kauai Lagoons LLC and KD Kapule LLC, owners and developers of the Resort, have granted to the State Department of Transportation, Airports Division a Grant of Avigation and Noise Easement dated October 14, 2008 and recorded in the State Bureau of Conveyances as Document No. 2008-162922 pertaining to the operations of the adjacent Lihue Airport. The Grant of Avigation and Noise Easement sets forth covenants and restrictions with regard to the potential adverse impacts on the Kauai Lagoons Resort from noise, fumes, smoke, vibrations, and other substances and phenomena resulting from aircraft operations at the Lihue Airport.

Based on the official Calendar Year 1991 noise contours established by the Federal Aviation Regulations (FAR) Part 150 Noise Compatibility Planning Program, the proposed Project is planned to be within the 55 to 65 DNL noise contours. Condition No. 9 of Zoning Ordinance No. PM-2006-383 provides in part that:

No residential, condominium, or hotel units shall be constructed within areas greater than the 60 DNL noise contour of the Lihue Airport; provided, however, that such uses may be permitted within the 60 to 65 DNL noise contours, if there is an accompanying mitigation of interior noise to the 45 DNL noise level.

The Petitioner/Applicant intends to fully comply with this condition. The Project's design guidelines will be specific in referencing this requirement for interior noise mitigation as needed. For all residential development located between the 60 to 65 DNL noise contours, design guidelines will be established which would set forth the various door, window and exterior building envelope treatment measures to be followed in the construction of the units to achieve an interior noise level of 45 DNL.

This information will be included in the Draft EA.



6266-23
Letter to Mr. Brian H. Sekiguchi
May 8, 2009
Page 2

Your letter, along with this response, will be included in the forthcoming Draft EA. We appreciate your participation in the pre-assessment consultation phase of the Project.

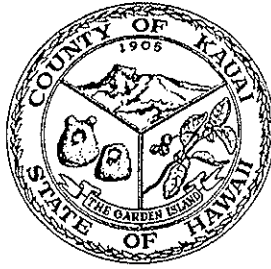
Sincerely,

Ronald A. Sato, AICP
Project Manager

cc: Mr. Steve Busch, MORI Golf (Kauai), LLC

BILL "KAIPO" ASING
MAYOR

GARY K. HEU
ADMINISTRATIVE ASSISTANT



DONALD M. FUJIMOTO
COUNTY ENGINEER
TELEPHONE 241-4992

EDMOND P.K. RENAUD
DEPUTY COUNTY ENGINEER
TELEPHONE 241-4992

AN EQUAL OPPORTUNITY EMPLOYER
COUNTY OF KAUA'I
DEPARTMENT OF PUBLIC WORKS
4444 RICE STREET
MO'IKEHA BUILDING, SUITE 275
LIHU'E, KAUA'I, HAWAII 96766-1340

October 23, 2008

Wilson Okamoto Corporation
1907 South Beretania Street
Artesian Plaza, Suite 400
Honolulu, Hawai'i, 96826
Attention: Mr. Ronald A. Sato

RECEIVED
OCT 29 2008
WILSON OKAMOTO CORPORATION

SUBJECT: KAUA'I LAGOONS RESORT DENSITY AMENDMENT
PRE-ASSESSMENT CONSULTATION FOR DRAFT ENVIRONMENTAL
ASSESSMENT (EA) TMK: 3-5-001-027 (Por.), 102 and 168 (Por.)
PW 10.08.009

Gentlemen,

We reviewed the proposed increase in resort residential density of 22 dwelling units associated with the Kaua'i Lagoons Resort Project. We offer the following comments:

- We understand that the 22 dwelling units will be as a result of Subd 1A, Subd 5 and Subd 6. The following subdivisions have the following acreages and zoning designations:

Subd	Acres	Zoning Changes
1A	4.61	Reclassify AG District to Urban District
5	10.35	Reclassify AG District to Urban District
6	7.06	Open to Residential R2

We are concerned with the increased in storm runoffs as a result of the zoning changes from Ag to Urban and from Open to Residential R2. We request that the Master Drainage Study (Revised Sept 2008) for Kaua'i Lagoons be re-evaluated again to consider the increase in storm water runoffs as a result of the density amendment.

- We request that your pre-assessment consultation include our Building Division.

Wilson Okamoto Corporation

October 21, 2008

Page (2)

We understand that a shared bike and pedestrian path is planned through the Kaua'i Lagoons property and a proposed draft environmental assessment for the "Nāwiliwili-Ahukini Shared-Use Path" has been prepared by R.M. Towill Corporation.

Should you have any questions, please contact me at (808) 245-4981.

Very truly yours,



Wallace Kudo, P.E.
Chief, Engineering Division

CONCUR:



DONALD M. FUJIMOTO, P.E.
County Engineer

Wk

Cc:

Doug Haig, Building Division Superintendent



6266-23
May 8, 2009

Mr. Donald M. Fujimoto, P.E., County Engineer
County of Kauai
Department of Public Works
4444 Rice Street, Suite 275
Lihue, Hawaii 96766-1340

1907 South Beretania Street
Artesian Plaza, Suite 400
Honolulu, Hawaii, 96826 USA
Phone: 808.946.2277
Fax: 808.946.2253
www.wilsonokamoto.com

Subject: Pre-Assessment Consultation
Draft Environmental Assessment (EA)
Kauai Lagoons Resort Density Amendment Project
Tax Map Keys: (4) 3-5-01: 27 (Por.), 102, and 168 (Por.)
Kalapaki, Lihue, Island of Kauai, Hawaii

Dear Mr. Fujimoto:

Thank you for your letter of October 23, 2008 (Ref.: PW 10.08.009) regarding the subject Project.

A Master Drainage Study for the Kauai Lagoons Resort, which includes the subject Project, was prepared by Wilson Okamoto Corporation (August 2007, Revised January 2009) and was conditionally approved by the County Department of Public Works (DPW) by letter dated February 18, 2009. As the Master Drainage Study comprehensively evaluates the drainage impacts and improvements needed to mitigate such impacts for the entire Kauai Lagoons Resort development, the assessment of impacts resulting from the proposed Project is discussed in the Draft EA on a cumulative basis with the remainder of the Resort development.

A copy of the Draft EA will be provided to the County DPW Building Division for their review and comments. The Petitioner/Applicant and Kauai Lagoons LLC, the owners and developers of the Kauai Lagoons Resort, are currently coordinating with the County DPW Building Division on integrating segments of the County's proposed Nawiliwili-Ahukini Shared-Use Path improvements within the Resort development. The Petitioner/Applicant and Kauai Lagoons LLC are committed to maintaining ongoing coordination with the DPW Building Division in working out details of the shared-use path improvements and associated easement locations within the Resort development as the planning and design phases of the shared-use path project progresses by the County. This information will be included in the Draft EA.

Your letter, along with this response, will be included in the forthcoming Draft EA. We appreciate your participation in the pre-assessment consultation phase of the Project.

Sincerely,

Ronald A. Sato, AICP
Project Manager

cc: Mr. Doug Haigh, County DPW Building Division Superintendent
Mr. Steve Busch, MORI Golf (Kauai), LLC



6266-23
May 8, 2009

Mr. Donald M. Fujimoto, P.E., County Engineer
County of Kauai
Department of Public Works
Building Division
4444 Rice Street, Suite 175
Lihue, Hawaii 96766-1340

1907 South Beretania Street
Artesian Plaza, Suite 400
Honolulu, Hawaii, 96826 USA
Phone: 808.946.2277
Fax: 808.946.2253
www.wilsonokamoto.com

Subject: Pre-Assessment Consultation
Draft Environmental Assessment (EA)
Kauai Lagoons Resort Density Amendment Project
Tax Map Keys: (4) 3-5-01: 27 (Por.), 102, and 168 (Por.)
Kalapaki, Lihue, Island of Kauai, Hawaii

Dear Mr. Fujimoto:

This is in response to the verbal comments of October 2, 2008 from Mr. Mario Antonio of your Department regarding the subject Project as indicated in italics below:

1. *The Draft EA should address flood requirements as applicable. Information on the County's Flood Insurance Rate Map (FIRM) is available from their website, and most current information from those plans should be used.*

According to the FIRM prepared by the Federal Emergency Management Agency (FEMA), the Project Site is located within Zone "X", defined as "Areas determined to be outside the 0.2% annual chance floodplain". This information will be included in the Draft EA.

2. *The DPW Engineering Division will likely comment on the drainage requirements needed for this Project. However, drainage plans would eventually need to be prepared and approved by DPW.*

Drainage plans for the subject Project will be prepared and submitted to the DPW for review and approval.

This response letter will be included in the forthcoming Draft EA. We appreciate your participation in the pre-assessment consultation phase of the Project.

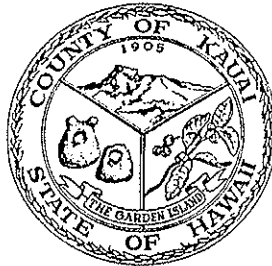
Sincerely,

Ronald A. Sato, AICP
Project Manager

cc: Mr. Steve Busch, MORI Golf (Kauai), LLC

BILL "KAIPO" ASING
MAYOR

GARY K. HEU
ADMINISTRATIVE ASSISTANT



DONALD M. FUJIMOTO
COUNTY ENGINEER
TELEPHONE 241-4992

EDMOND P.K. RENAUD
DEPUTY COUNTY ENGINEER
TELEPHONE 241-4992

AN EQUAL OPPORTUNITY EMPLOYER
COUNTY OF KAUAI
DEPARTMENT OF PUBLIC WORKS
4444 RICE STREET
MO'IKEHA BUILDING, SUITE 275
LIHU'E, KAUAI, HAWAII 96766-1340

October 15, 2008

WILSON OKAMOTO CORPORATION
1907 South Beretania Street
Honolulu, Hawai'i 96826
Attention: Mr. Ronald A. Sato, AICP

**SUBJECT: KAUAI LAGOONS RESORT DENSITY AMENDMENT, PRE-ASSESSMENT
CONSULTATION FOR DRAFT ENVIRONMENTAL ASSESSMENT, TMKs
3-05-001:27 (por.), 102 and 168 (por).**

Dear Mr. Sato:

We acknowledge receipt of your letter dated September 29, 2008 for the proposed Draft Environmental Assessment (DEA) for the proposed Resort Density Amendment and offer the following comments:

1. The proposed action would have the effect of allowing an additional 22 residential units to be developed at the Kauai Lagoons Resort. The additional units would be developed as part of residential subdivisions to be developed on the resort property. The proposed subdivisions will be connected to the Lihu'e Wastewater Treatment Plant (WWTP) via a privately owned and operated sewer collection system.
2. The sewer collection systems to serve the proposed subdivisions will be designed and installed by the developer, and will remain a private system maintained by the developer. As such, no sewer connection fees will be assessed.
3. Prior to final subdivision approval, payment of the Wastewater Treatment Capacity Assessment (WTCA) will be required. At the present time, the WTCA for twenty two (22) single-family lots at the current rate of \$3,900.00 per unit would be in the amount of \$85,800.00.
4. Prior to start of construction, the resort's preliminary engineering report to evaluate the adequacy of the existing and proposed sewer collection system and treatment plant capacity needs to be updated to incorporate the proposed changes, and submitted for our review and approval. Also, prior to start of any sewer system construction, plans need to be submitted for our review for compliance with sewer design standards.

Wilson Okamoto Corporation
October 15, 2008
Page 2

Should you have questions, please contact Valentino Reyna at (808) 241-6612.

Very truly yours,



EDWARD TSCHUPP
Chief, Wastewater Management Division

CONCUR:



DONALD M. FUJIMOTO
County Engineer

c: Engineering Division
 Planning Department

OCT 16 2008



6266-23
May 8, 2009

1907 South Beretania Street
Artesian Plaza, Suite 400
Honolulu, Hawaii, 96826 USA
Phone: 808.946.2277
Fax: 808.946.2253
www.wilsonokamoto.com

Mr. Edward Tschupp, Chief
County of Kauai
Department of Public Works
Wastewater Management Division
4444 Rice Street, Suite 275
Lihue, Hawaii 96766-1340

Subject: Pre-Assessment Consultation
Draft Environmental Assessment (EA)
Kauai Lagoons Resort Density Amendment Project
Tax Map Keys: (4) 3-5-01: 27 (Por.), 102, and 168 (Por.)
Kalapaki, Lihue, Island of Kauai, Hawaii

Dear Mr. Tschupp:

Thank you for your letter of October 15, 2008 regarding the subject Project. We offer the following responses in the order of your comments:

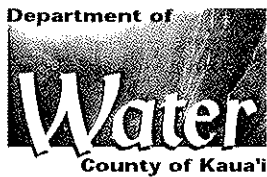
- The Petitioner/Applicant acknowledges that the proposed Project will connect to the Lihue Wastewater Treatment Plant (WWTP) via a privately-owned and operated sewer collection system within the Kauai Lagoons Resort development.
- The Petitioner/Applicant acknowledges that no sewer connection fees will be assessed for the proposed Project since the sewer collection system serving the Project will be designed and installed by the developer, and will remain a private system to be maintained by the developer.
- The Petitioner/Applicant acknowledges that prior to final subdivision approval, payment of the WTCA currently assessed in the amount of \$85,800.00 will be made to the County DPW Wastewater Management Division.
- The Petitioner/Applicant acknowledges that prior to the start of construction, the Kauai Lagoons Resort's preliminary engineering report to evaluate the adequacy of the existing and proposed sewer collection system and WWTP capacity will be updated to incorporate the proposed Project, and will be submitted to your Department for review and approval. Furthermore, plans of the proposed sewer system will be submitted to your Department for review for compliance with the sewer design standards prior to the start of construction.

Your letter, along with this response, will be included in the forthcoming Draft EA. We appreciate your participation in the pre-assessment consultation phase of the Project.

Sincerely,

Ronald A. Sato, AICP
Project Manager

cc: Mr. Steve Busch, MORI Golf (Kauai), LLC



Water has no substitute.....Conserve it

October 31, 2008

RECEIVED
NOV 03 2008

WILSON OKAMOTO CORPORATION

Mr. Ronald Sato
Wilson Okamoto Corporation
1907 S. Beretania Street
Honolulu, HI 96826

Dear Mr. Sato:

Subject: Pre-Assessment Consultation for Draft Environmental Assessment (EA), Kauai
Lagoons Resort Density Amendment, Lihue, Kauai, Hawaii TMK: 3-5-01:027,
3-5-01:102, and TMK: 3-5-01:168

Any actual development or subdivision will be dependent on the adequacy of the source, storage, and transmission facilities existing at that time. At the present time, the existing source and storage facilities are at capacity.

Prior to building permit or water meter approval for the proposed increase in density of 22 dwelling units, additional source and storage facilities for the area must be available. The applicant will also be required to complete all other Department of Water requirements applicable at that time.

If you have any questions, please contact Mr. Keith Aoki at (808) 245-5418.

Sincerely,

A handwritten signature in black ink, appearing to read "G. Fujikawa".

Gregg Fujikawa
Chief of Water Resources and Planning

KA:ml
ea- Kauai lagoons 3-5-01-027 sato T-10405



6266-23
May 8, 2009

1907 South Beretania Street
Artesian Plaza, Suite 400
Honolulu, Hawaii, 96826 USA
Phone: 808.946.2277
Fax: 808.946.2253
www.wilsonokamoto.com

Mr. Gregg Fujikawa, Chief of Water Resources and Planning
County of Kauai
Department of Water
P.O. Box 1706
Lihue, Hawaii 96766

Subject: Pre-Assessment Consultation
Draft Environmental Assessment (EA)
Kauai Lagoons Resort Density Amendment Project
Tax Map Keys: (4) 3-5-01: 27 (Por.), 102, and 168 (Por.)
Kalapaki, Lihue, Island of Kauai, Hawaii

Dear Mr. Fujikawa:

Thank you for your letter of October 31, 2008 regarding the subject Project.

The Petitioner/Applicant acknowledges that development of the proposed Project will require additional domestic water supply. The Petitioner/Applicant will be coordinating with the County Department of Water (DOW) regarding additional source and storage requirements. This information will be included in the Draft EA.

The Petitioner/Applicant acknowledges that prior to building permit or water meter approval for the proposed Project, additional source and storage facilities for the area must be available. The Petitioner/Applicant also acknowledges that they will be required to complete all other DOW requirements applicable at that time.

Your letter, along with this response, will be included in the forthcoming Draft EA. We appreciate your participation in the pre-assessment consultation phase of the Project.

Sincerely,

Ronald A. Sato, AICP
Project Manager

cc: Mr. Steve Busch, MORI Golf (Kauai), LLC



BILL "KAIPO" ASING
Mayor

GARY K. HEU
Administrative Assistant

POLICE DEPARTMENT COUNTY OF KAUAI

3990 KAANA STREET, SUITE 200
LIHUE, HAWAII 96766-1268
TELEPHONE (808) 241-1600
FAX (808) 241-1604



ADDRESS ALL
COMMUNICATIONS TO

DARRYL D. PERRY
Chief of Police

MARK N. BEGLEY
Deputy Chief

October 13, 2008

RECEIVED
OCT 22 2008

WILSON OKAMOTO CORPORATION

Mr. Ronald A. Sato, AICP
Project Manager
WILSON OKAMOTO CORPORATION
1907 South Beretania Street, Suite 400
Honolulu, Hawaii 96826

Re: Kauai Lagoons Resort Density Amendment
Pre-Assessment Consultation For Draft Environmental Assessment (Ea)
Kalapaki, Lihue, Kauai, Hawai'i
Tax Map Keys (Tmks): (4) 3-05-001: 27 (Por.), 102 And 168 (Por.)

