

# West Hawaii Business Park Design Guidelines

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Honokōhau, North Kona, Hawai'i

**Prepared for:**

**West Hawaii Business Park, LLC**

**Prepared by:**



**October 2009**

**Exhibit 16**

**TABLE OF CONTENTS**  
(FINAL DRAFT – October 2009)

<b>1</b>	<b>INTRODUCTION.....</b>	<b>1</b>
1.1	GOALS AND OBJECTIVES.....	1
1.2	OVERVIEW.....	2
1.3	DEFINITIONS.....	3
1.4	SUBMITTAL AND PLAN REVIEW PROCESS .....	8
1.4.1	Step 1 – Pre-Design Consultation .....	9
1.4.2	Step 2 – Preliminary Submittal Requirements.....	10
1.4.3	Step 3 – Preliminary Review.....	11
1.4.4	Step 4 – Final Submittal Requirements .....	12
1.4.5	Step 5 – Final Review .....	12
1.5	COMPLIANCE REQUIREMENTS .....	13
1.5.1	Variances from the HCC.....	13
1.5.2	Variance from the Design Guidelines.....	13
1.6	DISCLAIMER .....	13
1.7	PROCESSING FEES .....	14
1.8	CONSTRUCTION.....	14
1.8.1	Commencement of Construction .....	14
1.8.2	Completion of Construction.....	14
1.8.3	As Built Plans.....	14
1.9	ALTERATION OR MODIFICATION OF IMPROVEMENTS .....	14
<b>2</b>	<b>DEVELOPMENT CONCEPT.....</b>	<b>16</b>
2.1	LAND USE AND ZONING.....	16
2.2	THE PROJECT .....	20
2.3	EASEMENTS AND SETBACKS.....	21
2.3.1	Future Access and Utility Easements.....	21
2.3.2	Quarry Buffer Area and Rockfall Setback.....	21
2.3.3	Landscape Easements.....	21
2.4	COMMON AREAS AND DEDICATED AREAS.....	22
2.4.1	Highway Buffer Area .....	22
2.4.2	Interpretive Complex, Cultural Preservation Area and Burial Sites .....	22
<b>3</b>	<b>SITE PLANNING .....</b>	<b>27</b>
3.1	LOT GRADING AND DRAINAGE .....	27
3.2	SIGHTLINES.....	29
3.3	LANDSCAPE ZONE.....	29
3.4	BUILDING ZONE .....	30
3.5	BUILDING SETBACKS .....	31
3.6	SETBACKS FROM BURIAL SITES.....	31
3.7	DRIVEWAYS .....	32
3.8	PARKING AREAS.....	33
3.9	SERVICE AREAS .....	33
3.10	SOLID WASTE .....	34
3.11	WALLS AND FENCES .....	34
3.12	INDIVIDUAL WASTEWATER SYSTEMS .....	34
3.13	MAINTENANCE .....	35

<b>4</b>	<b>ARCHITECTURE.....</b>	<b>36</b>
4.1	DESIGN STANDARDS.....	36
4.2	LOT COVERAGE .....	37
4.3	BUILDING HEIGHT .....	37
4.4	DESIGN ELEMENTS .....	39
4.4.1	Roof Systems .....	42
4.4.2	Roof Materials.....	42
4.4.3	Wall Systems .....	44
4.4.4	Window Systems .....	44
4.4.5	Visual Screening .....	44
4.4.6	Entry Design.....	45
4.5	BUILDING COLORS.....	45
4.6	ANCILLARY STRUCTURES AND ADJACENCIES .....	45
4.7	ENERGY CONSERVATION .....	46
<b>5</b>	<b>LANDSCAPE .....</b>	<b>48</b>
5.1	LANDSCAPE CONCEPTS .....	48
5.2	EXTERNAL ORIENTATION.....	49
5.2.1	Highway Buffer Area .....	49
5.2.1.1	Special Rear-Yard Building Setback.....	50
5.2.2	Top of Slope Banks .....	50
5.3	INTERNAL ORIENTATION .....	50
5.3.1	Landscape Zone .....	50
5.3.2	“Street” Trees .....	51
5.3.2.1	Kamanu Street .....	55
5.3.2.2	Kanalani Street .....	55
5.3.2.3	South Access Road.....	56
5.3.2.4	Other Roadways.....	57
5.3.3	Improvements Permitted within Landscaped Areas .....	58
5.3.4	Building Zone .....	58
5.3.4.1	Parking Areas .....	58
5.3.4.2	Service and Storage Areas.....	58
5.3.4.3	Undeveloped Areas .....	59
5.4	PLANT MATERIAL LIST .....	59
5.5	IRRIGATION .....	59
5.6	MAINTENANCE .....	59
<b>6</b>	<b>SIGNAGE.....</b>	<b>61</b>
6.1	SIGNAGE RULES .....	61
6.1.1	General Standards .....	61
6.1.2	Color .....	61
6.1.3	Size .....	62
6.1.4	Lighted Signs.....	62
6.1.5	Wall Signs.....	62
6.1.6	Ground Signs.....	62
6.1.7	Directional Signs .....	62
6.1.8	Temporary Signs.....	63
6.1.9	Prohibited Signs .....	63
6.1.10	Typeface .....	63
6.1.11	Submittals .....	64
6.1.12	Enforcement.....	64

<b>7</b>	<b>LIGHTING .....</b>	<b>65</b>
7.1	GENERAL LIGHTING RULES.....	65
7.1.1	Service Area Lighting.....	66
7.1.2	Building Illumination and Architectural Lighting.....	66
7.1.3	Nightscaping.....	67

## LIST OF FIGURES

Figure 1.1	Plan Review Process .....	9□
Figure 2.1	Location Map .....	17□
Figure 2.2	Zoning Map .....	18□
Figure 2.3	Lot Layout .....	19□
Figure 3.1	Basic Lot Areas and Setbacks.....	30□
Figure 3.2	Burial Site Setbacks.....	32□
Figure 4.1	Building Height Roof Details (sloped or flat roof).....	38□
Figure 4.2	Building Envelope Along Queen Ka'ahumanu Highway.....	39□
Figure 4.3	Building Pop-Out Details .....	40□
Figure 4.4	Roof Combinations .....	41□
Figure 4.5	Basic Roof Design Options.....	43□
Figure 5.1	Queen Ka'ahumanu Highway Buffer Area Section .....	49□
Figure 5.2	Landscape Zone .....	51□
Figure 5.3	Street Tree Plan .....	53□
Figure 5.4	Intersection Planting .....	54□
Figure 5.5	Kamanu Street Section.....	55□
Figure 5.6	Kanalani Street Section.....	56□
Figure 5.7	South Access Road Entry Section - 80' ROW .....	56□
Figure 5.8	South Access Road Section – 60' ROW .....	57□
Figure 5.9	Other Roadways Section .....	57□
Figure 7.1	Conceal Light Sources .....	65□
Figure 7.2	Service Area Lighting.....	66□
Figure 7.3	Building Lighting .....	66□