Dear Mr. Sato:

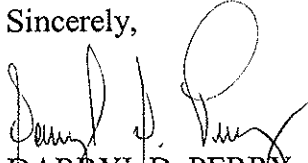
I am in receipt of your September 2008 *Draft Environmental Assessment Pre-Assessment Consultation Project Summary* document and your request for departmental comments.

At this time, based upon the information provided, it would be difficult for the Kauai Police Department to offer specific comments on the project. However, from a law enforcement perspective, general concerns relating to the scope and impact of the proposed development on transportation and traffic should be identified. The addition of 772 townhouses consisting of single family and affordable type dwelling units and related commercial development will raise ancillary support issues in the Lihue area that should be enumerated upon. A development of this magnitude will compete for and accelerate demand on existing infrastructure and our current service capacity. In particular, the planned development may have a significant impact on the existing traffic flow and circulation along/onto Kapule Highway. Notwithstanding the overall effect on the Lihue transportation grid and the surrounding areas are additional matters of concern. Hopefully, these questions will be addressed in detail by the planned Environmental Assessment (EA).

Mr. Ronald Sato
October 13, 2008
Page 2

I appreciate the advance notification and hope that the discussion of our shared concerns will be of value as you move forward on your project.

Sincerely,



DARRYL D. PERRY
Chief of Police



6266-23
May 8, 2009

Mr. Darryl D. Perry, Chief
County of Kauai
Police Department
3990 Kaana Street, Suite 200
Lihue, Hawaii 96766-1268

1907 South Beretania Street
Artesian Plaza, Suite 400
Honolulu, Hawaii, 96826 USA
Phone: 808.946.2277
Fax: 808.946.2253
www.wilsonokamoto.com

Subject: Pre-Assessment Consultation
Draft Environmental Assessment (EA)
Kauai Lagoons Resort Density Amendment Project
Tax Map Keys: (4) 3-5-01: 27 (Por.), 102, and 168 (Por.)
Kalapaki, Lihue, Island of Kauai, Hawaii

Dear Mr. Perry:

Thank you for your letter of October 13, 2008 regarding the subject Project.

We wish to clarify that the proposed Project improvements include the development of 22 additional single-family residential lots to be located within the Kauai Lagoons Resort.

As background on the proposed Project, MORI Golf (Kauai), LLC, the Petitioner/Applicant, and Kauai Development LLC intend to enter into an agreement with the County of Kauai that will assign a density equivalent to the calculated density of 22 dwelling units from an approximately 138-acre undeveloped oceanfront parcel (owned by Kauai Development LLC) located adjacent to and east of the Lihue Airport to the existing Kauai Lagoons Resort. Following the assignment of density, the 138-acre parcel will be conveyed to the County for public purposes based upon an agreement to be entered into between the County and Kauai Development LLC. With the proposed density assignment of the 22 dwelling units to the Kauai Lagoons Resort, the density cap for the Resort will be increased from the current maximum density of 750 dwelling units established under Condition No. 1 of Zoning Ordinance No. PM-2006-383 to a total maximum density of 772 dwelling units, exclusive of the Resort's 31 affordable housing units.

As such, the focus of the Draft EA will be on the proposed 22 additional single-family residential lots and will also consider the remainder of the Kauai Lagoons Resort development in addressing the cumulative impacts, as appropriate.

Your letter, along with this response, will be included in the forthcoming Draft EA. We appreciate your participation in the pre-assessment consultation phase of the Project.

Sincerely,

Ronald A. Sato, AICP
Project Manager

cc: Mr. Steve Busch, MORI Golf (Kauai), LLC

Draft Environmental Assessment Correspondence



REPLY TO
ATTENTION OF: CEPOH-EC-T

DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, HONOLULU DISTRICT
FORT SHAFTER, HAWAII 96858-5440

May 22, 2009

Civil Works Technical Branch

Mr. Ronald Sato, Project Manager
Wilson Okamoto Corporation
1907 South Beretania Street, Suite 400
Honolulu, Hawaii 96826

RECEIVED
MAY 26 2009
WILSON OKAMOTO CORP.

Dear Mr. Sato:

Thank you for the opportunity to review and comment on the Draft Environmental Assessment (DEA) for the Kauai Lagoons Resort Density Amendment Project, Lihue, Kauai (TMK 3-5-1: 27, 102, and 168). I concur with the flood hazard information provided on page 3-5 of the DEA. The document has been forwarded to our Regulatory Branch to determine Department of the Army permit requirements (438-2303). They will respond to you under separate cover.

Should you require additional information, please contact Ms. Jessie Dobinchick of my staff at (808) 438-8876.

Sincerely,

Steven H. Yamamoto, P.E.
Chief, Civil Works Technical Branch

Copies Furnished:
Ms. Katherine Puana Kealoha, Director
State of Hawaii
Office of Environmental Quality Control
235 South Beretania Street, Suite 702
Honolulu, Hawaii 96813

Mr. Michael Laureta
County of Kauai, Planning Department
4444 Rice Street, Suite 473
Lihue, Hawaii 96766



6266-23
July 9, 2009

Mr. Steven H. Yamamoto, P.E., Chief
Civil Works Technical Branch
Department of the Army
U.S. Army Corps of Engineers, Honolulu District
Building 223
Fort Shafter, Hawaii 96858-5440

1907 South Beretania Street
Artesian Plaza, Suite 400
Honolulu, Hawaii, 96826 USA
Phone: 808.946.2277
Fax: 808.946.2253
www.wilsonokamoto.com

Subject: Draft Environmental Assessment (EA)
Kauai Lagoons Resort Density Amendment Project
Tax Map Keys: (4) 3-5-01: 27 (Por.), 102, and 168 (Por.)
Kalapaki, Lihue, Island of Kauai, Hawaii

Dear Mr. Yamamoto:

Thank you for your letter of May 22, 2009 (Ref: CEPOH-EC-T) concurring with the flood hazard information provided on page 3-5 of the Draft EA.

We very much appreciate your time and effort in reviewing the subject EA.

Sincerely,

Ronald A. Sato, AICP
Project Manager

cc: Mr. Michael Laureta, County of Kauai Planning Department
Ms. Katherine Puana Kealoha, State Office of Environmental Quality Control
Mr. Steve Busch, MORI Golf (Kauai), LLC



United States
Department of
Agriculture

June 19, 2009

Animal and
Plant Health
Inspection
Service

Wilson Okamoto Corporation
1907 South Beretania Street
Artesian Plaza, Suite 400
Honolulu, Hawaii 96826

Wildlife
Services

Subject: Kauai Lagoons Resort, Density Amendment Project, Kalapaki, Lihue,
Kauai, Hawaii, Draft Environmental Assessment

Hawaii State Office

Dear Sirs,

3375 Koapaka Street,
Suite H-420
Honolulu, Hawaii
96819-1869

Tel: (808) 861-8575
Fax: (808) 861-8570

Wildlife Services appreciates the opportunity to comment on the proposed Kauai Lagoons Resort, Density Amendment Project, Kalapaki, Lihue, Kauai, Hawaii, Draft Environmental Assessment (DEA), May 2009 as it relates to Hawaiian goose populations on Kauai Lagoons property between the two main runways of Lihue Airport and their threat to public safety.

Geese are always considered hazardous to aviation because of their large size and flocking behavior. Goose strikes cause damage to aircraft 57% of the time, and the damage is often severe and costly, in both repair costs and losses due to aircraft downtime. The most significant bird strike incident involving geese occurred on 22 September 1995, at Elmendorf Air Force Base, Anchorage, Alaska, when an Air Force E-3 Sentry AWACS (the E-3 Sentry is a modified Boeing 707/320) ingested Canada geese (*Branta canadensis*) in its number one and two engines causing the plane to crash, killing all 24 crew members on board. The most recent major incident involving geese occurred on 15 January 2009, at LaGuardia International Airport, NY. US Airways Flight 1549 struck multiple Canada geese during take-off causing both engines to fail. Miraculously, all 155 people onboard survived the emergency landing on the Hudson River. The total loss of the aircraft (Airbus A320) is estimated at 70-80 million dollars.

The population of Hawaiian geese is increasing on Kauai. The Kauai Lagoons population makes up a significant part of the total Kauai population (approximately 25%). This flock has been nesting on Kauai Lagoons property for over two decades. In recent years, with periodic assistance from DOFAW and Kauai Lagoons Resort (supplemental feeding, predator control), it has flourished. Currently, this flock is estimated at over 200 geese.

The estimated number of Hawaiian geese occupying Kauai Lagoons Resort property during this last nesting season (2008-2009) was 245-275 birds including adults and young (Reggie David, 6/5/09, Rana Productions, pers. Comm.). This flock produced 57 nests, 180 eggs, and 130 goslings, 81 of which survived and fledged (Al Silva, 3/19/09, Rana Productions, pers. comm.). In past years (2006-2008) goslings were



Safeguarding American Agriculture
APHIS is an agency of USDA's Marketing and Regulatory Programs
An Equal Opportunity Provider and Employer

collected and relocated to other areas on Kauai in an effort to curb the growth rate of this population. This year, due primarily to intervention by USFWS, very few geese were relocated.

The rate at which geese are dispersed in BASH work at Lihue Airport has been steadily increasing for the last three years at the rate of approximately 20% each year. The chance of a collision between geese and aircraft must certainly be increasing as well. In 2008 geese flew across runways at Lihue Airport nearly 1,000 times. Geese loafing next to runways and taxiways have become a common sight, and Wildlife Services personnel spend a significant portion of their time hazing these geese, often harassing the same group multiple times during the day in attempting to dissuade them from using the AOA. If left unchecked, this situation seems to be heading towards a serious accident with potentially catastrophic results.

Wildlife Services continues to recommend "Zero-Tolerance" for any large bird within the immediate area around an airport. The Hawaiian geese inhabiting Kauai Lagoons Resort are living and nesting on grounds located right between the two runways of Lihue Airport. Wildlife Services has repeatedly recommended that the Kauai Lagoons flock be moved from this sensitive area.

We also offer these comments specifically addressing the DEA

1. The proposed projects sites are situated between active runways 3 and 35 of Lihue Airport. They are well within the Perimeter C (5 miles) of the Airport Operations Area (AOA). The Federal Aviation Administration in Advisory Circular 150/5200-33B Hazardous Wildlife Attractants on or Near Airports, recommends that airports protect approach, departure and circling airspace within this perimeter from hazardous wildlife attractants if the attractant could cause hazardous wildlife movement into or across the approach or departure airspace. The endangered Hawaiian goose or nene (*Branta sandvicensis*) and Hawaiian duck (*Anas wyvilliana*) at the Kauai Lagoons property, have been identified as serious hazards to aviation at Lihue Airport by a Wildlife Hazard Assessment and other ecological studies at Lihue Airport. Yet the DEA does not address this serious safety concern. Nowhere does it mention whether the project would have an effect on wildlife hazards to aviation.
2. Notwithstanding the USFWS comments and Kauai Lagoons MOA with the Service in the development of a Habitat Conservation Plan, we consider any propagation or enhancement of the Hawaiian goose or other wildlife habitat as creating an attractant that could increase hazardous wildlife populations or movements that would increase the risk of a catastrophic collision with an airliner or other aircraft and cause injury or loss of human life and property. Wildlife Services has chased the geese from Lihue Airport 2,791 times in 2008 in an effort to prevent them from colliding with aircraft, with most of the geese flying back into Kauai Lagoons property where they forage, nest and rear their young. We therefore strongly oppose any measure that would create more or enhance existing nene habitat on property between and adjacent to the two main runways at Lihue Airport.

3. There are 48.55 acres of wetlands present on the Kauai Lagoons resort property as golf course water hazards, pond complex and wastewater overflow pond within the angle formed by the two runways at LIH. Kauai Lagoons has created these artificial wetlands within Perimeter C of Lihue Airport and attracts large numbers of waterbirds. Kauai Lagoons has also allowed DOFAW to encourage the Hawaiian goose to nest on the resort property by artificial feeding and predator control. Wildlife Services strongly opposes maintaining this goose population so close to Lihue Airport and recommends that Kauai Lagoons work with the USFWS and DOFAW to eliminate the population of geese on Kauai Lagoons property adjacent to Lihue Airport in order to remove this hazard to aviation.

If you have any questions regarding these comments please call Tim J. Ohashi at 808 985-8505 or email at tim.j.ohashi@aphis.usda.gov. We also urge you to consult with the U.S. Department of Agriculture and the Federal Aviation Administration for any and all projects that you may be involved with that fall within the 5 mile perimeter of the major airports of Hawaii that have the potential for attracting wildlife.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Mike E. Pitzler', with a stylized, flowing script.

MIKE E PITZLER
State Director

tjo



6266-23
July 9, 2009

1907 South Beretania Street
Artesian Plaza, Suite 400
Honolulu, Hawaii, 96826 USA
Phone: 808 946 2277
Fax: 808 946 2253
www.wilsonokamoto.com

Mr. Mike E. Pitzler, State Director
United States Department of Agriculture
Animal and Plant Health Inspection Service
Wildlife Services
3375 Koapaka Street, Suite H-420
Honolulu, Hawaii 96819-1869

Subject: Draft Environmental Assessment (EA)
Kauai Lagoons Resort Density Amendment Project
Tax Map Keys: (4) 3-5-01: 27 (Por.), 102, and 168 (Por.)
Kalapaki, Lihue, Island of Kauai, Hawaii

Dear Mr. Pitzler:

Thank you for your letter of June 19, 2008 regarding the subject Project.

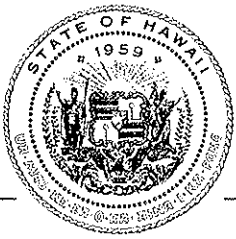
The Petitioner/Applicant acknowledges your Agency's concerns regarding the endangered Hawaiian geese or Nene population within the Kauai Lagoons Resort and the associated hazard to aviation operations at the Lihue Airport. As indicated in the Draft EA, the Petitioner/Applicant will be submitting a joint Federal-State Habitat Conservation Plan (HCP) in accordance with the requirements of Section 10 of the Endangered Species Act, as amended, and §195-D, Hawaii Revised Statutes to the U.S. Fish and Wildlife Service (USFWS) and the State Department of Land and Natural Resources Division of Forestry and Wildlife (DLNR DOFAW). Your Agency's concerns will be noted in the HCP. Ultimately, it will be the decision of the USFWS and DLNR DOFAW in determining how the population and habitat of the Nene within the Kauai Lagoons Resort will be managed. As the Petitioner/Applicant continues to work with the USFWS and DLNR DOFAW, your Agency will be kept apprised of the discussions with these agencies.

We very much appreciate your time and effort in reviewing the subject EA.

Sincerely,

Ronald A. Sato, AICP
Project Manager

cc: Mr. Michael Laureta, County of Kauai Planning Department
Ms. Katherine Puana Kealoha, State Office of Environmental Quality Control
Mr. Steve Busch, MORI Golf (Kauai), LLC



DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM

LINDA LINGLE
GOVERNOR
THEODORE E. LIU
DIRECTOR
MARK K. ANDERSON
DEPUTY DIRECTOR
ABBEY SETH MAYER
DIRECTOR
OFFICE OF PLANNING

OFFICE OF PLANNING

235 South Beretania Street, 6th Floor, Honolulu, Hawaii 96813
Mailing Address: P.O. Box 2359, Honolulu, Hawaii 96804

Telephone: (808) 587-2846
Fax: (808) 587-2824

Ref. No. P-12614

June 18, 2009

RECEIVED
JUN 22 2009

Mr. Ronald A. Sato, AICP
Wilson Okamoto Corporation
1907 South Beretania Street
Artesian Plaza, Suite 400
Honolulu, Hawaii 96826

WILSON OKAMOTO CORPORATION

Dear Mr. Sato:

Subject: Draft Environmental Assessment
Kauai Lagoons Resort Density Amendment Project
Kalapaki, Lihue, Island of Kauai, Hawaii
Tax Map Key (4) 3-5-01: 27 (Por.), 102, and 168 (Por.)

Thank you for sending the Office of Planning (OP) the Draft Environmental Assessment for the above referenced proposal to reclassify 14.96 acres of land from the State Agricultural District to the State Urban District to develop 15 lots in two subdivisions (1A and 5). We note that the proposal also includes Subdivision 6, which will contain 7 lots, but is already within the State Urban District. The Petitioner is requesting an increase in density within the Kauai Lagoons Resort area in exchange for the conveyance of a 138-acre oceanfront parcel, TMK 3-05-001: 102, located east of the Lihue Airport to the County of Kauai for public purposes. The Resort is located adjacent to the Lihue Airport. OP had previously commented on the Pre-Assessment Consultation for an Environmental Assessment on October 17, 2008, and we note that our comments and your response are included in this document.

At this time, we offer no further comments. In so doing, we are not making a judgment of either the adequacy of the document itself or the merits of the proposed project.

If you have any questions, please contact Lorene Maki of our Land Use Division at 587-2888.

Sincerely,

Abbey Seth Mayer
Director

c: Orlando Davidson, LUC
Ms. Katherine Puana Kealoha, Director, OEQC
Mr. Michael Laureta, County of Kauai, Planning Department



6266-23
July 9, 2009

Mr. Abbey Seth Mayer, Director
State of Hawaii
Department of Business, Economic Development & Tourism
Office of Planning
P.O. Box 2359
Honolulu, Hawaii 96804

1907 South Beretania Street
Artesian Plaza, Suite 400
Honolulu, Hawaii, 96826 USA
Phone: 808.946.2277
Fax: 808.946.2253
www.wilsonokamoto.com

Subject: Draft Environmental Assessment (EA)
Kauai Lagoons Resort Density Amendment Project
Tax Map Keys: (4) 3-5-01: 27 (Por.), 102, and 168 (Por.)
Kalapaki, Lihue, Island of Kauai, Hawaii

Dear Mr. Mayer:

Thank you for your letter of June 18, 2009 (Ref. No. P-12614) indicating your Department offers no further comments.

We very much appreciate your time and effort in reviewing the subject EA.

Sincerely,

Ronald A. Sato, AICP
Project Manager

cc: Mr. Michael Laureta, County of Kauai Planning Department
Ms. Katherine Puana Kealoha, State Office of Environmental Quality Control
Mr. Steve Busch, MORI Golf (Kauai), LLC



STATE OF HAWAII
DEPARTMENT OF HEALTH
P.O. Box 3378
HONOLULU, HAWAII 96801-3378

In reply, please refer to:

EPO-09-080

June 16, 2009

Mr. Ronald A. Sato
Wilson Okamoto Corporation
1907 South Beretania Street, Suite 400
Honolulu, Hawaii 96826

RECEIVED
JUN 19 2009

WILSON OKAMOTO CORPORATION

Dear Mr. Sato:

SUBJECT: Draft Environmental Assessment for Kauai Lagoon Resort Density Amendment Project
Kalapaki, Lihue, Kauai, Hawaii
TMK: (4) 3-5-001:027 (por.), 102 and 168 (por.)

Thank you for allowing us to review and comment on the subject application. The application was routed to the various branches of the Environmental Health Administration. We have the following Clean Water Branch and General comments.

Clean Water Branch

The Department of Health (DOH), Clean Water Branch (CWB), has reviewed the subject document and offers these comments on your project. Please note that our review is based solely on the information provided in the subject document and its compliance with Hawaii Administrative Rules (HAR), Chapters 11-54 and 11-55. You may be responsible for fulfilling additional requirements related to our program. We recommend that you also read our standard comments on our website at

<http://www.hawaii.gov/health/environmental/env-planning/landuse/CWB-standardcomment.pdf>.

1. Any project and its potential impacts to State waters must meet the following criteria:
 - a. Antidegradation policy (HAR, Section 11-54-1.1), which requires the existing uses and the level of water quality necessary to protect the existing uses of the receiving State water be maintained and protected.
 - b. Designated uses (HAR, Section 11-54-3), as determined by the classification of the receiving State waters.
 - c. Water quality criteria (HAR, Sections 11-54-4 through 11-54-8).

2. You are required to obtain a National Pollutant Discharge Elimination System (NPDES) permit for discharges of wastewater, including storm water runoff, into State surface waters (HAR, Chapter 11-55). For the following types of discharges into Class A or Class 2 State waters, you may apply for NPDES general permit coverage by submitting a Notice of Intent (NOI) form:

- a. Storm water associated with industrial activities, as defined in Title 40, Code of Federal Regulations (CFR), Sections 122.26(b)(14)(i) through 122.26(b)(14)(ix) and 122.26(b)(14)(xi).
- b. Storm water associated with construction activities, including clearing, grading, and excavation, that result in the disturbance of equal to or greater than one (1) acre of total land area. The total land area includes a contiguous area where multiple separate and distinct construction activities may be taking place at different times on different schedules under a larger common plan of development or sale. An NPDES permit is required before the start of the construction activities.
- c. Hydrotesting water.
- d. Construction dewatering effluent.

A separate NOI form for each type of discharge must be submitted at least 30 calendar days prior to the start of the discharge activity, except when applying for coverage for discharges of storm water associated with construction activity. For this type of discharge, the NOI must be submitted 30 calendar days before to the start of construction activities. The NOI forms may be picked up at our office or downloaded from our website at <http://www.hawaii.gov/health/environmental/water/cleanwater/forms/genl-index.html>.

3. For types of discharges not listed in Item No. 2 above or wastewater discharges into Class 1 or Class AA waters, you may need to obtain an NPDES individual permit. An application for an NPDES individual permit must be submitted at least 180 calendar days before the commencement of the discharge. The NPDES application forms may be picked up at our office or downloaded from our website at <http://www.hawaii.gov/health/environmental/water/cleanwater/forms/indiv-index.html>.

4. The CWB acknowledges that consultation with the Department of Land and Natural Resources, State Historic Preservation Division (SHPD) has been initiated. Please submit a copy of your request for review by SHPD or SHPD's determination letter for the project along with your NOI or NPDES permit application, as applicable.

5. Please note that all discharges related to the project construction or operation activities, whether or not NPDES permit coverage and/or Section 401 WQC are required, must comply

Mr. Sato
June 16, 2009
Page 3

with the State's Water Quality Standards. Noncompliance with water quality requirements contained in HAR, Chapter 11-54, and/or permitting requirements, specified in HAR, Chapter 11-55, may be subject to penalties of \$25,000 per day per violation.

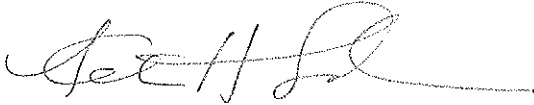
If you have any questions, please visit our website at <http://www.hawaii.gov/health/environmental/water/cleanwater/index.html>, or contact the Engineering Section, CWB, at (808) 586-4309.

General

We strongly recommend that you review all of the Standard Comments on our website: www.hawaii.gov/health/environmental/env-planning/landuse/landuse.html. Any comments specifically applicable to this project should be adhered to.

If there are any questions about these comments please contact Jiakai Liu with the Environmental Planning Office at 586-4346.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kelvin H. Sunada', with a long horizontal line extending to the right.

KELVIN H. SUNADA, MANAGER
Environmental Planning Office

c: EPO
CWB
EH-Kauai



6266-23
July 9, 2009

Mr. Kelvin H. Sunada, Manager
State of Hawaii
Department of Health
Environmental Planning Office
P.O. Box 3378
Honolulu, Hawaii 96801-3378

1907 South Beretania Street
Artesian Plaza, Suite 400
Honolulu, Hawaii, 96826 USA
Phone: 808.946.2277
Fax: 808.946.2253
www.wilsonokamoto.com

Subject: Draft Environmental Assessment (EA)
Kauai Lagoons Resort Density Amendment Project
Tax Map Keys: (4) 3-5-01: 27 (Por.), 102, and 168 (Por.)
Kalapaki, Lihue, Island of Kauai, Hawaii

Dear Mr. Sunada:

Thank you for your letter of June 16, 2008 (Ref: EPO-09-080) regarding the subject Project. We offer the following responses in the order of your comments:

1. The proposed Project and its potential impacts to State waters will be designed to meet the criteria for antidegradation policy (HAR, Section 11-54-1.1), designated uses (HAR, Section 11-54-3) and water quality criteria (HAR, Sections 11-54-4 through 11-54-8).
2. The development of Subdivisions 1A and 6 of the proposed Project will be covered under the existing Notice of General Permit Coverage (NGPC) NPDES (File No. R10D086) which has been obtained from the State Department of Health by letter dated April 23, 2008. A NPDES General Permit for Storm Water Associated with Construction Activity will be obtained for the development of Subdivision 5 of the proposed Project.
3. The proposed Project will not require an NPDES individual permit.
4. A copy of the letter dated May 9, 2005 from SHPD will be included with the NPDES permit application.
5. Any discharges related to the Project construction and operation activities will comply with the State's Water Quality Standards.

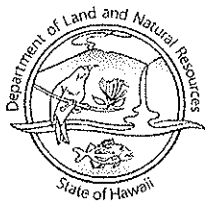
The Petitioner/Applicant will review the Standard Comments on your Department's website and all comments specifically applicable to the Project will be adhered to.

We very much appreciate your time and effort in reviewing the subject EA.

Sincerely,

Ronald A. Sato, AICP
Project Manager

cc: Mr. Michael Laureta, County of Kauai Planning Department
Ms. Katherine Puana Kealoha, State Office of Environmental Quality Control
Mr. Steve Busch, MORI Golf (Kauai), LLC



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

June 19, 2009

Wilson Okamoto Corporation
1907 South Beretania Street Suite 400
Honolulu, Hawaii 96826

RECEIVED
JUN 23 2009

Attention: Mr. Ronald A. Sato, AICP

WILSON OKAMOTO CORPORATION

Ladies and Gentlemen:

Subject: Draft Environmental Assessment for Kauai Lagoons Resort Density
Amendment Project

Thank you for the opportunity to review and comment on the subject matter. The Department of Land and Natural Resources' (DLNR), Land Division distributed or made available a copy of your report pertaining to the subject matter to DLNR Divisions for their review and comment.

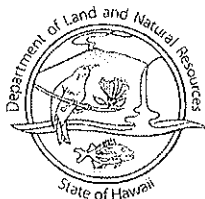
Other than the comments from Engineering Division, the Department of Land and Natural Resources has no other comments to offer on the subject matter. Should you have any questions, please feel free to call our office at 587-0433. Thank you.

Sincerely,

A handwritten signature in cursive script, appearing to read "Morris M. Atta".

Morris M. Atta
Administrator

Cc: OEQC
County of Kauai, Planning Dept.



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

May 20, 2009

MEMORANDUM

TO: **DLNR Agencies:**
☒ Div. of Aquatic Resources
☐ Div. of Boating & Ocean Recreation
☒ Engineering Division
☐ Div. of Forestry & Wildlife
☐ Div. of State Parks
☒ Commission on Water Resource Management
☒ Office of Conservation & Coastal Lands
☐ Land Division -

RECEIVED
LAND DIVISION
2009 JUN 17 P 3:20
DEPARTMENT OF LAND & NATURAL RESOURCES
STATE OF HAWAII

FROM:

Morris M. Atta

SUBJECT: Draft environmental assessment for Kauai Lagoons Resort Density Amendment Project

LOCATION: Lihue, Kauai

APPLICANT: MORI Golf (Kauai), LLC

Transmitted for your review and comment on the above referenced document. We would appreciate your comments on this document. Please submit any comments by June 19, 2009.

If no response is received by this date, we will assume your agency has no comments. If you have any questions about this request, please contact my office at 587-0433. Thank you.

Attachments

- () We have no objections.
() We have no comments.
(X) Comments are attached.

Signed:

Date:

[Signature]
6/16/09

**DEPARTMENT OF LAND AND NATURAL RESOURCES
ENGINEERING DIVISION**

LD/MorrisAtta

REF.:DEAKauaiResortLagoonsDensityAmendment

Kauai.75

COMMENTS

- (X) **We confirm that the project site, according to the Flood Insurance Rate Map (FIRM), is located in Zone X. The National Flood Insurance Program does not have any regulations for developments within Zone X.**
- () Please take note that the project site, according to the Flood Insurance Rate Map (FIRM), is located in Zone.
- () Please note that the correct Flood Zone Designation for the project site according to the Flood Insurance Rate Map (FIRM) is ____.
- () Please note that the project must comply with the rules and regulations of the National Flood Insurance Program (NFIP) presented in Title 44 of the Code of Federal Regulations (44CFR), whenever development within a Special Flood Hazard Area is undertaken. If there are any questions, please contact the State NFIP Coordinator, Ms. Carol Tyau-Beam, of the Department of Land and Natural Resources, Engineering Division at (808) 587-0267.

Please be advised that 44CFR indicates the minimum standards set forth by the NFIP. Your Community's local flood ordinance may prove to be more restrictive and thus take precedence over the minimum NFIP standards. If there are questions regarding the local flood ordinances, please contact the applicable County NFIP Coordinators below:

- () Mr. Robert Sumitomo at (808) 768-8097 or Mr. Mario Siu Li at (808) 768-8098 of the City and County of Honolulu, Department of Planning and Permitting.
- () Mr. Kelly Gomes at (808) 961-8327 (Hilo) or Mr. Kiran Emler at (808) 327-3530 (Kona) of the County of Hawaii, Department of Public Works.
- () Mr. Francis Cerizo at (808) 270-7771 of the County of Maui, Department of Planning.
- () Mr. Mario Antonio at (808) 241-6620 of the County of Kauai, Department of Public Works.
- () The applicant should include water demands and infrastructure required to meet project needs. Please note that projects within State lands requiring water service from the Honolulu Board of Water Supply system will be required to pay a resource development charge, in addition to Water Facilities Charges for transmission and daily storage.
- () The applicant should provide the water demands and calculations to the Engineering Division so it can be included in the State Water Projects Plan Update.

- () Additional Comments: _____
- () Other: _____

Should you have any questions, please call Ms. Suzie S. Agraan of the Planning Branch at 587-0258.

Signed: _____

ERIC T. MIRANO, CHIEF ENGINEER

Date: _____

6/16/09



6266-23
July 9, 2009

Mr. Morris M. Atta, Administrator
State of Hawaii
Department of Land and Natural Resources
Land Division
P.O. Box 621
Honolulu, Hawaii 96809

1907 South Beretania Street
Artesian Plaza, Suite 400
Honolulu, Hawaii, 96826 USA
Phone: 808.946.2277
Fax: 808.946.2253
www.wilsonokamoto.com

Subject: Draft Environmental Assessment (EA)
Kauai Lagoons Resort Density Amendment Project
Tax Map Keys: (4) 3-5-01: 27 (Por.), 102, and 168 (Por.)
Kalapaki, Lihue, Island of Kauai, Hawaii

Dear Mr. Atta:

Thank you for your letter of June 19, 2009 providing comments from the DLNR Engineering Division (Ref.: DEAKauaiResortLagoonsDensityAmendment Kauai.75) which confirmed that the project site is located in Zone X according to the Flood Insurance Rate Map (FIRM), and that the National Flood Insurance Program does not have any regulations for developments within Zone X.

We very much appreciate your time and effort in reviewing the subject EA.

Sincerely,

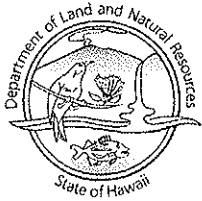
Ronald A. Sato, AICP
Project Manager

cc: Mr. Eric T. Hirano, State DLNR Engineering Division
Mr. Michael Laureta, County of Kauai Planning Department
Ms. Katherine Puana Kealoha, State Office of Environmental Quality Control
Mr. Steve Busch, MORI Golf (Kauai), LLC

LINDA LINGLE
GOVERNOR OF HAWAII



LAURA H. THIELEN
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

June 25, 2009

RECEIVED
JUN 26 2009

WILSON OKAMOTO CORPORATION

Wilson Okamoto Corporation
1907 South Beretania Street Suite 400
Honolulu, Hawaii 96826

Attention: Mr. Ronald A. Sato, AICP

Ladies and Gentlemen:

Subject: Draft Environmental Assessment for Kauai Lagoons Resort Density
Amendment Project

Thank you for the opportunity to review and comment on the subject matter. The Department of Land and Natural Resources' (DLNR), Land Division distributed or made available a copy of your report pertaining to the subject matter to Commission on Water Resource Management for their review and comment.

The Department of Land and Natural Resources has no other comments to offer on the subject matter. Should you have any questions, please feel free to call our office at 587-0433. Thank you.

Sincerely,

Charlene E. Unolui
for Morris M. Atta
Administrator



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT
P.O. BOX 621
HONOLULU, HAWAII 96809

June 24, 2009

REF: KauaiLagoons.doc

TO: Morris Atta, Administrator
Land Division

FROM: Ken C. Kawahara, P.E., Deputy Director
Commission on Water Resource Management

SUBJECT: Draft environmental assessment for Kauai Lagoons Resort Density Amendment Project

FILE NO.: NA

TMK NO.: (4) 3-5-01: 27 (por.), 102, and 168 (por.)

Ken C. Kawahara
2009 JUN 24 P 3:2
RECEIVED
LAND DIVISION

Thank you for the opportunity to review the subject document. The Commission on Water Resource Management (CWRM) is the agency responsible for administering the State Water Code (Code). Under the Code, all waters of the State are held in trust for the benefit of the citizens of the State, therefore, all water use is subject to legally protected water rights. CWRM strongly promotes the efficient use of Hawaii's water resources through conservation measures and appropriate resource management. For more information, please refer to the State Water Code, Chapter 174C, Hawaii Revised Statutes, and Hawaii Administrative Rules, Chapters 13-167 to 13-171. These documents are available via the Internet at <http://www.hawaii.gov/dlnr/cwrn>.