## LIST OF APPENDICES

Appendix A:	West Hawai'i Business Park Plan Review Application Form
Appendix B:	Certificate of Conditions (Decision & Order)
Appendix C:	Ordinance 04-110 (Zoning Ordinance)
Appendix D:	Storm Water Covenants, Conditions & Restrictions
Appendix E:	FloGard Plus Filtration Catch Basin
Appendix F:	Conceptual Frontage Landscape Plans
Appendix G:	Plant Materials List

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## **1 INTRODUCTION**

### **1.1 GOALS AND OBJECTIVES**

The design guidelines contained herein (“Design Guidelines”) have been established to ensure the creation of an attractive, distinctive, and visually cohesive environment for the West Hawai'i Business Park also (referred to herein as the “Business Park”). Implementation of the Design Guidelines is intended to accomplish the following:

- Orderly development of the Business Park in a manner that is sensitive to the Kaloko-Honokōhau area. This will be accomplished through the use of appropriate setbacks, landscape treatments, and architecture, with particular attention to views of the project from the Queen Ka'ahumanu Highway and the Kaloko-Honokōhau National Historical Park (“Historical Park”).
- Creation of a distinctive visual identity and character for the Business Park that will enhance the value of the Property over time.
- Setting design standards for the Business Park that recognize the mixed-use nature of the project and implements: 1) a contemporary, upscale look for the high visibility areas intended for Retail/Commercial development, 2) a transition to a light industrial character which permits the use of steel structures with appropriate facades in the interior areas of the project site, and 3) compliance with the provisions of the Hawai'i County Code (“HCC”) in the heavy industrial area located on the excavated quarry floor.
- Implementing the Covenants, Conditions and Restrictions (“CCRs”) of the West Hawai'i Business Park to ensure prudent controls over use of the Property, orderly development, of the project site, and long-term maintenance to preserve an attractive work environment.

To accomplish the abovementioned objectives, the Design Guidelines provide for:

- A design review process that is sensitive to the requirements of the various components of the mixed-use development.
- Restrictions on the uses and activities to be conducted within the Business Park.
- Site planning parameters for grading, drainage and the layout of improvements on individual Lots that are sensitive to external views of the Business Park and the potential impact of storm water runoff on the Kaloko-Honokōhau National Historical Park.
- A hierarchy of architectural design standards that differentiates between the Retail/Commercial Area and the Business Park/Industrial Area of the Industrial-Commercial Property and the heavy industrial uses in the General Industrial Property.

- Landscape standards designed to filter, screen and soften the built environment as well as add elements of color, texture and shade through the installation of appropriate plant material, berms and hardscape.
- Standards for signage and exterior lighting that complements the foregoing.

The Design Guidelines shall be coordinated with and referenced by the CCRs of the West Hawai'i Business Park and in the event of any conflict between the Design Guidelines and the CCRs, the latter shall control. The Design Guidelines may be amended from time to time to achieve the goals set forth above.

### **1.2 OVERVIEW**

To facilitate use of the Design Guidelines the document is organized as follows:

- **Section 1: Introduction**  
In addition to the foregoing overview, the remainder of this Section covers key Definitions and outlines the Plan Review Process.
- **Section 2: Development Concept**  
Provides an overview of the West Hawai'i Business Park development and highlights elements of the overall design concept.
- **Section 3: Site Planning**  
The site planning standards provide the framework for the layout of a Lot, including grading, drainage, and the Improvements within the Landscape Zone and the Building Zone of a Lot.
- **Section 4: Architecture**  
This section covers the design standards for buildings and structures within the various areas of the Business Park. The standards are layered to provide the flexibility necessary to accommodate the mixed use nature of the project.
- **Section 5: Landscape, Section 6: Signs, and Section 7: Lighting**  
These sections establish design parameters that enhance and unify the overall visual character of the Business Park.

### 1.3 DEFINITIONS

The following terminology is defined to clearly identify intent and meaning:

“Alteration or Modification” means any change which materially alters the size, shape, height, massing, layout or exterior appearance of a building, structure or other improvement, or which changes the original design concept. This is separate and distinct from activities involved in the repair and/or maintenance of an improvement.

“Architect” means a Person licensed to practice architecture in the State of Hawai‘i.

“Association” means the West Hawai‘i Business Park Association, a non-profit Hawai‘i corporation, its successors and assigns.

“Board of Directors” or “Board” means the body responsible for administration of the Association and the CCRs and generally serving the same role as the board of directors under Hawai‘i corporate law.

“Burial Site or Sites” means the five (5) specific locations covered by the Burial Treatment Plan where prehistoric or historic human skeletal remains and their associated burial goods, if any, are interred, and their immediate surrounding archaeological context, including any associated surface and subsurface features, deemed a unique class of historic property, and not otherwise included in section 6E-41, HRS.

“Building Area” means the portion of the Building Zone of a Lot not utilized for access drives, parking areas, service areas, landscaping, or other non-building uses that is available for the construction of vertical structures.

“Building Zone” means the portion of a Lot that is not restricted by any of the specified building setbacks or topographic conditions.

“Business Park/Industrial Area” means the portions of the Industrial-Commercial Property that is designated herein for Business Park and Light Industrial uses.

“Business Park/Industrial Design Guidelines means the provisions of this document applicable to the Business Park/Industrial Area.

“CCRs” means the Covenants, Conditions, and Restrictions for the West Hawai‘i Business Park, which may from time to time be amended by the Declarant or a majority of the Owners that are members of the Association, as provided in the CCRs.

“Civil Engineer” means a Person licensed to practice civil engineering in the State of Hawai‘i.

“Common Area or Areas” means the portions of the property owned by the Association, including any Dedicated Areas conveyed to the Association in fee or by easement, that are maintained by the Association for the benefit of all of the Owners.



“County” means the County of Hawai‘i.

“Cul-de-sac” means a vehicular turnaround area at the end of a street that is designed to County standards.

“Decision & Order” or “D&O” means the Findings of Fact, Conclusions of Law and Decision & Order of the Land Use Commission relating to Docket No. A00-730.