Our comments related to water resources are checked off below.

- ☒ 1. We recommend coordination with the county to incorporate this project into the county's Water Use and Development Plan. Please contact the respective Planning Department and/or Department of Water Supply for further information.
- ☐ 2. We recommend coordination with the Engineering Division of the State Department of Land and Natural Resources to incorporate this project into the State Water Projects Plan.
- ☐ 3. We recommend coordination with the Hawaii Department of Agriculture (HDOA) to incorporate the reclassification of agricultural zoned land and the redistribution of agricultural resources into the State's Agricultural Water Use and Development Plan (AWUDP). Please contact the HDOA for more information.
- ☒ 4. We recommend that water efficient fixtures be installed and water efficient practices implemented throughout the development to reduce the increased demand on the area's freshwater resources. Reducing the water usage of a home or building may earn credit towards Leadership in Energy and Environmental Design (LEED) certification. More information on LEED certification is available at <http://www.usgbc.org/leed>. A listing of fixtures certified by the EPA as having high water efficiency can be found at <http://www.epa.gov/watersense/pp/index.htm>.
- ☒ 5. We recommend the use of best management practices (BMP) for stormwater management to minimize the impact of the project to the existing area's hydrology while maintaining on-site infiltration and preventing polluted runoff from storm events. Stormwater management BMPs may earn credit toward LEED certification. More information on stormwater BMPs can be found at <http://hawaii.gov/dbedt/czm/initiative/lid.php>.

- ☒ 6. We recommend the use of alternative water sources, wherever practicable.
- ☐ 7. There may be the potential for ground or surface water degradation/contamination and recommend that approvals for this project be conditioned upon a review by the State Department of Health and the developer's acceptance of any resulting requirements related to water quality.

Permits required by CWRM:

Additional information and forms are available at http://hawaii.gov/dlnr/cwrn/resources_permits.htm.

- ☐ 8. The proposed water supply source for the project is located in a designated water management area, and a Water Use Permit is required prior to use of water.
- ☐ 9. A Well Construction Permit(s) is (are) required any well construction work begins.
- ☐ 10. A Pump Installation Permit(s) is (are) required before ground water is developed as a source of supply for the project.
- ☐ 11. There is (are) well(s) located on or adjacent to this project. If wells are not planned to be used and will be affected by any new construction, they must be properly abandoned and sealed. A permit for well abandonment must be obtained.
- ☐ 12. Ground water withdrawals from this project may affect streamflows, which may require an instream flow standard amendment.
- ☐ 13. A Stream Channel Alteration Permit(s) is (are) required before any alteration(s) can be made to the bed and/or banks of a stream channel.
- ☐ 14. A Stream Diversion Works Permit(s) is (are) required before any stream diversion works is (are) constructed or altered.
- ☐ 15. A Petition to Amend the Interim Instream Flow Standard is required for any new or expanded diversion(s) of surface water.
- ☐ 16. The planned source of water for this project has not been identified in this report. Therefore, we cannot determine what permits or petitions are required from our office, or whether there are potential impacts to water resources.
- ☒ OTHER:
We recommend that the project examine the Commission's Handbook for Stormwater Reuse and Reclamation Best Management Practices in Hawaii. This document can be found on our website:
http://hawaii.gov/dlnr/cwrn/planning_augmentation.htm.
The implementation of these best management practices for the development may significantly reduce the quantity and improve the quality of the stormwater generated. This will help to reduce the amount of stormwater that will need to be retained in the planned retention basins.

If there are any questions, please contact Jeremy Kimura at 587-0269.

JLSK:sd



6266-23
July 9, 2009

1907 South Beretania Street
Artesian Plaza, Suite 400
Honolulu, Hawaii, 96826 USA
Phone: 808 946 2277
Fax: 808 946 2253
www.wilsonokamoto.com

Mr. Morris M. Atta, Administrator
State of Hawaii
Department of Land and Natural Resources
Land Division
P.O. Box 621
Honolulu, Hawaii 96809

Subject: Draft Environmental Assessment (EA)
Kauai Lagoons Resort Density Amendment Project
Tax Map Keys: (4) 3-5-01: 27 (Por.), 102, and 168 (Por.)
Kalapaki, Lihue, Island of Kauai, Hawaii

Dear Mr. Atta:

Thank you for your letter of June 25, 2009 providing comments from the DLNR Commission on Water Resource Management (Ref.: KauaiLagoons.doc) regarding the subject Project.

The Petitioner/Applicant will coordinate with the County of Kauai Department of Water regarding this Project relative to the County's 2020 Water Plan for Kauai.

As indicated in Section 2.2 of the Draft EA, the Project proposes to incorporate the application of Leadership in Energy and Environmental Design (LEED) standards and strategies, to the extent deemed economically feasible, to achieve sustainable site, utilities and building development. These include measures such as the use of high efficiency plumbing fixtures, design for low irrigation water usage, and use of non-potable water for landscape irrigation to reduce potable water usage. As indicated in Section 3.19.2 of the Draft EA, Kauai Lagoons Resort has entered into an agreement with the County of Kauai to design and construct a filtration and disinfection system upgrade at the existing Lihue Wastewater Treatment Plant that will allow the plant to upgrade its current treated R-2 effluent to R-1 quality level to comply with the State Department of Health's effluent reuse criteria. The upgrade to R-1 quality water will enable the use of high quality reclaimed water for all irrigation needs for the Kauai Lagoons Resort's golf courses and landscaping for the resort and residential common areas, including the proposed Project.

The proposed Project's use of Best Management Practices (BMPs) for stormwater management will include development of an erosion and sedimentation control plan meeting the construction activity pollution prevention criteria. This would include reducing pollution from construction activities by controlling soil erosion, waterway sedimentation and airborne dust generation. In addition, the Project's design will consider reuse of the majority of the storm water volume generated for non-potable water uses. This would include the capture of storm water runoff and its return to the Resort's lagoons or being retained on-site. As recommended, the Commission's Handbook for Storm Water Reuse and Reclamation Best Management Practices in Hawaii will be referenced in the development of the proposed Project.



6266-23
Letter to Mr. Morris M. Atta
July 9, 2009
Page 2

We very much appreciate your time and effort in reviewing the subject EA.

Sincerely,

Ronald A. Sato, AICP
Project Manager

cc: Mr. Ken C. Kawahara, P.E., DLNR Commission on Water Resource Management
Mr. Michael Laureta, County of Kauai Planning Department
Ms. Katherine Puana Kealoha, State Office of Environmental Quality Control
Mr. Steve Busch, MORI Golf (Kauai), LLC



STATE OF HAWAII
DEPARTMENT OF EDUCATION
P.O. BOX 2360
HONOLULU, HAWAII 96804

OFFICE OF SCHOOL FACILITIES AND SUPPORT SERVICES

June 9, 2009

RECEIVED
JUN 11 2009
SCHOOL FACILITIES DIVISION

Mr. Ronald Sato
Wilson Okamoto Corporation
1907 South Beretania Street, Suite 400
Honolulu, Hawaii 96826

Dear Mr. Sato:

Subject: Draft Environmental Assessment Kauai Lagoons Resort
Lihue, Kaua'i, TMK: 3-5-001: por. 27, 102, por. 168

The Department of Education (DOE) has reviewed the Draft Environmental Assessment (DEA) for the increase in density of the Kauai Lagoons Resort. We would like to respond to your assessment of the impact of the increased density in the Lagoons project which was described in Section 3.16 of the DEA and in your letter of May 8, 2009 to Patricia Hamamoto.

The DEA states that since the 22 additional units would be "primary or secondary residences" they will not generate a significant demand on student enrollment. It is unclear what this means since most students reside in primary or secondary residences. Your letter states that there is a "criteria of proportionality" which appears to make school impact fees inapplicable to your project. Proportionality is not a criterion in the application of school impact fees on individual projects within a school impact district.

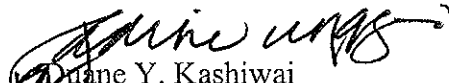
In our letter to you about the project, dated October 17, 2008, we stated that the project could possibly be required to pay school impact fees, if the additional units are located in a school impact district. If the Board of Education adopts a school impact district, all new residential development within the district must pay school impact fees.

We do not know at this time if an impact district will be proposed for any areas on the island of Kauai. We also note that there have been no agreements with the Kauai Lagoons project to provide any school fair share contributions for any of the proposed 750 dwelling units within the project, or its 31 affordable housing units. We expect a project of that size will have an impact on school enrollments, once all units are occupied and the project reaches maturity.

Mr. Ronald Sato
Page 2
June 9, 2009

Thank you for this opportunity to offer our comments. If you have any questions, please call Heidi Meeker of the Facilities Development Branch at 377-8301.

Sincerely yours,


Duane Y. Kashiwai
Public Works Administrator
Facilities Development Branch

DYK:jmb

c: William Arakaki, CAS, Kapaa/Kauai/Waimea Complex Areas
Katherine Puana Kealoha, OEQC
Michael Laureta, County of Kauai, Planning Department



6266-23
July 9, 2009

1907 South Beretania Street
Artesian Plaza, Suite 400
Honolulu, Hawaii, 96826 USA
Phone: 808.946.2277
Fax: 808.946.2253
www.wilsonokamoto.com

Mr. Duane Y. Kashiwai, Public Works Administrator
State of Hawaii
Department of Education
Facilities Development Branch
P.O. Box 2360
Honolulu, Hawaii 96804

Subject: Draft Environmental Assessment (EA)
Kauai Lagoons Resort Density Amendment Project
Tax Map Keys: (4) 3-5-01: 27 (Por.), 102, and 168 (Por.)
Kalapaki, Lihue, Island of Kauai, Hawaii

Dear Mr. Kashiwai:

Thank you for your letter of June 9, 2009 regarding the subject Project.

Although the proposed 22 single-family residential units would be primary or secondary residences, given the resort nature of the development, the residents would typically include couples who are empty nesters, or families with school age children who tend to occupy the residences mostly during periods when schools are out of session or on extended summer breaks. This information will be included in the Final EA.

It is acknowledged that the DOE is uncertain at this time if a school impact district will be proposed for any areas on Kauai. Should such a school impact district for the project area be established in the future, it is acknowledged that school impact fees may be applicable to the Kauai Lagoons Resort development.

We very much appreciate your time and effort in reviewing the subject EA.

Sincerely,

Ronald A. Sato, AICP
Project Manager

cc: Mr. Michael Laureta, County of Kauai Planning Department
Ms. Katherine Puana Kealoha, State Office of Environmental Quality Control
Mr. Steve Busch, MORI Golf (Kauai), LLC

LINDA LINGLE
GOVERNOR



STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
869 PUNCHBOWL STREET
HONOLULU, HAWAII 96813-5097

BRENNON T. MORIOKA
DIRECTOR

Deputy Directors
MICHAEL D. FORMBY
FRANCIS PAUL KEENO
BRIAN H. SEKIGUCHI
JIRO A. SUMADA

IN REPLY REFER TO:

STP 8.3305

June 22, 2009

RECEIVED
JUN 25 2009

WILSON OKAMOTO CORPORATION

Mr. Ronald A. Sato, AICP
Wilson Okamoto Corporation
1907 South Beretania Street
Artesian Plaza, Suite 400
Honolulu, Hawaii 96826

Dear Mr. Sato:

Subject: Kauai Lagoons Resort Density Amendment Project
Draft Environmental Assessment (DEA)
TMK: 3-5-01: 27 (Por.), 102, and 168 (Por.)

Thank you for requesting the State Department of Transportation's (DOT) review of the Kauai Lagoons Resort Density Amendment Project DEA.

DOT understands that the proposed density amendment would add 22 single-family units to the currently approved 750-unit resort development. While it is not anticipated that the additional 22 dwelling units will significantly impact the overall density of the Kauai Lagoons Resort, DOT remains concerned with the impact of the full build-out on the State's transportation facilities in the area. The resort's comprehensive development plan reflecting final and full build-outs should identify project increments, phases, type of units to be built and the types of uses envisioned by the developer. DOT submits the following modal comments.

Highways

1. A prior traffic impact analysis report (TIAR) was rejected by DOT Highways Division because it did not meet nationally accepted standards of practice (letter HWY-PS 2.0065 dated December 17, 2008). The subject DEA indicates that an updated TIAR was completed in January 2009. However, to date, this has not been formally submitted to DOT. The applicant must formally submit the updated TIAR to DOT Highways Division for review and approval.
2. This incremental increase in units may not be significant in and of itself, however, it should be accounted for in the roadway and intersections improvements to mitigate the overall project-generated impacts.

Airports

1. DOT objects to and opposes any enhancement of the nesting area for the Nene and/or other wildlife because of the potential hazard to aircraft operations at Lihue Airport. Federal Aviation Administration (FAA) Advisory Circular 150/5200-38B, Hazardous Wildlife Attractants On or Near Airports, recommends a distance of five (5) statute miles between the farthest edge of the airport's operating area and the hazardous wildlife attractant if the attractant could cause hazardous wildlife movement into or across the approach or departure airspace. The habitat has to be eliminated and the wildlife relocated to areas where the wildlife will not pose a risk to the safety of aircraft operations at the airport.
2. The applicant's Habitat Conservation Plan (HCP) should incorporate measures to eliminate the nesting habitat and provide mitigation measures to the same extent as the HCP for the Hawaiian Stilt at the Cyanotech Aquaculture Facility adjacent to Kona International Airport at Keahole. The HCP for the Hawaiian Stilt can be found at this website; http://www.state.hi.us/dlnr/dofaw/pubs/Cyanotech_Federal_HCP.pdf.
3. Additionally, DOT is concerned that the proposed seven (7) detention basins throughout the property will develop into wildlife attractants and potentially impact the safety of aircraft operations. The detention basins should be designed to eliminate standing bodies of water, to remain completely dry between rainfalls and to prevent vegetation that may provide a nesting habitat. Physical barriers may also be used to deter birds and other hazardous wildlife from entering the area.
4. DOT acknowledges that the applicant will comply with Condition No. 9 of Zoning Ordinance No. PM-2006-383 which states in part that:

"No residential, condominium, or hotel units shall be constructed within areas greater than the 60 DNL noise contours of the Lihue Airport; provided, however, that such uses may be permitted in accordance within the 60 to 65 DNL noise contours, if there is an accompanying mitigation of interior noise to the 45 DNL noise level."
5. DOT acknowledges that the applicant has complied with Condition 14 of Zoning Ordinance No. PM-2006-383 by granting an Aviation and Noise Easement to the State of Hawaii, DOT Airports Division.

Mr. Ronald A. Sato, AICP

STP 8.3305

Page 3

June 22, 2009

DOT appreciates the opportunity to provide comments. If there are any questions, please contact Mr. David Shimokawa of the DOT Statewide Transportation Planning Office at (808) 587-2356.

Very truly yours,

Francis Paul Keeno

for BRENNON T. MORIOKA, Ph.D., P.E.
Director of Transportation

c: Katherine Kealoha, Office of the Environmental Quality Control
Michael Laureta, Kauai Planning Department



6266-23
July 9, 2009

1907 South Beretania Street
Artesian Plaza, Suite 400
Honolulu, Hawaii, 96826 USA
Phone: 808 946 2277
Fax: 808 946 2253
www.wilsonokamoto.com

Mr. Brennon T. Morioka, Ph.D, P.E., Director
State of Hawaii
Department of Transportation
869 Punchbowl Street
Honolulu, Hawaii 96813-5097

Subject: Draft Environmental Assessment (EA)
Kauai Lagoons Resort Density Amendment Project
Tax Map Keys: (4) 3-5-01: 27 (Por.), 102, and 168 (Por.)
Kalapaki, Lihue, Island of Kauai, Hawaii

Dear Mr. Morioka:

Thank you for your letter of June 22, 2008 (Ref.: STP 8.3305) regarding the subject Project.

Highways

An updated Traffic Impact Report (TIR) conducted in June 2009 has been submitted to the DOT Highways Division Planning Branch, of which a copy will be submitted to the DOT Statewide Transportation Planning Office. The updated TIR assesses the traffic impacts resulting from the overall development of the Kauai Lagoons Resort, including the proposed 22 single-family residential units.

As indicated in the Draft EA, in accordance with Condition No. 6 of the Amended Special Management Area Use Permit for the Kauai Lagoons Resort approved by the County of Kauai Planning Commission on June 10, 2008, the Petitioner/Applicant and Kauai Lagoons LLC submitted a Memorandum of Agreement (MOA) to the State DOT Highways Division on November 20, 2008 which identifies specific proposed roadway improvements and associated funding and construction considerations in association with the Kauai Lagoons Resort development. The MOA includes specific improvements to be designed, permitted, funded, and constructed at the Kāpule Highway/Rice Street intersection, the Kāpule Highway/Ninini Point Street/Vidinha Stadium Access Road (Hoolako Street) intersection, and the Kāpule Highway/Haoa Street/Halau Street intersection in accordance with Condition No. 6 of the Amended SMA Permit. The Petitioner Applicant and Kauai Lagoons LLC are currently in discussions with the DOT Highways Division with regard to specific intersection improvements to be provided in conjunction with the Kauai Lagoons Resort development, which also includes consideration of the recommended improvements from the updated TIR and the County's proposed Vidinha Stadium Expansion project. The Petitioner/Applicant and Kauai Lagoons LLC are maintaining ongoing discussions with the DOT Highways Division toward seeking resolution and ultimately execution of the MOA.

Airports

Your Department's objection to enhancement of the nesting areas for the endangered Nene and other waterbird species within the Kauai Lagoons Resort due to the potential hazard to aircraft operations at Lihue Airport is acknowledged. The Petitioner/Applicant will be submitting a joint Federal-State Habitat Conservation Plan (HCP) in accordance with the requirements of Section 10 of the Endangered Species Act, as amended, and §195-D, Hawaii Revised Statutes to the U.S. Fish and Wildlife Service (USFWS) and the

M:\WOA\6266-23 Kauai Lagoons Density Transfer\50 Draft EA\Draft EA Response Letters\DOT Resp Ltr 7-9-09.doc



6266-23

Letter to Mr. Brennon T. Morioka

July 9, 2009

Page 2

State Department of Land and Natural Resources Division of Forestry and Wildlife (DLNR DOFAW). Your Department's concerns will be noted in the HCP. Ultimately, it will be the decision of the USFWS and DLNR DOFAW in determining how the population and habitat of the Nene and other waterbird species within the Kauai Lagoons Resort will be managed. As the Petitioner/Applicant continues to work with the USFWS and DLNR DOFAW, your Department will be kept apprised of the discussions with these agencies.

The proposed seven (7) detention basins to be located within the Kauai Lagoons Resort will each be designed to eliminate standing water between rainfall events. To accommodate heavy rainfall events, the basins will be designed to accumulate not more than two (2) feet of standing water before percolating into the ground and outlet structure. The grassed detention basins will be maintained to prevent the growth of other vegetation that may affect the function of the basins. We note that the use of physical barriers around the detention basins would not be a feasible option since the basins will be integrated within the Resort's golf course areas.

We acknowledge your Department's acknowledgment that the Petitioner/Applicant will comply with Condition No. 9 of Zoning Ordinance No. PM-2006-383, and has complied with Condition No. 14 of Zoning Ordinance No. PM-2006-383.

We very much appreciate your time and effort in reviewing the subject EA.

Sincerely,

Ronald A. Sato, AICP
Project Manager

cc: Mr. Michael Laureta, County of Kauai Planning Department
Ms. Katherine Puana Kealoha, State Office of Environmental Quality Control
Mr. Steve Busch, MORI Golf (Kauai), LLC

PHONE (808) 594-1888

FAX (808) 594-1865



STATE OF HAWAII
OFFICE OF HAWAIIAN AFFAIRS
711 KAPI'OLANI BOULEVARD, SUITE 500
HONOLULU, HAWAII 96813

HRD09/2141E

June 23, 2009

RECEIVED
JUN 29 2009

WILSON OKAMOTO CORPORATION

Ronald A. Sato
Wilson Okamoto Corporation
Beretania Street, Suite 400
Honolulu, HI 96826

**RE: Draft Environmental Assessment for the Kaua'i Lagoons Resort Density
Amendment Project, Kalapaki, Lihu'e, Kaua'i, TMK: (4) 3-5-01: 27, 102 and 168.**

Aloha e Ronald A. Sato,

The Office of Hawaiian Affairs (OHA) is in receipt of your letter requesting comments on the above-mentioned project. MORI Golf (Kauai) LLC, Kauai Development LLC and the County of Kauai plan to enter into an agreement that would allow for 1) the conveyance of an undeveloped, 138-acre, oceanfront property to the county; and 2) MORI Golf (Kauai) LLC and its partners to develop 22 additional dwelling units within the Kaua'i Lagoons Resort. To develop the additional 22 dwelling units, MORI Golf (Kauai) LLC will request a county zoning amendment, district boundary amendment and County General Plan amendment. OHA has reviewed the project and offers the following comments.

As a general rule, OHA disapproves of any land reclassification or zoning change that would result in the reduction of urban development protections afforded to a property. OHA would only approve of such land reclassifications or zoning changes in special cases in which increased development is merited. We believe that agricultural lands and their status as such should be preserved, as their purpose fulfills a crucial need of the Native Hawaiian community and the state as a whole, as well as being constitutionally protected. (Hawai'i State Constitution, Article XI, section 3.) However, OHA sees that the proposed agreement could greatly benefit the general public and may well justify the zoning change and land reclassification being

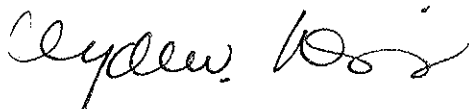
requested. Unfortunately, we cannot make this determination because the county's future plans for the Kaua'i Development Parcel are not included in the DEA.

We see the 138-acre oceanfront parcel that is being traded for these non-conforming subdivision proposals as being inextricably linked to this project. Therefore, OHA urges the county to include their plans for future use of this property in the Final EA so that reviewers can properly assess this project's impacts and better offer comments.

In addition, we request the applicant's assurances that should iwi kūpuna or Native Hawaiian cultural or traditional deposits be found during the construction of the project, work will cease, and the appropriate agencies will be contacted pursuant to applicable law. Further, OHA recommends that the applicant use native vegetation in its landscaping plan for subject parcel. Landscaping with native plants furthers the traditional Hawaiian concept of mālama 'āina and creates a more Hawaiian sense of place.

OHA Thank you for the opportunity to comment. If you have further questions, please contact Sterling Wong by phone at (808) 594-0248 or e-mail him at sterlingw@oha.org.

'O wau iho nō me ka 'oia 'i 'o,



Clyde W. Nāmu'o
Administrator

C: OHA Kaua'i CRC Office

Katherine Puana Kealoha, Director
State Department of Health
Office of Environmental Quality Control
235 South Beretania Street, Suite 702
Honolulu, HI 96813

Michael Laureta
County of Kaua'i
Planning Department
4444 Rice Street Suite 473
Līhu'e, HI 96766



6266-23
July 9, 2009

Mr. Clyde W. Nāmu'o, Administrator
State of Hawaii
Office of Hawaiian Affairs
711 Kapiolani Boulevard, Suite 500
Honolulu, Hawaii 96813

1907 South Beretania Street
Artesian Plaza, Suite 400
Honolulu, Hawaii, 96826 USA
Phone: 808.946.2277
Fax: 808.946.2253
www.wilsonokamoto.com

Subject: Draft Environmental Assessment (EA)
Kauai Lagoons Resort Density Amendment Project
Tax Map Keys: (4) 3-5-01: 27 (Por.), 102, and 168 (Por.)
Kalapaki, Lihue, Island of Kauai, Hawaii

Dear Mr. Nāmu'o:

Thank you for your letter of June 23, 2009 (Ref.: HRD09/2141E) regarding the subject Project.

As indicated in the Draft EA, although a 14.6-acre portion of the Project Site presently within the State Agricultural District is proposed for reclassification to the State Urban District, the entire Project Site is currently developed with golf course use and no agricultural activities presently occur.

As further indicated in the Draft EA, the future use of the 138-acre oceanfront parcel will be determined by the County of Kauai following conveyance of the land to them by the landowner Kauai Development LLC. As the proposed use of this oceanfront parcel has yet to be determined by the County, a separate environmental review process may be undertaken for the use of this parcel at a later time by the County, as may be required by law.

Section 3.9 of the Draft EA indicates that in the event that any archaeological sites, significant cultural deposits, or human skeletal remains are found during construction activities of the proposed Project, all work will immediately cease pending consultation with the State Department of Land and Natural Resources Historic Preservation Division (SHPD). The treatment of any remains or artifacts will be in accordance with procedures obtained by the Kauai/Niihau Islands Burial Council and the SHPD.

As the dwelling construction and lot landscaping for the single-family residential lots will be undertaken separately by either the developer or individual lot owners, the use of native plants that are common to the area or endemic, indigenous or Polynesian-introduced will be encouraged in accordance with established design guidelines for the Kauai Lagoons Resort.

We very much appreciate your time and effort in reviewing the subject EA.

Sincerely,

Ronald A. Sato, AICP
Project Manager

cc: Mr. Michael Laureta, County of Kauai Planning Department
Ms. Katherine Puana Kealoha, State Office of Environmental Quality Control
Mr. Steve Busch, MORI Golf (Kauai), LLC

BERNARD P. CARVALHO, JR.
MAYOR



DONALD M. FUJIMOTO
COUNTY ENGINEER
TELEPHONE 241-4992

GARY K. HEU
ADMINISTRATIVE ASSISTANT

EDMOND P.K. RENAUD
DEPUTY COUNTY ENGINEER
TELEPHONE 241-4992

**AN EQUAL OPPORTUNITY EMPLOYER
COUNTY OF KAUAI**

DEPARTMENT OF PUBLIC WORKS
4444 RICE STREET
MO'IKEHA BUILDING, SUITE 275
LIHU'E, KAUAI, HAWAII 96766-1340

May 21, 2009

Wilson Okamoto Corporation
Beretania Street, Suite 400
Honolulu, Hawaii 96826
ATTENTION: Mr. Ronald A. Sato, AICP

RECEIVED
JUN 04 2009

SUBJECT: DRAFT ENVIRONMENTAL ASSESSMENT FOR THE KAUAI LAGOONS RESORT
DENSITY AMENDMENT PROJECT

Dear Mr. Sato,

The project lies within the Flood Insurance Rate Map (FIRM) panels 327E, 328E, and 329E. The project areas are located outside the special flood hazard areas subject to inundation by the 0.2% annual chance flood.

Should you have any questions, please contact Mario T. Antonio of my staff at (808)241-4873.

Very truly yours,



DONALD M. FUJIMOTO, P.E.
County Engineer

MTA

Copies to: Mr. Michael Laureta, County Planning Department
Ms. Katherine Puana Kealoha, State Department of Health



6266-23
July 9, 2009

Mr. Donald M. Fujimoto, P.E., County Engineer
County of Kauai
Department of Public Works
Building Division
4444 Rice Street, Suite 275
Lihue, Hawaii 96766-1340

1907 South Beretania Street
Artesian Plaza, Suite 400
Honolulu, Hawaii, 96826 USA
Phone: 808.946.2277
Fax: 808.946.2253
www.wilsonokamoto.com

Subject: Draft Environmental Assessment (EA)
Kauai Lagoons Resort Density Amendment Project
Tax Map Keys: (4) 3-5-01: 27 (Por.), 102, and 168 (Por.)
Kalapaki, Lihue, Island of Kauai, Hawaii

Dear Mr. Fujimoto:

Thank you for your letter of May 21, 2009 indicating that the project lies within the Flood Insurance Rate Map (FIRM) Panels 327E, 328E and 329E, and that the project area is located outside the special flood hazard areas subject to inundation by the 0.2% annual chance floodplain.

We very much appreciate your time and effort in reviewing the subject EA.

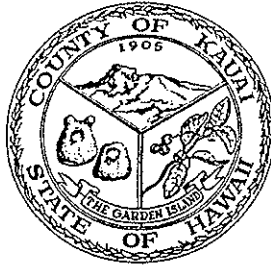
Sincerely,

Ronald A. Sato, AICP
Project Manager

cc: Mr. Michael Laureta, County of Kauai Planning Department
Ms. Katherine Puana Kealoha, State Office of Environmental Quality Control
Mr. Steve Busch, MORI Golf (Kauai), LLC

BERNARD P. CARVALHO, JR.
MAYOR

GARY K. HEU
ADMINISTRATIVE ASSISTANT



DONALD M. FUJIMOTO
COUNTY ENGINEER
TELEPHONE 241-4992

EDMOND P.K. RENAUD
DEPUTY COUNTY ENGINEER
TELEPHONE 241-4992

AN EQUAL OPPORTUNITY EMPLOYER
COUNTY OF KAUAI
DEPARTMENT OF PUBLIC WORKS
4444 RICE STREET
MO'IKEHA BUILDING, SUITE 275
LIHU'E, KAUAI, HAWAII 96766-1340

May 27, 2009

WILSON OKAMOTO CORPORATION
1907 South Beretania Street
Honolulu, Hawaii 'i 96826
Attention: Mr. Ronald A. Sato, AICP

RECEIVED
JUN 01 2009

SUBJECT: KAUAI LAGOONS RESORT DENSITY AMENDMENT, DRAFT
ENVIRONMENTAL ASSESSMENT, TMKs 3-05-001:27, 102 and 168 (por).

Dear Mr. Sato:


We acknowledge receipt of your letter dated May 18, 2009 and a copy of the Draft Environmental Assessment (DEA) for the proposed Resort Density Amendment. The Division of Wastewater Management has no additional comments besides those identified during the Pre-consultation for this project. Our comments were submitted in our letter dated October 15, 2008, which has been incorporated in the DEA.

Should you have questions, please contact Valentino Reyna at (808) 241-4083.

Very truly yours,


EDWARD TSCHUPP
Chief, Wastewater Management Division

CONCUR:


DONALD M. FUJIMOTO
County Engineer

cc: Engineering Division
Planning Department
OEQC

MAY 28 2009



6266-23
July 9, 2009

Mr. Edward Tschupp, Chief
County of Kauai
Department of Public Works
Wastewater Management Division
4444 Rice Street, Suite 275
Lihue, Hawaii 96766-1340

1907 South Beretania Street
Artesian Plaza, Suite 400
Honolulu, Hawaii, 96826 USA
Phone: 808.946.2277
Fax: 808.946.2253
www.wilsonokamoto.com

Subject: Draft Environmental Assessment (EA)
Kauai Lagoons Resort Density Amendment Project
Tax Map Keys: (4) 3-5-01: 27 (Por.), 102, and 168 (Por.)
Kalapaki, Lihue, Island of Kauai, Hawaii

Dear Mr. Tschupp:

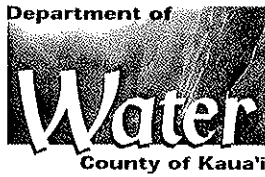
Thank you for your letter of May 27, 2009 indicating that your Division has no additional comments besides those submitted in your letter of October 15, 2008 which has been incorporated in the Draft EA.

We very much appreciate your time and effort in reviewing the subject EA.

Sincerely,

Ronald A. Sato, AICP
Project Manager

cc: Mr. Michael Laureta, County of Kauai Planning Department
Ms. Katherine Puana Kealoha, State Office of Environmental Quality Control
Mr. Steve Busch, MORI Golf (Kauai), LLC



Water has no substitute.....Conserve it

June 24, 2009

RECEIVED
JUN 25 2009

S-2008-24

WILSON OKAMOTO CORPORATION

Mr. Ronald Sato
Wilson Okamoto Corporation
1907 South Beretania Street
Artesian Plaza, Suite 400
Honolulu, HI 96826

Dear Mr. Sato:

Subject: Draft Environmental Assessment (EA), Kauai Lagoons Resort Density Amendment, Lihue,
TMK: 3-5-01:027, 3-5-01:102 and TMK: 3-5-01:168, Kauai, Hawaii

Any actual development or subdivision will be dependent on the adequacy of the source, storage, and transmission facilities existing at that time. At the present time, the existing source and storage facilities are at capacity.

Prior to building permit or water meter approval for the proposed increase in density of 22 dwelling units, additional source and storage facilities for the area must be available. The applicant will also be required to complete all other applicable Department of Water requirements. Additional comments will be conveyed at the time of actual Class IV Zoning and SMA applications for the project.

If you have any questions, please contact Mr. Keith Aoki at (808) 245-5418.

Sincerely,

A handwritten signature in black ink, appearing to read "Gregg Fujikawa".

Gregg Fujikawa
Chief of Water Resources and Planning

KA:ml
ea- Kauai lagoons 3-5-01-027 sato T-11150

c Katherine Puana Kealoha
Michael Laureta



6266-23
July 9, 2009

Mr. Gregg Fujikawa, Chief of Water Resources and Planning
County of Kauai
Department of Water
P.O. Box 1706
Lihue, Hawaii 96766

1907 South Beretania Street
Artesian Plaza, Suite 400
Honolulu, Hawaii, 96826 USA
Phone: 808.946.2277
Fax: 808.946.2253
www.wilsonokamoto.com

Subject: Draft Environmental Assessment (EA)
Kauai Lagoons Resort Density Amendment Project
Tax Map Keys: (4) 3-5-01: 27 (Por.), 102, and 168 (Por.)
Kalapaki, Lihue, Island of Kauai, Hawaii

Dear Mr. Fujikawa:

Thank you for your letter of June 24, 2009 regarding the subject Project.

The Petitioner/Applicant acknowledges that development of the proposed Project will require additional domestic water supply. As indicated on page 3-26 of the Draft EA, the Petitioner/Applicant will be coordinating with the County Department of Water (DOW) regarding additional source and storage requirements for the proposed Project.