“Declarant” means West Hawai‘i Business Park, LLC, a Hawai‘i limited liability company under the provisions of the CCRs, or any one or more successor successors, successors-in-title, or assignee who takes title to any portion of the property for the purpose of development and/or sale and who is designated as the Declarant or Co-Declarant in a recorded instrument executed by the immediately preceding Declarant.

“Dedicated Area or Areas” means special areas set aside for landscaping, entry monumentation, and/or other amenities that have been conveyed to the Association in fee or by easement for long-term maintenance.

“Design Consultant” means a person licensed in the State of Hawai‘i to practice architecture, engineering, landscape architecture or other professional work in accordance with the provisions of Chapter 464, Hawai‘i Revised Statutes (“HRS”).

“Design Guidelines” means this document and the design parameters, standards, guidelines, and restrictions applicable to the General Industrial Property and the Industrial-Commercial Property, as the case may be.

“Design Review Committee” or “DRC” means The General Industrial Design Review Committee or the Industrial-Commercial Design Review Committee, as applicable, established pursuant to the provisions of the CCRs to review plans and specifications for the construction of improvements on Lots within the respective portions of the Property and to approve or disapprove the same in accordance with the CCRs and these Design Guidelines.

“DOH” means the Department of Health of the State of Hawai‘i.

“Easement” means an acquired privilege, or right of use, which a Person has in the land of another.

“Emission” means any odor, dust, smoke, gas, noise, vibration, light, heat, vapor, microwave, radio wave, or other irritant which may be released, produced, or discharged into the environment.

“Existing Uses” means uses (including concrete and asphalt plants and stockpiling) located within TMK: (3) 7-4-8:74 of the General Industrial Property existing as of December 30, 2008, the date of recording in the Bureau of Conveyances, State of Hawai‘i, of the deed conveying fee simple title to Blueroc Properties, LLC.

## West Hawai'i Business Park Design Guidelines

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“Existing Structures” means structures located within TMK: (3) 7-4-8:74 that are existing as of December 30, 2008, the date of recording in the Bureau of Conveyances, State of Hawai‘i, of the deed conveying fee simple title to Blueroc Properties, LLC.

Note: The Design Guidelines are not intended to be applied retroactively and any Existing Uses and/or Existing Structures as defined above shall be exempt from the provisions of the Design Guidelines to the extent specifically provided in Section 18.8 of the CCRs.

“Front Yard Building Setback” means the area of any Lot 20’ deep measured at right angles from the property line adjacent roadway. A Lot with frontage on parallel or intersecting roadways has more than one Front Yard Building Setback. The Front Yard Building Setback must conform to the requirements for the Landscape Zone.

“General Industrial Property” means the portion of the Property located within the County of Hawai‘i General Industrial District that is currently zoned MG-1a.

“General Industrial Design Guidelines” means the portions of this document that are applicable to the General Industrial Property.

“General Industrial Design Review Committee” or “GIDRC” means the Design Review Committee for the General Industrial Property pursuant to the provisions of the CCRs.

“HAR” means the Hawai‘i Administrative Rules, as the same may be amended from time to time.

“HCC” means the Hawai‘i County Code, as the same may be amended from time to time.

“Highway Buffer Area” means the parcels of land adjacent to the Queen Ka‘ahumanu Highway and extending 50 feet into the property that comprises a non-exclusive landscape and utility corridor to be subdivided and conveyed to the Association pursuant to Condition 10g of the Decision & Order.

“HRS” means the Hawai‘i Revised Statutes, as the same may be amended from time to time.

“Improvement” or “Improvements” mean, but are not limited to, buildings and structures of a permanent or temporary nature (with temporary buildings being permitted only during construction of other improvements), accessory structures, underground installations, clearing, grading excavation and slope alteration; swales and berms, storm water and surface water drainage facilities, sediment control devices, roads, alleys and driveways; parking areas or facilities, loading docks, service areas, fences, enclosures, screening, walls (retaining and non-retaining), stairs, ramps, decks, windbreaks, installation or removal of trees, shrubs, hedges and other landscape material; poles and light standards, antennas and satellite dishes, utility installations, water lines, sewer lines and Individual Wastewater Systems, electrical and gas lines, heating, cooling and air circulation equipment and facilities; roofed areas, exterior lighting, signage, changes in exterior color; and all other structures or landscape improvements of every

## West Hawai'i Business Park Design Guidelines

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type and kind initially or at any time placed or constructed on any Lot, and any Alteration or Modification thereof, which shall also include the reconstruction of any structure that is completely or partially destroyed where the original design is altered.

“Industrial-Commercial Property” means the portion of the Property in the County of Hawai‘i Industrial-Commercial Mixed District that is currently zoned MCX-20.

“Industrial-Commercial Design Guidelines” means the portions of this document that are applicable to the Business Park/Industrial Area or the Retail/Commercial Area of the Industrial-Commercial Property.

Industrial-Commercial Design Review Committee” or “ICDRC” means the Design Review Committee for the Business Park/Industrial Area and the Retail/Commercial Area Industrial-Commercial Property pursuant to the provisions of the CCRs.

“Industrial Pollutants” means petroleum products, greases, lubricants, hydraulic fluid, chemicals, solvents, cleaning compounds, heavy metals, hazardous material, and toxic substances,

“TWS” means an Individual Wastewater System or comparable technology for the treatment of domestic type wastewater pursuant to the provisions of the Decision & Order.

“Kaloko-Honokōhau National Historical Park” or “Historical Park” means the park established by Congress in 1978, in part, “to provide a center for the preservation, interpretation, and perpetuation of traditional native Hawaiian activities and culture, and to demonstrate historic land use patterns.” The lands comprising the park are in the Third Tax District and identified as TMK: 7-3-009:002, 7-4-008:010 and 7-3-008:058, situated to the west (seaward) of the West Hawai‘i Business Park.

“Landscape Architect” means a Person licensed to practice landscape architecture in the State of Hawai‘i.

“Leach Field” means a sub-surface bed constructed of imported material that is designed to receive treated effluent and permit its gradual disposal through seepage.

“Landscape Zone” means the portion of a Lot within the 20’ Front Yard Building Setback, except for the portion required for access, which is to be landscaped and maintained by the Owner of the Lot in conformance with the Design Guidelines.

“Lot” means a parcel of land identified as a distinct unit enclosed within defined boundaries that has been subdivided from the original lands comprising the West Hawai‘i Business Park.

“National Park Service” or “NPS” means the Bureau of the United States Department of the Interior that, among other things, administers the Kaloko-Honokōhau National Historical Park.