The Petitioner/Applicant acknowledges that prior to building permit or water meter approval for the proposed Project, additional source and storage facilities for the area must be available. The Petitioner/Applicant also acknowledges that they will be required to complete all other DOW requirements applicable at that time.

We very much appreciate your time and effort in reviewing the subject EA.

Sincerely,

Ronald A. Sato, AICP
Project Manager

cc: Mr. Michael Laureta, County of Kauai Planning Department
Ms. Katherine Puana Kealoha, State Office of Environmental Quality Control
Mr. Steve Busch, MORI Golf (Kauai), LLC



SIERRA Kauai Group of the Hawai'i Chapter
CLUB Post Office Box 3412, Lihue, Kauai, Hawai'i, 96766

June 22, 2009

Mr. Steve Busch
MORI Gold (Kauai), LLC
3351 Hoolaulea Way, Suite 201
Lihue, HI 96766

Mr. Michael Laureta
County of Kauai Planning Department
4444 Rice Street, Suite 473
Lihue, HI 96766

Mr. Ronald A Sato
Wilson Okamoto Corporation
1907 South Beretania Street, Suite 400
Honolulu, HI 96826

Re: Kauai Lagoons Resort Density Amendment Project Draft Environmental
Assessment, TMK: (4) 3-5-01: 27 (por.), 102, and 168 (por.)

The Kauai Group of the Sierra Club has several concerns regarding this Draft Environmental Assessment and the associated "anticipated determinations."

The proposed project, which would constitute a net increase in the maximum number of tourist accommodations that would be allowed in the Kauai Lagoons project, raises several important precedential public policy and environmental concerns that are neither acknowledged nor adequately addressed in the draft Environmental Assessment.

1. The project would transfer the development rights for 11 units from a piece of land that may be only marginally usable because of its undesirable location next to the Lihue Airport runway. If it would indeed be economically infeasible to sell 11 high-end units on that airport-impacted property, then the project would de facto create an increase of 11 - 22 units worth of tourist impacts on Kauai. The long-term policy ramifications of approving such a precedent-setting transfer of development rights scheme have not been addressed.
2. The project proposes to compound its impacts by claiming, on the basis of private appraisals, that the County of Kauai should allow 2 additional tourist accommodations to be constructed in Kauai Lagoons for each of the tourist

accommodations that might/might not be economically feasible on the airport-impacted property. There is no examination of the land use policy implications associated with granting a developer the right to build n units in a desirable location B (with the multiplier “n” based on private appraisals) in return for giving up the right to build a unit in an undesirable location A.

3. The end result is that as many as 22 additional tourist accommodations could be created in Kauai Lagoons, beyond the maximum allowed under the current zoning. Such an increase would be inconsistent with the General Plan Compliance Charter Amendment, passed by a 2:1 margin by the voters of Kauai in November 2008, whose intent was to limit the approval of new tourist accommodations to a level that would be consistent with the Kauai General Plan. Under the proposed project, the County of Kauai would need to approve a State Land Use District Boundary Amendment, County General Plan Amendment, County Zoning Amendment, County Visitor Destination Area Amendment, Special Management Area Use Permit, Use Permit, Class IV Zoning Permit and Subdivision action. The policy implications associated with taking such actions, in apparent contravention of the intent of the Charter Amendment, have not been addressed.
4. The additional development contemplated under the proposal - as many as 22 additional units compared to the realistic status quo - would contribute to the cumulative amount of tourist accommodation development on Kauai. Yet the Environmental Assessment contains no analysis of such cumulative development.

For the reasons stated above, we believe that the anticipated determination that the proposed project would not have a significant effect on the environment and that a Finding of No Significant Impact (FONSI) should be made, could not be justified. Specifically, we disagree with the proposed findings relative to the following significance criteria:

1. Criterion #4 (“Substantially affects the economic or social welfare of the community or State”)

The Draft Environmental Assessment discusses the purported positive employment and tax benefits to the local economy. But it makes no mention of the economic and environmental costs to the economy that would result from adding more tourist accommodation units to the already over-stressed environment.

As an SMA Use Permit would be required for this project, we note that Section 7.4 (Significant Adverse Effect Criteria) of the County of Kauai’s SMA Rules and Regulations provides guidance on the impacts of a proposed development that should be addressed when considering the appropriateness of granting an SMA Use Permit. Some of the factors specifically cited in Section 7.4 include the following:

- “D. Substantially affects the economic or social welfare and activities of the community, County or State;
- E. Involves substantial secondary impacts, such as population changes and effects on public facilities;
- F. In itself has no significant adverse effects but cumulatively has considerable effect upon the environment or involves a commitment for larger actions.”

Referring to the purported positive economic and social benefits of the proposed density increase while ignoring the economic and social costs (both primary and secondary, both local and county-wide) of the proposed project, which is a part of cumulative tourist accommodation development, presents an incomplete picture.

2. Criterion #6 (“Involves substantial secondary impacts, such as population changes or effects on public facilities”)

The Draft Environmental Assessment claims that because the proposed 22 single-family residential units would be primary or secondary residences, the Project is not anticipated to induce increased population growth. If that is so, the proposed 22 units must then induce tourist growth, with all of its impacts (as a part of cumulative tourist accommodation development) on roads, parks, beaches and other facilities county-wide. None of these cumulative impacts has been addressed in the Draft EA.

3. Criterion #8 (“Is individually limited but cumulatively has a considerable effect upon the environment or involves a commitment for larger actions”);

The Draft Environmental Assessment states that “[g]iven the low density of the proposed 22 single-family residential lots and its use as primary or secondary residences, the proposed Project is not anticipated to have a considerable effect upon the environment, nor will it involve a commitment for larger actions.”

The discussion does not consider the very considerable effects that the project, as part of cumulative tourist accommodation development, would have on the environment. Yet HRS Chapter 205A-26(2) requires, in regard to granting an SMA Use Permit, that:

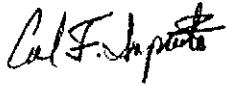
“No development shall be approved unless the authority has first found: (A) that the development will not have any substantial adverse environmental or ecological effect, except as such adverse effect is minimized to the extent practicable and clearly outweighed by public health, safety, or compelling public interests. Such adverse effects shall include, but not be limited to, the potential cumulative impact of individual developments, each one of which taken in itself might not have a substantial adverse effect, and the elimination of planning options...” [emphases added].

Further, as noted above, the effects to be analyzed should include not only environmental impacts, but also economic and social impacts; they should include impacts on the community, County or State (and not just the immediate vicinity); and they should include secondary as well as primary impacts.

The County's possible approval actions related to the proposed project could also imply a "commitment for larger actions," as approval of the proposed precedent-setting transfer of development rights scheme, at a ratio of n:1, and in contravention of the goals of the 2008 General Plan Compliance Charter Amendment, would set the County of Kauai down a new path from which it might be difficult to change course.

For all of the reasons above, we believe that the anticipated determination that the proposed project would not have a significant effect on the environment and that a Finding of No Significant Impact (FONSI) should be made, would not be justifiable. Instead, a complete Environmental Impact Statement, which addresses the deficiencies noted above, should be required, to enable public policymakers to fully comprehend the consequences of granting the permits and approvals associated with the proposed project.

Thank you for your consideration of these concerns.

A handwritten signature in black ink, appearing to read "Carl F. Imparato". The signature is fluid and cursive, with the first name "Carl" and last name "Imparato" clearly distinguishable.

Carl F. Imparato, on behalf of the Kauai Group of the Sierra Club
carl.imparato@juno.com



6266-23
July 9, 2009

Mr. Carl F. Imparato
Sierra Club Kauai Group of the Hawaii Chapter
P.O. Box 3412
Lihue, Hawaii 96766

1907 South Beretania Street
Artesian Plaza, Suite 400
Honolulu, Hawaii, 96826 USA
Phone 808 946 2277
Fax 808 946 2253
www.wilsonokamoto.com

Subject: Draft Environmental Assessment (EA)
Kauai Lagoons Resort Density Amendment Project
Tax Map Keys: (4) 3-5-01: 27 (Por.), 102, and 168 (Por.)
Kalapaki, Lihue, Island of Kauai, Hawaii

Dear Mr. Imparato:

Thank you for your letter of June 22, 2009 regarding the subject Project.

As indicated in the Draft EA, the intent of assigning a density equivalent to the calculated density of 22 dwelling units from the 138-acre oceanfront parcel to the Kauai Lagoons Resort will allow the landowner to convey to the County of Kauai the 138-acre parcel to be used by the County for such public purposes as may be determined by the County.

The difference in valuation of the density being assigned from 11 units within the 138-acre parcel to 22 units within the Kauai Lagoons Resort golf course was not as stated in your letter as being established on the basis of the oceanfront parcel being an undesirable location and economically infeasible from a sales standpoint. Rather, the analysis conducted for the subject two (2) appraisal reports is based on comparables of land values obtained for properties with similar locational characteristics and zoning classifications in the surrounding or neighboring areas for both residential oceanfront and residential golf course lots, the results of which concluded that the gross retail value of the fee simple interest of one (1) hypothetical finished residential oceanfront lot is equivalent to the gross retail value of the fee simple interest in two (2) hypothetical finished residential golf course frontage lots. Therefore, it was determined that 22 dwelling units would be used for the purpose of assigning the existing density from the 138-acre oceanfront parcel to the Kauai Lagoons Resort.

The Petitioner/Applicant will continue to work with the County in determining what effect, if any, the General Plan Charter Amendment has on the proposed Project and how best to respond to that issue. This information will be included in the Final EA.

In responding to your expressed concerns, we wish to more fully explain the nature and actual use of the proposed 22 single-family residential units in order to provide context for the discussion of cumulative and secondary impacts with regard to the proposed Project in the Final EA.

The proposed 22 single-family residential units, which would be primary or secondary residences, are projected to result in a daily resident population of approximately 77 persons at full build-out. Although the proposed residential units will be part of the Kauai Lagoons Resort, the single-family residences are anticipated to be primarily individually owned and owner-occupied based on other similar single-family resort developments within the State. Furthermore, those owners comprised of families typically occupy such residences for periods of time such as during the summer months or major holidays. As such, the population traits of the proposed Project would be more comparable to those of



6266-23
Letter to Mr. Carl F. Imparato
July 9, 2009
Page 2

a typical single-family residential development rather than visitor accommodations. This information will be included in the Final EA.

The Draft EA contains discussion of cumulative impacts resulting from the proposed Project in conjunction with the overall Kauai Lagoons Resort development, as appropriate. The Final EA will include an expanded discussion of the cumulative impacts of the proposed Project, as applicable.

The following responses are provided to your comments on the noted significance criteria:

1. *Criterion #4 ("Substantially affects the economic or social welfare of the community or State")*

The Final EA will include an expanded discussion of the proposed Project's affect on the economic and social welfare of the larger community.

An Application for Special Management Area Use Permit, Use Permit and Class IV Zoning Permit (the "SMA Application") for the proposed Project was filed with the County Planning Department. We note that only seven (7) of the 22 single-family residential lots are located within the County's Special Management Area (SMA) boundary. The remaining 15 lots are located outside of the County's SMA boundary. Within the SMA Application, however, the impacts of the development within the SMA boundary are considered in the context of the overall proposed 22 single-family residential lots and the overall Kauai Lagoons Resort development, as appropriate.

2. *Criterion #6 ("Involves substantial secondary impacts, such as population changes or effects on public facilities")*

An expanded discussion of the secondary impacts of the proposed Project will be included in the Final EA.

3. *Criterion #8 ("Is individually limited but cumulatively has a considerable effect upon the environment or involves a commitment for larger actions")*

As previously indicated, the Final EA will include an expanded discussion of the cumulative impacts of the proposed Project, as applicable.

We very much appreciate your time and effort in reviewing and commenting on the subject EA.

Sincerely,

Ronald A. Sato, AICP
Project Manager

cc: Mr. Michael Laureta, County of Kauai Planning Department
Ms. Katherine Puana Kealoha, State Office of Environmental Quality Control
Mr. Steve Busch, MORI Golf (Kauai), LLC

Appendix A

Zoning Ordinance No.
PM-2006-383

A BILL FOR AN ORDINANCE AMENDING CHAPTER 8, KAUAI COUNTY
CODE 1987, RELATING TO ZONING DESIGNATION IN NĀWILIWILI, KAUAI
(Kauai Lagoons LLC, KD Golf Ownership LLC, and KD Kapule LLC, Applicants)

BE IT RESOLVED BY THE COUNCIL OF THE COUNTY OF KAUAI, STATE OF HAWAII:

SECTION 1. The zoning designation for that certain area of approximately 66.7 acres in Nāwiliwili, Kaua'i, identified on zoning map ZM-NW 400 from Open District (O) to Residential District (R-2), Resort District (RR-10), and Resort District (RR-20) on parcels identified by TMK 3-5-01: por. 27, por. 168, por. 172, and from Limited Industrial District (I-L) to Residential District (R-20) on TMK 3-5-01:165 and on the map attached hereto and incorporated herein as Revised Map 3 (9/27/06), subject to the following conditions:

1. Notwithstanding any provisions to the contrary, no more than a total of 750 dwelling units or hotel/motel rooms ("herein referred to the "Density Cap") shall be developed on the properties identified herein. The affordable housing units constructed within the areas rezoned herein shall not be counted as part of the Density Cap as long as the units remain as affordable pursuant to the Agreement (Kaua'i Lagoons Affordable Housing) between Kauai Development LLC and the County of Kaua'i, dated February 18, 2005, as amended. For the purposes of implementing this condition, units are defined as a hotel room (a suite or room without kitchen facilities) or a combination of hotel and residential units (a unit with kitchen facilities) for development within the Resort District (RR-10, RR-20). For development within the Residential District (R-20) only residential dwelling units are allowed. As represented, uses situated in the affected areas sought for zoning amendment shall be limited to the following residential types as described below:
 - a. For development within the Resort District (RR-10, RR-20), multi-family residential units are allowed.
 - b. Development within the Residential District (R-2) shall be limited to single family detached residential units. No Additional Dwelling Units (ADU) are permitted."
2. As further represented by the Applicant, "...the Open District (O) portions of the property shall not have any residential density or be used for the calculation of any residential density on the property. No

building permits shall be issued unless documentation that this restriction on density has been incorporated into the deeds of the affected property(ies) has been received by the Planning Department."

3. The Applicant shall comply with, and fully implement all provisions of the Effluent Use Agreement dated August 14, 2001, entered into between Kauai Lagoons Resort Company, Ltd. and the County of Kaua'i.

Pursuant to the aforementioned agreement, the Applicant agrees to dedicate free and clear of any liens, and encumbrances, without cost to the County:

- a. All land and easements required for the disposal of effluent from the Līhu'e Wastewater Treatment Plant ("LWWTP");
- b. Approximately 2.22 acres of land for the expansion of LWWTP
- c. Approximately 7.1 acres of land in the "Stable Area;"
- d. Any other land and easements required for the County's operation of the LWWTP as may be mutually agreed to between the County and the Applicant;
- e. Prior to conveying ownership of the LWWTP site to the County, the Applicant shall remove and relocate all golf course irrigation system improvements, weather station infrastructure and any related appurtenances from the property. Other than provided above, all lands conveyed to the County by the Applicant shall be on an "as is" basis. The Applicant is not aware of any dangerous, hazardous or environmentally damaging conditions existing on any of the lands to be conveyed.

The Applicant shall dedicate the aforesaid lands to the County within ninety (90) days after final subdivision approval of its Subdivision Application for the subject property currently pending before the Planning Commission.

4. Should the sewer capacity for additional development on the property exceed 150,000 gallons per day, the Applicant acknowledges that it shall be subject to any applicable waiting or priority list established by the County of Kaua'i for such service. No building permits shall be issued until sewer capacity issues have been resolved with the Department of Public Works – Wastewater Division.

5. The Applicant shall submit a request to the Planning Commission to cancel the existing Running Waters Hotel permits, identified as SMA Use Permit SMA (U)-87-17, Special Permit SP-87-15, Project Development Use Permit U-87-17, and Class IV Zoning Permit Z-IV-87-59, within 6 months from the approval of this zoning amendment ordinance.
6. The Applicant shall resolve the provision of affordable housing for this zoning amendment with the County Council in accordance with the Kaua'i Lagoons Affordable Housing Agreement dated February 18, 2005 as may be amended or otherwise determined by the County Council.
7. The Applicant shall allow public access over and across all existing public vehicular and pedestrian public accessways on the subject property. Easement documents in favor of the County providing for non-motorized bicycle access from the public access entrance at Kapule Highway to eventually connect with "Easement 1" on TMK: 3-5-01 por. 102 (as described in State of Hawai'i Bureau of Conveyances Document No. 90-152880) shall be executed within one hundred and eighty (180) days from the enactment of this ordinance.

The Applicant shall provide a passive beach park to include public parking in the vicinity of the former Fashion Landing commercial area, restroom and shower facilities, recreational shelters, and picnic areas in the approximate vicinity of the Kiele No. 13 green and the area commonly referred to as Running Waters Beach.