“Owner” means any one or more Persons, as the case may be (including Declarant), who is or are the Record Owner or Owners of a fee simple or leasehold interest in a Lot; provided however,

that to such an extent and for such purposes, including voting, as shall be provided in a lease or agreement of sale covering all of the Owner's interest in any Lot which has been Recorded and a copy filed with the Declarant, the lessee under such lease or vendee under such agreement of sale shall be deemed the Owner thereby while the same is in effect. However, in the event of a dispute or conflict between the fee Owner and such lessee or vendee as to who shall be the Owner for purposes of the CCRs then the fee Owner shall be the Owner until such dispute or conflict is resolved. Any Person who holds any interest in a Lot merely as security for the performance of any obligation shall not be deemed an Owner.

"Person" means a natural individual, corporation, partnership, or any other legal entity.

"Plan Approval" means the review and approval process stipulated in Division, Chapter 25 of the Hawai'i County Code.

"Property" means the real property described in Exhibit A of the CCRs, together with such additional property as may be subjected to the CCRs. Property shall not include any real property duly removed or withdrawn from the CCRs.

"Quarry Buffer Area" means the setback from the top edge of the quarry pit to be established over the Lots along east (mauka) and south perimeter of the General Industrial Property as a safety buffer. An easement over the setback area shall be designated in favor of the Association to permit uniform maintenance of the buffer area and the installation of a safety fence.

"Record", "Recorded", or "Recordation" means, with respect to any document, the Recordation or filing of such document in the Bureau of Conveyances of the State of Hawai'i.

"Retail/Commercial Area" means the portions of the Industrial-Commercial Property that are designated herein for Retail and Commercial uses.

"Retail/Commercial Design Guidelines" means the provisions of this document applicable to the Retail/Commercial Area.

"Rockfall Setback" means a setback of 20' from the bottom edge of the quarry pit to be established over the Lots along the north, east (mauka) and south perimeter of the General Industrial Property as a safety buffer.

"Rule 17" means the Landscape Requirements stipulated in the Rules of Practice and Procedure of the Planning Department, County of Hawai'i Note: The Hawai'i County Planning Department Rule No.17 Landscaping Requirements shall prevail over or supersedes any component of the design guidelines.

"Subdivision" means the process for dividing a parcel of real property into two or more Lots as shown on a subdivision plan approved pursuant to the subdivision ordinance of the County.

“Storm Water CCRs” means the covenants, conditions and restrictions on the Property relative to storm water and surface water runoff Recorded on August 27, 2008 pursuant to the extended deadline granted by the Land Use Commission pursuant to its Order filed on January 31, 2008.

“Tenant” means a Person or Persons occupying a Lot, other than the Owner, under the provisions of a short-term or long-term space lease covering all or a portion of the premises.

“Utility Installations” means the infrastructure (water, sanitary sewer, storm drainage, electricity, telephone, etc.) necessary to service the Lots in the West Hawai'i Business Park.

“West Hawai'i Business Park” shall mean and refer to the lands composed of TMK: (3) 7-4-8; 13, 74, 76, 77, and 78 as of July 1, 2008 and any Lots subsequently subdivided from these bulk parcels, including adjacent lands with similar zoning designations that may be annexed into the project in the future.

“Zoning Ordinance” means Ordinance No. 04-110, which provides the terms and conditions for the incremental rezoning of the initial 282.37 acres of the West Hawai'i Business Park.

#### **1.4 SUBMITTAL AND PLAN REVIEW PROCESS**

Due to the variation in design standards for the General Industrial Property and the Industrial-Commercial Property, the CCRs for the West Hawai'i Business Park provide for the formation of two independent Design Review Committees:

- General Industrial Design Review Committee (“GIDRC”)
- Industrial-Commercial Design Review Committee (“ICDRC”)

The General Industrial Design Review Committee shall administer the plan review process for Improvements to be located within the General Industrial Property. The Industrial-Commercial Design Review Committee shall review all applications for Improvements within the Retail/Commercial Area and the Business Park/Industrial Area of the Industrial-Commercial Property.

The appropriate Design Review Committee (“DRC”) may approve, approve with conditions or disapprove all plans and specifications submitted for the construction of Improvements on the Lots within the Business Park. Prior to the formation of the respective DRCs, all plans and specifications shall be submitted to the Declarant for review.

The primary functions of each DRC encompass the review of plans and specifications for site work architecture, landscaping and irrigation, signage, exterior lighting, walls, fences and other proposed Improvements to ensure the final product conforms to the design standards established for the respective portions of the project site. For those Lots on which the use of an Individual Wastewater System (“IWS”) is authorized pursuant to the CCRs, the appropriate DRC shall verify that the IWS unit and Leach Field have been incorporated into the site work plans.

## West Hawai'i Business Park Design Guidelines

Except for the Pre-Design Consultation, the prior written approval of the appropriate DRC shall be obtained before the Owner proceeds to the next step of the plan review process. The sequential process and the required submittals have been established to facilitate a thorough and timely review. The documentation required in Steps 2 and 4 of the plan review process is designed to provide the DRC with a clear and comprehensive perspective of the proposed Improvements.

The plan review process includes the following steps:

- Step 1 - Pre-design Consultation (Optional)
- Step 2 - Preliminary Submittal Requirements
- Step 3 - Preliminary Review
- Step 4 - Final Submittal Requirements
- Step 5 - Final Review

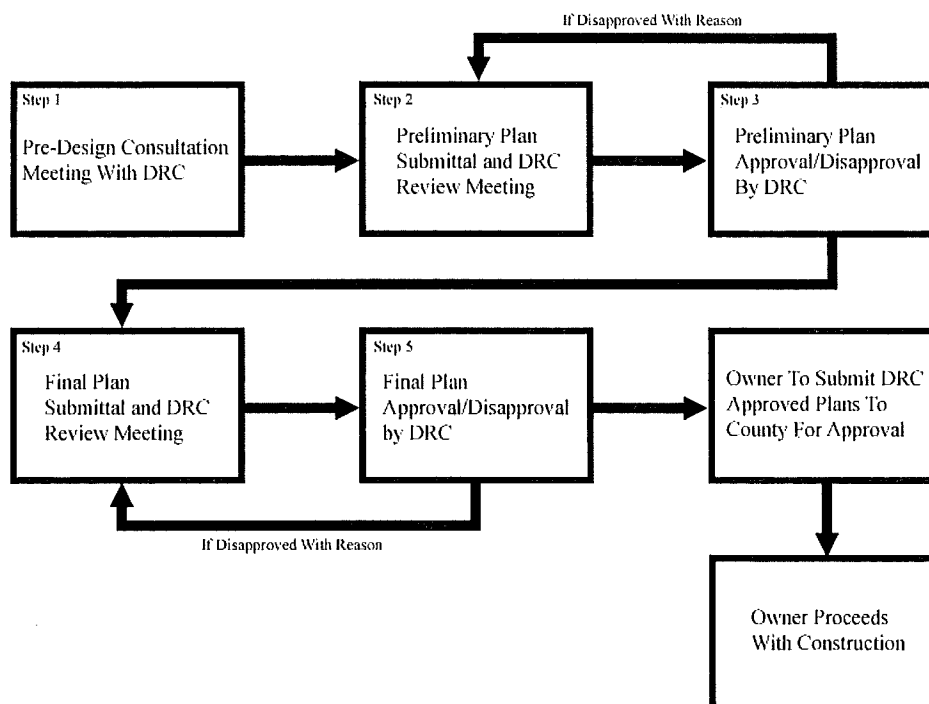


Figure 1.1 Plan Review Process

### 1.4.1 Step 1 – Pre-Design Consultation

Prior to initiating the planning and design for any Improvements, it is recommended that the Owner and Design Consultants meet with the GIDRC or the ICDRC to discuss the proposed scope of work and any design considerations. The purpose of this initial meeting is to share information, address questions and establish an open dialog. The Owner and Design Consultants

should review this document along with the CCRs prior to meeting so that any areas of concern can be addressed. Owners needing to utilize an IWS for the treatment of wastewater should indicate this during the discussion.

#### **1.4.2 Step 2 – Preliminary Submittal Requirements**

Upon the development of preliminary plans and outline specifications, Owners shall submit an application (Appendix A) for Preliminary Review, three (3) sets of the preliminary documents and the processing fee to the appropriate DRC. The submittals for Preliminary Review shall include, but are not be limited to, the following:

- Completed application form.
- Location map showing the Lot within the Business Park, depicting the relationship to adjacent Lots and any adjoining property.
- Topographic survey of the Lot with 2' contours at 20 or 40 scale.
- Site plan, at 20 scale, illustrating the proposed layout of all Improvements on the Lot, including exterior lighting, IWS and Leach Field (if appropriate).
- Preliminary grading plan, at 20 scale, indicating finish grades.
- Preliminary drainage plan meeting the requirements of Chapter 27 of the HCC at the same scale as the site plan.
- Preliminary landscape and irrigation plans at 20 scale, indicating proposed plant material, size (height/caliper width/pot size) and placement.
- Preliminary architectural plans for building and improvements. The architectural plans shall include:
  - a. Floor plans of all floors for the structures and covered structures at a minimum scale of 1/8" = 1'.
  - b. Elevations at a minimum scale of 1/8" = 1' illustrating the front, side and rear perspectives.
- Outline specifications covering, but not limited to, building materials, roofing, glazing, mechanical equipment, utility systems, lighting, exterior finishes color palette and any specialized equipment to be incorporated into the facility.
- Statement as to the proposed uses and activities to be conducted on the Lot.
- Description of emissions that may be generated on or emanate from within the premises (noise, dust, smoke, fumes, gases, odors etc.). The statement shall indicate methods to be employed to mitigate/eliminate emissions.

- Additional documentation reasonably requested by the DRC that is necessary to complete the Preliminary Review.
- List of all Design Consultants retained by the Owner.

### **1.4.3 Step 3 – Preliminary Review**

The documents detailed in Step 2 shall be submitted at least two (2) weeks prior to the Preliminary Review meeting with the DRC. The emphasis of this meeting will be to go over the site plan, architectural drawings and landscape treatment developed by the Owner and the Design Team relative to the character and design standards established for the area of the project in which the Lot is situated. The meeting is to provide the Owner and the Design Consultants the opportunity to elaborate on the design concepts presented in the preliminary submittals.

After meeting with the Owner and the Design Consultants, the DRC shall convene to fully consider the proposed design with respect to the provisions of the Design Guidelines, harmony with the surrounding area, and exposure to external sightlines. The DRC shall transmit by First Class, U.S. Mail, a written notice of its findings not more than forty-five (45) calendar days after the submittal of all documentation specified by Step 2. In the event the DRC does not respond within the forty-five (45) calendar day period, the plans and outline specification shall be deemed approved. In the event the preliminary submittals are conditionally approved or disapproved, the DRC shall include the specifics in its written notice.

Should the preliminary submittal be disapproved, the Owner must revise the documents and resubmit the revised preliminary plans as prescribed in Step 2. If the Owner is unclear about the intent of the DRC's comments, consultation with the DRC is recommended before proceeding further.

Approval or conditional approval of the preliminary submittal by the DRC enables the Owner to proceed with processing for Plan Approval with the County. One set of the plans and documents submitted to the Planning Department shall be submitted concurrently to both the DRC and the National Park Service as follows:

Design Review Committee  
c/o West Hawai'i Business Park  
3465 Waialae Avenue, Suite 260  
Honolulu, Hawai'i 96816

National Park Service  
Kaloko-Honokōhau National Historical Park  
73-7486 Kanalani Street, Suite 14  
Kailua-Kona, Hawai'i 96740

The preparation of final plans and specifications ("construction documents") may be initiated in conjunction with the Plan Approval process, but the final submittals for Step 4 must include any



modifications resulting from the Plan Approval process. Correspondence and/or other documentation from the Planning Department as to completion of the Plan Review process shall be provided to the DRC and NPS upon receipt by Owner.

#### **1.4.4 Step 4 – Final Submittal Requirements**

The documentation for final submittal shall include a completed application (Appendix A) for Final Review indicating the improvements to be constructed or placed on the Lot and the activities to be conducted on the premises. The application shall be accompanied by the processing fee and three (3) sets of the site work, architectural and landscape plans (“construction documents”) in the form that will be submitted to the County for processing.

The construction documents shall include, but not be limited to, the following:

- Site Plan (including parking configuration and number of parking spaces).
- Grading/Drainage Plans.
- Building Plans, Elevations, and Details.
- Structural Plans, and Details, as applicable.
- Electrical Plans and Details (including Exterior Lighting).
- Materials and Color Samples of All Exterior Finishes.
- Landscape and Irrigation Plans.
- Fence and/or Wall Plans, Elevations, and Details.
- Signage Plan and Details.
- Construction Specifications.
- Plans and specifications for the IWS and Leach Field, including any additional documents required by Title 11, Chapter 62, HAR.
- Documentation from the County Planning Department as to Plan Approval.