The aforementioned facilities shall be inclusive of, but not limited to, the following amenities:

- a. Public restrooms and shower facility at the former Fashion Landing commercial area (beneath restaurant facility);
- b. Public restrooms and shower facility near the Running Waters Beach; picnic shelters (i.e., recreational shelters) to be located close by; and
- c. Weather shelters and picnic tables along the lateral shoreline access.

Restroom and shower facilities and other public recreational amenities required in this condition shall be constructed within two (2) years from the date of the enactment of this ordinance, and shall be maintained by the Applicant.

The Applicant shall provide lateral shoreline access according to the 'Roadway and Public Access Plan (dated August 2006),' which is attached to and incorporated herein as part of this ordinance. More specific plans shall be submitted for the review and approval of the County of Kaua'i at the time of Zoning Permit and/or SMA permit application for the hotel/resort-residential project prior to any construction of the restroom and shower facilities and other public recreational amenities referenced above. Facility locations are to be determined at this time.

As represented by the Applicant, the Applicant shall indemnify, defend, pay for all attorneys fees and costs, and hold harmless the County of Kaua'i, its employees, agents, successors and assigns from any and all injuries and/or property damage that may directly or indirectly arise from the use by the public of the public access easements and facilities located on the Applicant's properties identified herein.

8. All deeds or instruments transferring interest in the subject property, or in the structures or improvements therein, easements running in favor of the State of Hawaii and the Land Use Commission and the County of Kaua'i shall indemnify and hold the State of Hawaii and Land Use Commission and the County of Kaua'i, harmless from any complaints or claims due to noise, odor, dust, mosquitoes, and other nuisances and problems emanating from the operation of the Līhu'e Airport and the operation of the Līhu'e Wastewater Treatment Plant.
9. No residential, condominium, or hotel units shall be constructed within areas greater than the 60 DNL noise contour of the Līhu'e Airport; provided, however, that such uses may be permitted within the 60 to 65 DNL noise contours, if there is an accompanying mitigation of interior noise to the 45 DNL noise level. The Applicant shall satisfy this condition with the appropriate State and/or Federal agency at time of submittal of Zoning Permit and/or SMA Use Permit application.
10. The Applicant shall comply with any height restriction to be set by the State of Hawaii pursuant to specifications established in FAA regulations for aviations easement purposes along the perimeter of the Līhu'e airport runways.
11. Traffic improvements to intersections or roadways within the Līhu'e District, as determined by the State Highways Division and/or Department of Public Works, to mitigate increase in traffic generated by the proposed hotel/resort residential projects shall be considered

and, as may be appropriate, required by the Planning Commission at time of consideration of Zoning Permit and/or SMA Use Permit Application for the proposed hotel/resort-residential project.

12. To minimize adverse impacts to Newell's shearwaters, exterior lighting fixtures shall be only of the following types: shielded lights, cut-off luminaries or indirect lighting. The Applicant shall consult with the Division of Forestry and Wildlife, Kaua'i District (State Department of Land and Natural Resources), for its specific lighting recommendations. Up-lighting shall be prohibited and only fully shielded, low profile lights shall be implemented. Spotlighting of any structures or the ocean shall be reviewed and approved by the Planning Director.
13. The Applicant, its successors or assigns, shall develop the appropriate documents and/or agreements for the review of and approval by the County of Kaua'i that would hold the County of Kaua'i harmless from any lawsuits relating to noise generated during normal airport activities at the Lihue Airport by any owners, subtenants, guests, or other users of the rezoned area.
14. An aviation easement in a form prescribed by the State Department of Transportation shall be granted to the State of Hawaii by the Applicant, to cover the entirety of the Kauai Lagoons Resort property owned by the Applicant.
15. The Applicant shall consult with and comply with all archaeological/historical requirements of the State Historic Preservation Division at time of Zoning Permit and/or SMA Use Permit Applications for the property.
16. The Applicant shall comply with all requirements established by the Department of Public Works regarding grading, grubbing, drainage and erosion control in order to minimize any adverse impacts to surrounding properties, to Kalapakī Bay, and to adjoining off-shore waters during construction and other grading or grubbing activity. The applicant shall also conduct a drainage study to evaluate the impacts of increased runoff from the development of residences, parking lots and other impermeable surfaces and shall implement measures to keep storm flow rates to levels existing prior to the project construction of any of the said 750 units.
17. The Applicant shall continue to make available two hundred (200) off-street parking stalls within the parking lot area described as "Easement P-1" to the property currently identified as the Kauai

Marriott Resort and Beach Club (TMK: 3-5-02: 02) for hotel and resort purposes.

18. Substantial construction of one hundred twenty-five (125) hotel or resort/residential units shall be completed within two (2) years from the effective date of this ordinance. Substantial construction of an additional one-hundred-twenty-five (125) hotel or resort/residential units shall be completed within seven (7) years from the effective date of this ordinance (total of two-hundred-fifty units). Substantial construction of the balance of the seven-hundred-fifty (750) units allowed by this ordinance, or five-hundred (500) units shall be completed within twelve (12) years of the effective date of this ordinance. Substantial construction, as used herein, shall mean the laying of foundations. If substantial construction is not completed within this timeframe, the Planning Commission shall initiate proceedings to review the provisions of the zoning designations for the property.
19. Pursuant to Chapter 4 ("Developing Jobs & Businesses"), Section 4.5.2 ("Supporting Businesses and Jobs for Kauai Residents - Implementing Actions") of the Kaua'i General Plan (November 2000):

"(c) In granting zoning and permits for new resorts and other businesses, the County shall seek commitments that businesses will actively recruit and train Kaua'i residents to fill new jobs."

To this end, the Applicant shall seek to actively recruit and train Kaua'i residents to fill new jobs.

20. To the extent possible within the confines of union requirements and applicable legal prohibitions against discrimination in employment, the Applicant shall seek to hire Kaua'i contractors as long as they are reasonably competitive with other contractors, and shall seek to employ residents of Kaua'i in temporary construction and permanent resort related jobs. It is recognized that the Applicant may have to employ non-Kaua'i residents for particular skilled jobs where no qualified Kaua'i resident possesses such skills. For the purposes of this condition, the Council shall relieve the Applicant of this requirement if the Applicant is subjected to anti-competitive restraints on trade or other monopolistic practices.
21. Prior to or as part of any submittal for any major land use permits for development associated with this petition or any portion of its resort campus, the Applicant shall provide the Planning Commission a status

report of applicable conditions of approval under Special Management Area Use Permit SMA(U)-2005-8, Project Development Use Permit U-2005-26, Use Permit U-2005-25, and Class IV Zoning Permit Z-IV-2005-30. The status report shall include but not be limited to:

- a. a development schedule of all highway improvements as required by the State Highways Division;
 - b. an updated roadway and public access master plan (Figure 9, Applicant's Petition, November 2005) identifying the location and availability for use by the general, the public beach access and associated improvements, and public access for vehicular, pedestrian and non-motorized traffic that shall be incorporated herein and referenced to in this zoning ordinance;
 - c. the location of the additional affordable housing units that are intended to be required by the subject land use petitions.
22. The Applicant is made aware that during the review of major land use permits and design, additional shoreline setbacks, height restrictions, and lot coverage restrictions may be required to mitigate visual impacts along the coast and to preserve near shore water quality.
23. As represented by the Applicant, the Applicant shall have that certain parcel of land located in Kalapakī, Hanamā'ulu, Līhu'e (Puna), Kaua'i, Hawai'i, identified by Kaua'i Tax Map Key No. (4) 3-05-001:102 ("Subject Property") encumbered with a Declaration Of Conservation Restriction (to be recorded in the Bureau of Conveyances of the State of Hawaii) which will contain provisions regulating the development of the Subject Property, including but not limited to, the following restrictions (hereinafter referred to as the "Development Restrictions"):
- a. No dwelling units shall be allowed within those portions of the Subject Property located in the 65 DNL or higher noise contours as shown on that certain map entitled FAR Part 150 5-Year (CY 1991) Noise Exposure Map for Līhu'e Airport (from the Līhu'e Airport – FAR Part 150 Noise Compatibility Program, Noise Compatibility Program Report, State Department of Transportation Airports Division, December 1989) (referred to hereinafter as the "Restricted Area").
 - b. Only the following structures or improvements shall be allowed within the Restricted Area: roads, fences, walls, vegetation and landscaping, not more than five (5) agricultural accessory

buildings, underground utilities and above-ground facilities associated therewith (none of which shall exceed five (5) feet in height), irrigation ditches, no more than two (2) water tanks (neither of which shall exceed fifteen (15) feet in height), and water wells. No dwelling units shall be allowed within the Restricted Area.

- c. Only agricultural uses shall be allowed within the Restricted Area. No residential, industrial, resort or commercial uses (except commercial uses related to agriculture activities) shall be allowed within the Restricted Area.
- d. The Subject Property shall not be subdivided.
- e. The maximum number of dwelling units that may be developed on the Subject Property shall not exceed eleven (11) dwelling units. The owner of the Subject Property shall have the right to use the dwelling unit density to which the Restricted Area is eligible, provided that any and all dwelling units (not to exceed 11) are located on the portions of the Subject Property outside of the Restricted Area.
- f. The Declaration Of Conservation Restriction encumbering the Subject Property may not be amended in any manner so as to change, modify, or delete the Restrictive Covenants contained herein without the prior approval of the Council of the County of Kaua'i.

24. The Applicant is advised that additional government agency conditions may be imposed. It shall be the Applicant's responsibility to resolve those conditions with the respective agency(ies).

SECTION 2. The zoning designation for that certain area in Nāwiliwili, Kaua'i, identified as TMK: 3-5-01: 27, 82, 83, 115, 116, 117, 118, 119, and 120, as shown on Zoning Map ZM-NW-400 and on the map attached hereto and incorporated herein as Exhibit ZA-2002-1, are subject to the amendments in Section 1 hereinabove, and incorporated herein as part of this zoning application.

SECTION 3. Ordinance No. PM-2002-363 is superceded.

SECTION 4. The Planning Commission is directed to note the change on the official Zoning Map on file with the Commission. All applicable provisions of the Comprehensive Zoning Ordinance shall apply to the area rezoned herein.

SECTION 5. Severability. The invalidity of any word, section, clause, paragraph, sentence, part or portion of this ordinance shall not affect the validity of any other part of this ordinance that can be given effect without such invalid part or parts.

SECTION 6. This ordinance shall take effect upon approval.


INTRODUCED BY: /s/ JOANN A. YUKIMURA

DATE OF INTRODUCTION:

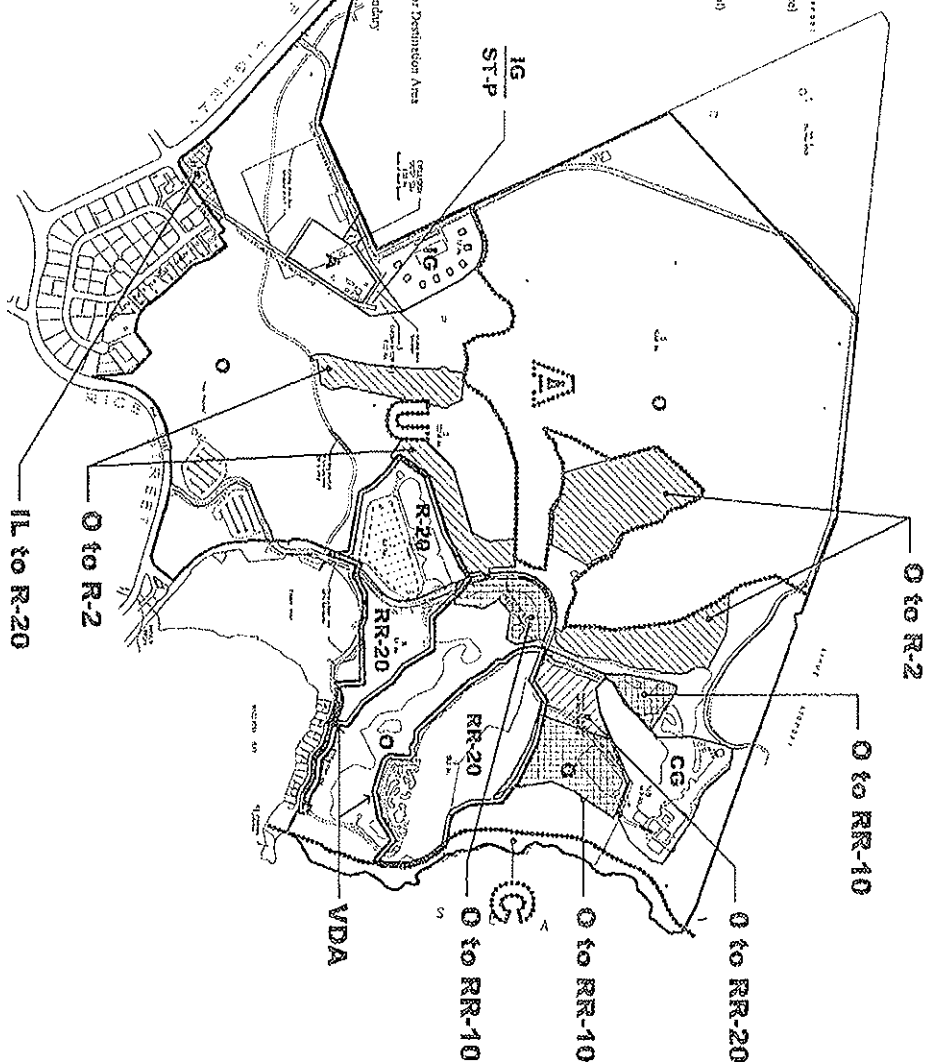
June 28, 2006

Lihue, Kauai, Hawaii

ਸੰਖੇਪ (in brief)

Area (in Ac.)	County Zoning
0	Open
R-R-20	Residential (20 Units/Acre)
R-S-20	Residential
CS	Community (General)
IG	Industrial (General)
IS	Industrial (General)
	Conservation (State)
S-0	O to R-R-20
16-5	O to R-R-10
40-0	O to R-2
2.1	IL to R-S-20
65.7	

UAC
State Board of Boundary
Urban
Appellate
Cooperation



LOCATION MAP SHOWING
PROPOSED AMENDMENT TO
ZONING MAP ZM-NW-400

FROM

OPEN DISTRICT (O) AND
LIMITED INDUSTRIAL DISTRICT (IL)

10

RESORT DISTRICT (RR-10, RR-20) AND
RESIDENTIAL DISTRICTS (R-2, R-20)

TAX MAP KEYS: 3-5-01: 27 (POR.),
165, 168 (POR.), AND 172 (POR.)

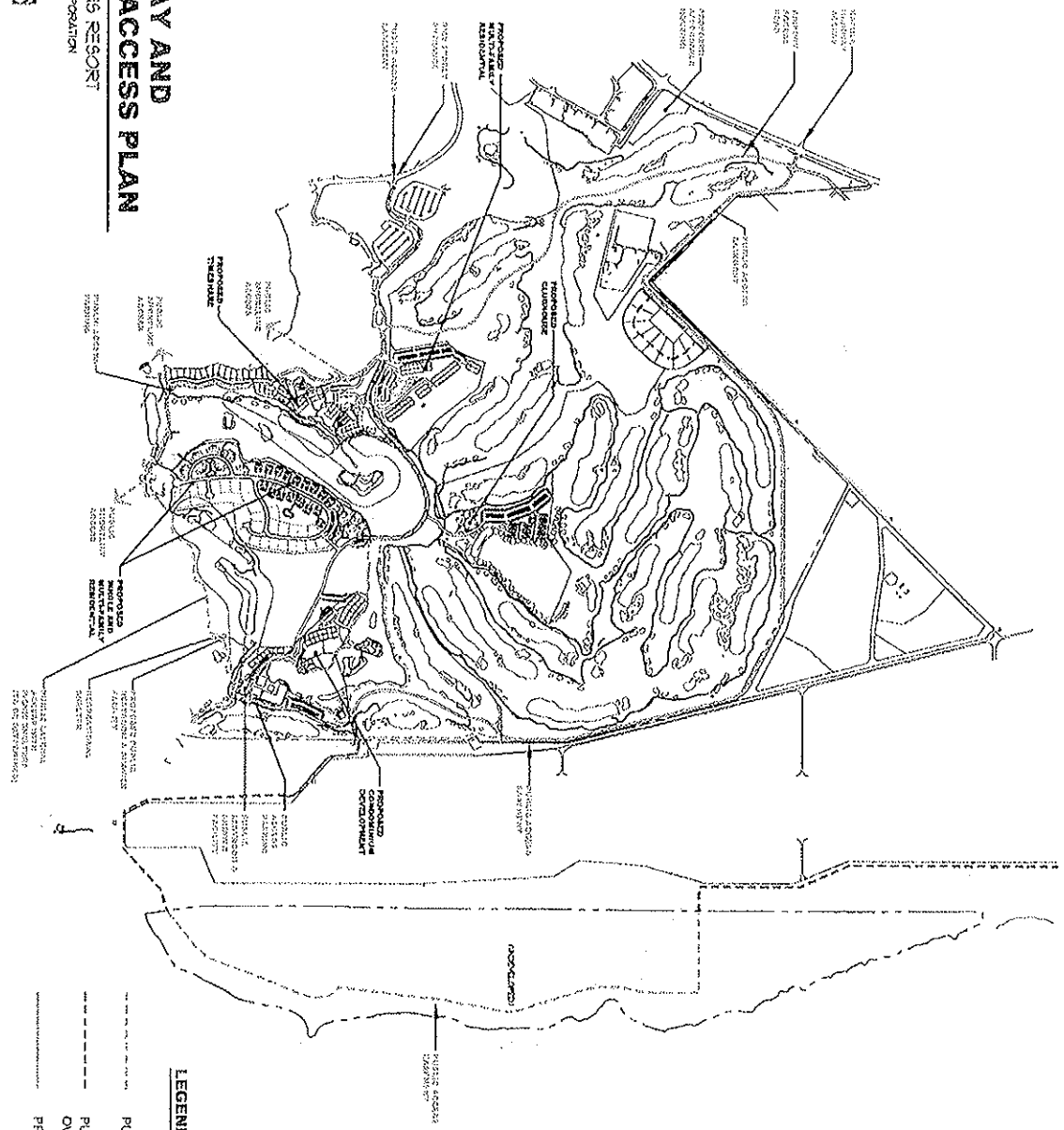
KALAPAKI, KAUAI, HAWAII

REVISED Map 3 (Existing and Proposed Zoning)