The DRC may request additional information to clarify the design details indicated in the construction documents.

#### **1.4.5 Step 5 – Final Review**

After the receipt of the construction documents, including any material requested in Step 4, the Owner or the DRC may request a meeting to discuss the plans and specifications. If no meeting is requested, the DRC shall convene to consider the final submittal. Within forty-five (45) days from the date of receipt of all required documents required by Step 4, the DRC shall transmit its findings to the Owner by First Class, U.S. Mail. The notice shall provide either: 1) written approval and one (1) set of approved documents stamped by the DRC; or 2) written disapproval, including specific reasons for such disapproval. In the event the DRC does not respond within thirty (30) calendar days of said date, the final plans and specifications are deemed to be approved.

In the event all or portions of the construction documents are disapproved, the Owner shall revise the plans and resubmit for Final Review as prescribed in Step 4. The Owner may request a meeting with the DRC to discuss the reasons for disapproval. If, after meeting with the DRC, the

Owner does not agree with the interpretation or rationale provided by the DRC, the Owner may file an appeal with the Board of Directors of the Association pursuant to the provisions of the CCRs.

Approval of the construction documents by the DRC enables the Owner to proceed with processing the plans with the County and other agencies to secure grading, building and related permits and approvals for the construction of the Improvements. Where the use of an IWS and Leach Field have been approved for the interim treatment of wastewater, the site work plans shall be subject to the approval of the DOH pursuant to the provisions of Title 11, Chapter 62, HAR.

Copies of all applications made for permits and approvals by the County, DOH or other regulatory agencies shall be submitted concurrently to the DRC and NPS. The submittal of copies of any attachments (plans, specifications, reports, etc.) is not required, but NPS may request portions of the construction plan covering the grading, site work and landscape Improvements for the Lot.

Should the County require changes to the construction documents that *materially alters* the exterior of a building or structure previously approved by the DRC, the Owner shall submit the revised plans after approval is received from the County prior to commencing with the construction of the improvements. Copies of all permits and approvals received by the Owner shall be immediately provided to the DRC and NPS.

## **1.5 COMPLIANCE REQUIREMENTS**

### **1.5.1 Variances from the HCC**

In the event the design of a proposed Improvement or Alteration or Modification requires a variance from the HCC, the variance shall be reviewed by the appropriate DRC pursuant to the provision of Section 1.4. No application for a variance may be processed with the County without prior approval of the DRC.

### **1.5.2 Variance from the Design Guidelines**

The respective DRC may consider a variance to certain provisions of these Design Guidelines, but only for extenuating circumstances, such as extreme topography or unusual obstructions (such as burial sites). The variance shall not adversely impact safety and health or contravene the design principals contained herein.

## **1.6 DISCLAIMER**

Approval of the design, plans and specifications for the Improvements on a Lot by the DRC is limited to compliance with the CCRs and the Design Guidelines, and such approval shall not under any circumstances be construed as a representation or warranty that the Owner's plans and specifications are in compliance with the requirements of the County or other regulatory agencies. The Owner shall be solely responsible for obtaining the County's approval of the plans

and specifications and any permits required with respect to compliance with the HCC, as well as the necessary approval of any other Federal or State regulatory agencies, prior to commencing with any grading or the construction of any Improvements on the Owner's Lot.

## **1.7 PROCESSING FEES**

The DRCs may, from time to time, adopt a schedule of reasonable fees to recover costs incurred in connection with the review of the submittals for Preliminary Approval and Final Approval, including but not limited to retaining the services of appropriate design professionals to assist the DRC in its review. Fees will be paid by Owner upon submission of the application and plans for review. No documents shall be reviewed, in whole or in part, prior to receipt of payment of such fees by the DRC.

All fees and other charges and expenses incurred by the Owner in applying for and processing plans with the DRC or any governmental agency shall be the sole responsible of the Owner, and the DRC, the Association or the Declarant shall have not liability therefore.

## **1.8 CONSTRUCTION**

### **1.8.1 Commencement of Construction**

The construction of Improvements that have received Final Approval from the appropriate DRC shall be initiated within five (5) years of the date of the approval notice to the Owner. In the event construction is not commenced within this period, the approval shall be null and void and a new application for the proposed Improvements shall be reprocessed pursuant to the provision of Section 1.4.

### **1.8.2 Completion of Construction**

The construction of all Improvements approved by a DRC must be completed within two (2) years from the Commencement of Construction.

### **1.8.3 As Built Plans**

The Owner shall submit one (1) complete set of the "as built" construction documents for the Association's permanent files within one hundred twenty (120) calendar days following the filing of a Notice of Completion for the Improvements or the issuance of a Certificate of Occupancy by the County, whichever comes first. The appropriate DRC may request an inspection of the Lot and the improvement to verify construction has been complete in compliance with the "as built" plans.

## **1.9 ALTERATION OR MODIFICATION OF IMPROVEMENTS**

Except as provided in Section 18.8 of the CCRs for Existing Uses and Existing Structures in place as of December 30, 2008, no Alteration or Modification which materially alters the size,

shape, height, massing, layout or exterior appearance of a structure or changes its original design concept shall be undertaken by an Owner without the prior written approval of the appropriate DRC in accordance with the provisions of Section 1.4. The foregoing shall be applicable to the reconstruction of any structure that is completely or partially destroyed, particularly where the exterior appearance is altered.

## 2 DEVELOPMENT CONCEPT

The West Hawai'i Business Park is located approximately 1.6 miles south of the Kona International Airport at Keāhole in the direction of Kailua-Kona (Figure 2.1). The site is situated on the mauka ("mountain") side of the Queen Ka'ahumanu Highway, between the Kaloko Light Industrial Park to the north and the Honokōhau Industrial Subdivision on the south. The Kaloko-Honokōhau National Historical Park administered by the National Park Service is located directly across the Highway, seaward of the Business Park.

### 2.1 LAND USE AND ZONING

Hawai'i has two levels of land use controls, with the State of Hawai'i ("State") establishing broad land use patterns through the designation of Conservation, Agricultural, Rural and Urban land use districts and the counties implementing more detailed land use through zoning. Prior to initiating development activities related to the Business Park, the land use and zoning designations for the Property needed to be addressed. Due to the proximity of the Kaloko-Honokōhau National Historical Park, the National Park Service was an active participant in these proceedings.

**Land Use** - In 2003, the State Land Use designation for the entire 336.9-acre Business Park site was amended from Conservation to the Urban. As a result of the Boundary Amendment process, the Property become subject to various conditions imposed by the State Land Use Commission which are stipulated in the Findings of Fact, Conclusions of Law, and Decision & Order related to Docket No. A00-730. These conditions were Recorded as the "Certificate of Conditions" on February 17, 2004 and now run with the land (see Appendix B).

On September 7, 2007, the Land Use Commission approved amendments to certain conditions stipulated in the original Findings of Fact, Conclusion of Law and Decision and Order, by Order filed on January 31, 2008 (see Appendix B).

**Zoning** - The County of Hawai'i approved a change of zoning for 282.3 acres of the Property in 2004, with 196.6 acres of land rezoned from the Open District to Industrial-Commercial Mixed (MCX-20) and 85.7 acres to General Industrial (MG-1a). The remaining 54.6 acres is the State Urban District is subject to rezoning at some time in the future (Figure 2.2). Ordinance No. 04-110 (the "Zoning Ordinance") imposes conditions on the development of the 282.3 acres subject to the rezoning action (see Appendix C).

## West Hawai'i Business Park Design Guidelines

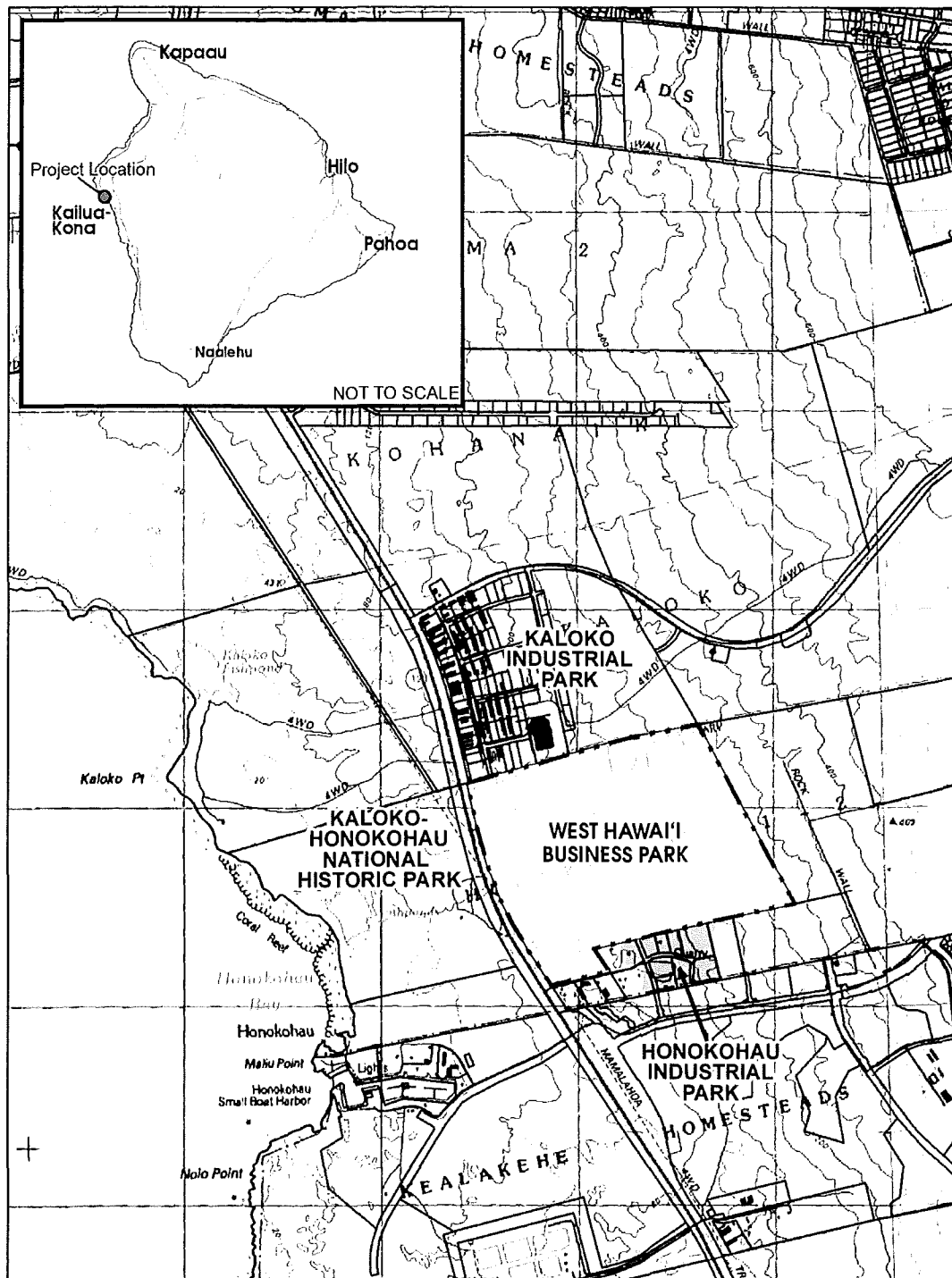


Figure 2.1 Location Map



PREPARED BY: PLANNING DEPARTMENT  
COUNTY OF HAWAII

Date: June 7, 2004  
(West Hawaii Business Park, LLC:1127)

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## 2.2 THE PROJECT

As illustrated in Figure 2.3 the concept for the Business Park is predicated upon the creation of attractive retail and commercial areas along the highly visible frontage with the Queen Ka'ahumanu Highway. Additional retail and commercial areas are also located along Kamanu Street, a major north-south corridor, and the makai portion of Kanalani Street. The interior portions of the project site are designated for business parks and light industrial uses, with heavy industrial activity limited to the excavated quarry area. The site provides easy access for businesses serving the needs of the rapidly expanding Districts of South Kohala, North Kona and South Kona.

The layout for the project site creates approximately 90 Lots ranging in size from slightly over an acre to 12+ acres. To accommodate the diverse requirements of the firms anticipated to locate in the Business Park, the project has been planned with designated areas for three distinct uses predicated upon the underlying zoning:

- **General Industrial Property:** The portion of the Property that is zoned MG-1a encompassing the floor of the excavated quarry. Heavy industrial activities, including the existing concrete and asphalt plants, will be located in this area. The quarry area is largely shielded from view, particularly from points seaward of the Business Park by the topography of the adjacent terrain.
- **Industrial-Commercial Property:** The majority of the project site is zoned MCX-20. The Industrial-Commercial Property is composed of two distinct areas:
  - **Retail/Commercial Area:** The high visibility locations, particularly along Kamanu Street and the frontage of the site with the Queen Ka'ahumanu Highway, are intended for retail shops and Class A and B office buildings,
  - **Business Park/Industrial Area:** The interior portion of the project site designated for business park and light industrial uses.