ZA-2006-05

Revised 9/27/05

ROADWAY AND PUBLIC ACCESS PLAN **KAUAI LAGOONS RESORT** WILSON OKAYOTA CORPORATION AUGUST 2006 Not to Scale



- LEGEND**
- PUBLIC ACCESS
 - PUBLIC ACCESS OVER STATE LANDS
 - PROPOSED RESORT ACCESS

WILSON OKAYOTA CORPORATION

1001 South Kalia Avenue, Suite 1000
Honolulu, Hawaii 96813-2000
Phone: (808) 943-1000
Fax: (808) 943-1001
www.wilsonokayota.com

**KAUAI LAGOONS
RESORT**

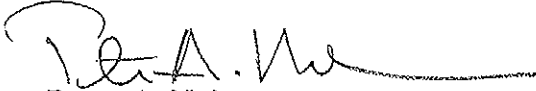
**ROADWAY
AND
PUBLIC ACCESS
PLAN**

CERTIFICATE OF THE COUNTY CLERK

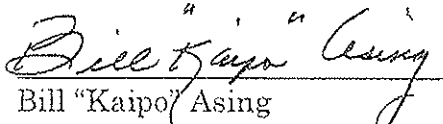
I hereby certify that heretofore attached is a true and correct copy of Bill No. 2191, Draft 3, which was adopted on second and final reading by the Council of the County of Kaua'i at its meeting held on September 27, 2006, by the following vote:

FOR ADOPTION: Furfaro, Iseri-Carvalho, Kaneshiro, Rapozo, Tokioaka, Yukimura, Asing	TOTAL - 7,
AGAINST ADOPTION: None	TOTAL - 0,
EXCUSED & NOT VOTING: None	TOTAL - 0.

Līhu'e, Hawai'i
September 14, 2006


Peter A. Nakamura
County Clerk, County of Kaua'i

ATTEST:

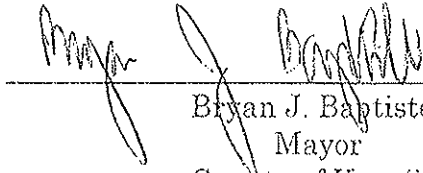

Bill "Kaipo" Asing
Chairman & Presiding Officer

DATE OF TRANSMITTAL TO MAYOR:

September 29, 2006

Approved this 29th day of

September, 2006.


Bryan J. Baptiste
Mayor
County of Kaua'i

Appendix B

Project Site Photos



PROJECT SITE PHOTOS KEY MAP

KAUAI LAGOONS RESORT DENSITY AMENDMENT PROJECT

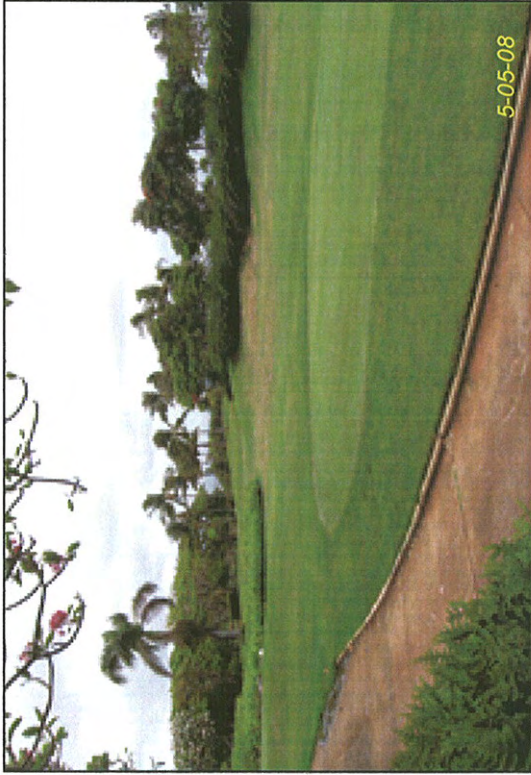


Photo 1: View of the western portion of Subdivision 1A site looking west.

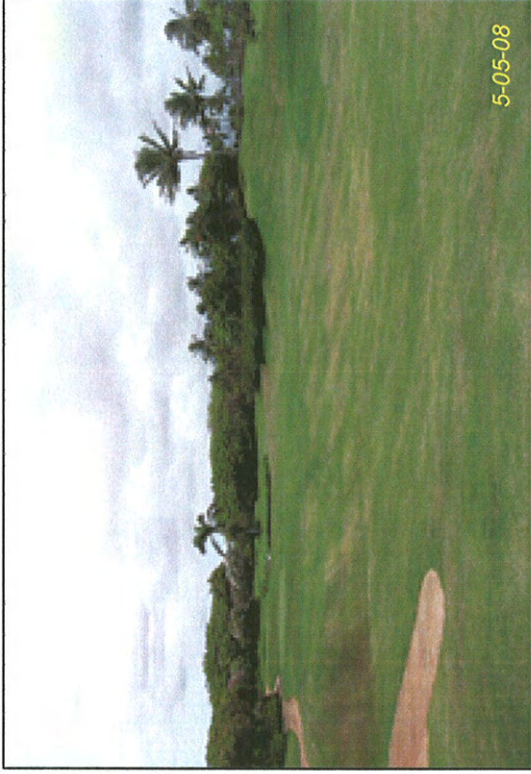


Photo 2: View of the western portion of Subdivision 1A site looking west.

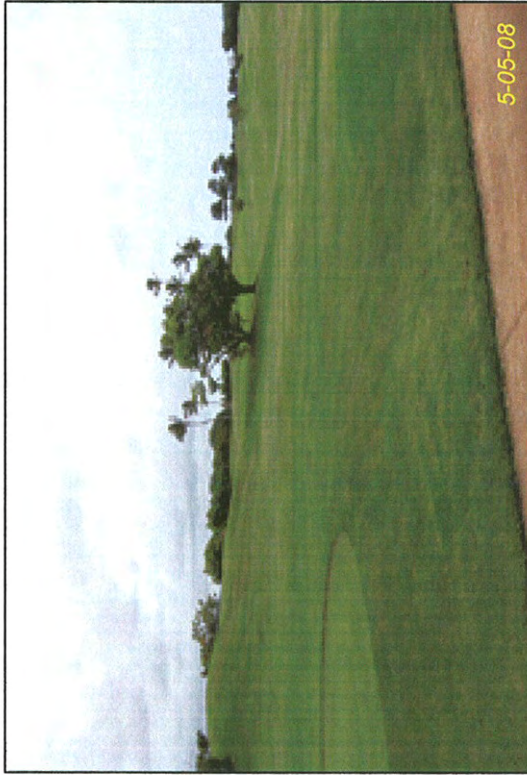


Photo 3: View of the central portion of Subdivision 1A site looking northeast.



Photo 4: View of the central portion of Subdivision 1A site looking mauka.



**WILSON OKAMOTO
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ENGINEERS/PLANNERS/CONSULTANTS

KAUAI LAGOONS RESORT DENSITY AMENDMENT PROJECT

Project Site Photos

Photos

1-4

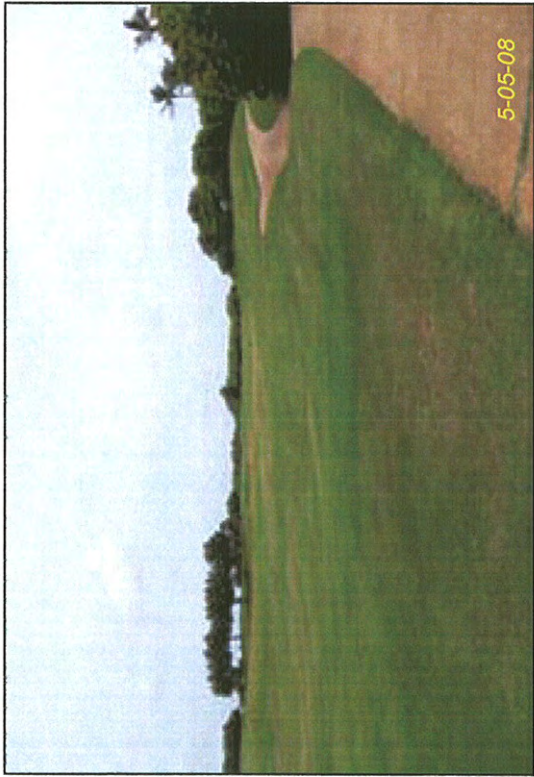


Photo 5: View of the eastern portion of Subdivision 1A site looking east.



Photo 6: View of the eastern portion of Subdivision 1A site looking southeast.

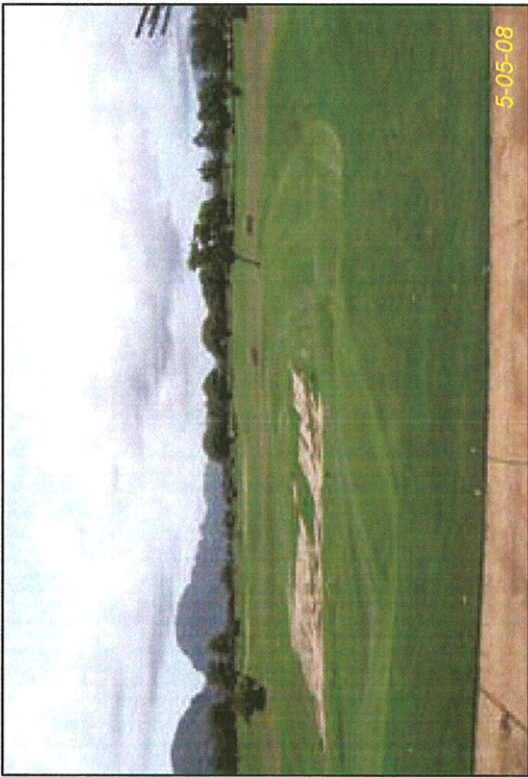


Photo 7: View of Subdivision 5 site in the foreground looking west.



Photo 8: View of Subdivision 5 site in the foreground looking west.



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KAUAI LAGOONS RESORT DENSITY AMENDMENT PROJECT

Project Site Photos

Photos

5-8

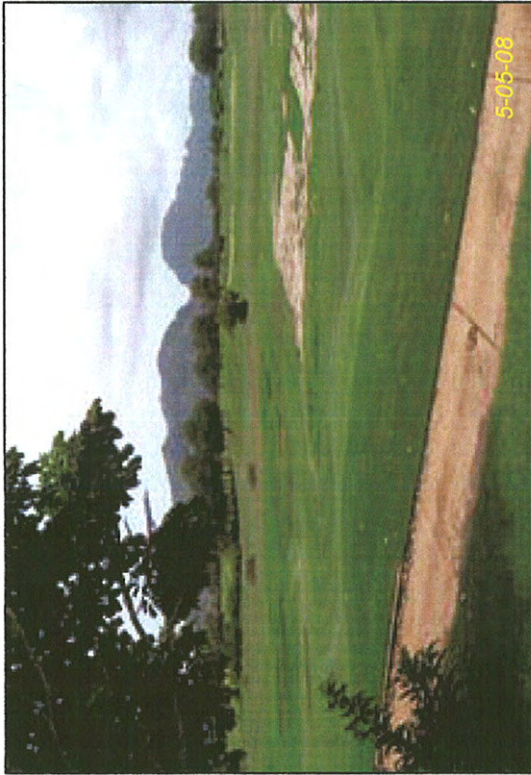


Photo 9: View of the Subdivision 5 site in the foreground looking southwest.



Photo 10: View of Ninini Point Street looking southwest, with the area of the proposed access road to Subdivision 5 located at the right side of the photo.



Photo 11: View looking west at the vicinity of the proposed access road to Subdivision 5 from Ninini Point Street.



Photo 12: View from the vicinity of the proposed access road to Subdivision 5 looking east across Ninini Point Street toward Lihue Airport Runway 17-35.

 WILSON OKAMOTO CORPORATION <small>ENGINEERS/PLANNERS/CONSULTANTS</small>	KAUAI LAGOONS RESORT DENSITY AMENDMENT PROJECT	
	Project Site Photos	
	Photos	9-12



Photo 13: View of Pāhola Drive (formerly Limo Road) looking mauka with the eastern portion of the Subdivision 6 site located adjacently west.



Photo 14: View of the northern portion of the Subdivision 6 site looking mauka.



Photo 15: View of the northern portion of the Subdivision 6 site looking mauka.



Photo 16: View of the central portion of the Subdivision 6 site looking west.



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KAUAI LAGOONS RESORT DENSITY AMENDMENT PROJECT

Project Site Photos

Photos

13-16



Photo 17: View of the southern portion of the Subdivision 6 site looking makai.

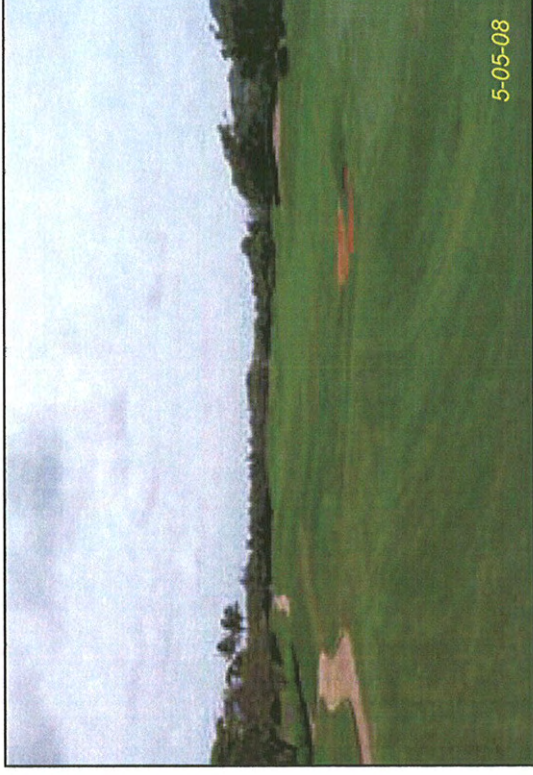


Photo 18: View of the southern portion of the Subdivision 6 site looking makai, with Pāhola Drive (formerly Limo Road) within the left side background of the photo.



Photo 19: View of the eastern portion of the Subdivision 6 site looking east, with Pāhola Drive (formerly Limo Road) in the background.

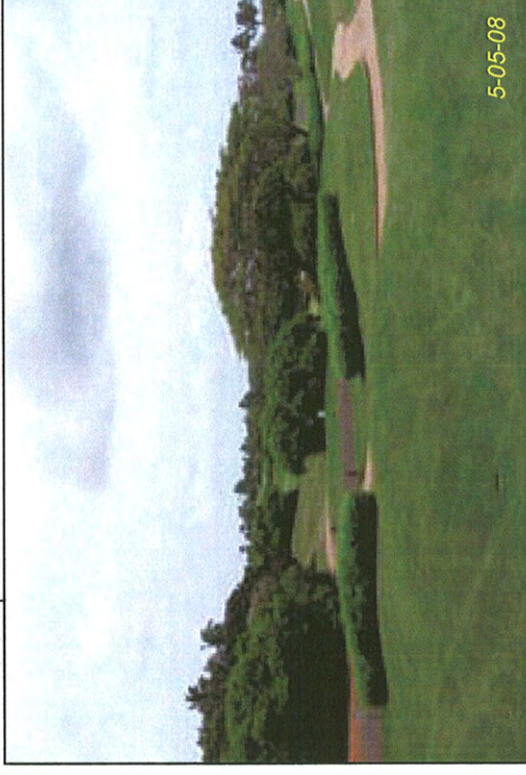


Photo 20: View of the eastern portion of the Subdivision 6 site in the foreground, with Pāhola Drive (formerly Limo Road) in the center of the photo and portion of the existing Kiele Golf Course in the background.



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KAUAI LAGOONS RESORT DENSITY AMENDMENT PROJECT

Project Site Photos

Photos

17-20