**Design Standards** - The Design Guidelines for the West Hawai'i Business Park implement Condition 10f of the Decision & Order in regard to the reduction of visual impacts and avoidance of the look of an industrial corridor through three tiers of design standards:

- **Retail/Commercial Area:** The Design Guidelines for these highly visible portion of the Property provide for the creation of a contemporary, up-scale look by incorporating a more refined level of architecture, massing and articulation, architectural elements, building materials, exterior finishes, color palette and landscape treatment.
- **Business Park/Industrial Area:** In the interior area of the Business Park, the architectural requirements transitions to a more flexible design aesthetics that allows the use of steel buildings with architectural embellishments, particularly to the front elevation, to soften the warehouse look as viewed from interior streets.

- **General Industrial Property:** For the heavy industrial area on the floor of the excavated quarry, the Design Guidelines primarily call for compliance with the Hawai'i County Code ("HCC").

## **2.3 EASEMENTS AND SETBACKS**

### **2.3.1 Future Access and Utility Easements**

In order to provide infrastructure for the orderly development of the project site, the Declarant reserves the right to designate and extinguish easements across the Property and/or individual Lots for access and the placement of water, sewer, drainage, gas, electrical and communication facilities. The Declarant will, to the extent possible, place all utility facilities within the road right-of-ways and/or pre-designated easements on the Lots. In the event an easement is required over a Lot or Lots, the easement will be located to minimize interference with operation and use of the premises.

### **2.3.2 Quarry Buffer Area and Rockfall Setback**

**Quarry Buffer Area** - The Quarry Buffer Area is a 30'-wide setback measured from the top edge of the quarry wall to provide a safety buffer in the event of slumping. The Quarry Buffer applies to the Lots in the General Industrial Property that are (or will be) subdivided along the east (mauka) and south zoning boundary, where a cut condition exists or may be created due to the extraction of rock. The buffer area will also include the establishment of a maintenance easement in favor of the Association as illustrated in Figure 2.3. This is intended to provide for uniform maintenance of the buffer area and the safety fence to be erected along the property line with the adjacent areas of the site zoned MCX-20 or Open. The Declarant has designated the setback for the Quarry Buffer Area on an easement map for TMK: (3) 7-4-8:74.

**Rockfall Setback** – A 20'-wide Rockfall Setback from the toe of the quarry wall or slope to provide a safety buffer from falling rocks. The Rockfall Setback applies to the Lots in the General Industrial Property that are (or will be) subdivided along the north, east (mauka) and south portions of the quarry. The Declarant has designated the Rockfall Setback on the subdivision map for TMK: (3) 7-4-8:74. A stacked boulder barrier or a firmly anchored heavy chain link fence is to be erected along the inside edge of the Rockfall Setback by the Owner of each affected Lot.

### **2.3.3 Landscape Easements**

**Front Yard Landscape Easement** – Although the County of Hawai'i does not permit street trees to be planted within the road right-of-way (ROW), the intent is to implement a modified program through the planting of coordinated street trees in the Front Yard Setback (Landscape Zone) of each Lot. Landscape easements will be designated over all or a portion of the Landscape Zone (see Section 3.3) for the installation of canopy trees to create a tree-lined streetscape.

The coordinated placement of canopy street trees roughly 35' on center shall be in addition to the Landscaping Requirement of Rule 17 and is intended to introduce elements of color, texture screening and shade within the Business Park. The landscape easements will provide the Association the ability to ensure the installation, maintenance and replacement (if necessary) of the canopy street trees by Owners.

**Special Rear Yard Setback** – Lots adjacent to the property line for the Highway Buffer Area will be subject to a special 30' rear yard setback to buffer views into the Property from the Queen Ka'ahumanu Highway. The special rear yard setback, which is in addition to the 50' Highway Buffer, may be used for parking but is to be landscaped pursuant to the provision of Rule 17 with canopy trees to filter views of the structures on the first tier of Lots in the Business Park. The setback area of each Lot on the Queen Ka'ahumanu Highway frontage will be overlain with a landscape easement in favor of the Association to ensure that canopy trees are installed and maintained by the Owner.

## **2.4 COMMON AREAS AND DEDICATED AREAS**

### **2.4.1 Highway Buffer Area**

The 50-foot wide Highway Buffer Area running along the mauka side of the Queen Ka'ahumanu Highway will be landscaped and irrigated by the Declarant to create the landscape buffer contemplated by Condition 10g of the Decision & Order. The Highway Buffer Area will be subdivided from the Property and conveyed in fee to the Association as a Common Area for long-term maintenance.

### **2.4.2 Interpretive Complex, Cultural Preservation Area and Burial Sites**

**Interpretive Complex** - A portion of the historic Māmalahoa (King's) Trail runs through the project site and is intersected by a portion of the Mauka-Makai Trail. Sections of both trails and other archaeological sites (petroglyphs, habitation terraces, and a house enclosure) have been incorporated into a subdivided Lot (TMK: (3) 7-4-8:78) to create an Interpretive Complex (Figure 2.4). The Interpretive Complex will be subject to the provisions of an Archaeological Preservation Plan, which had been finalized through consultation with various parties and approved by the State Historic Preservation Division ("SHPD") of the Department of Land and Natural Resources. The Interpretive Complex may be conveyed to an appropriate ownership entity or the Association as a Dedicated Area.

**Cultural Preservation Area** - Adjacent to the mauka end of the Interpretive Complex is a special area that will be subdivided in the future to create a Lot encompassing a Cultural Preservation Area (Figure 2.4). The Cultural Preservation Area will be created as a separate Lot at the time the surrounding area is subdivided. The Lot for the Cultural Preservation Area will incorporate two previously identified Burial Sites (18116 and 18117) and provide space in which to establish native plants. The Cultural Preservation Area may be turned over to the lineal and

cultural descendents, conveyed to an appropriate ownership entity or transferred to the Association as a Dedicated Area to assure long-term maintenance.

**Burial Sites** – In addition to Burial Sites 18116 and 18117 covered above, three other identified sites designated for preservation in place are located on or adjacent to the Business Park (Figure 2.5). Burial Sites 18088, 18034 and 18197 are contemplated to be conveyed to the lineal and cultural descendents, an appropriate ownership entity or to the owner of the Lot on which the site is located. Transfer of these individual Burial Sites to the Association as a Dedicated Area is not contemplated.

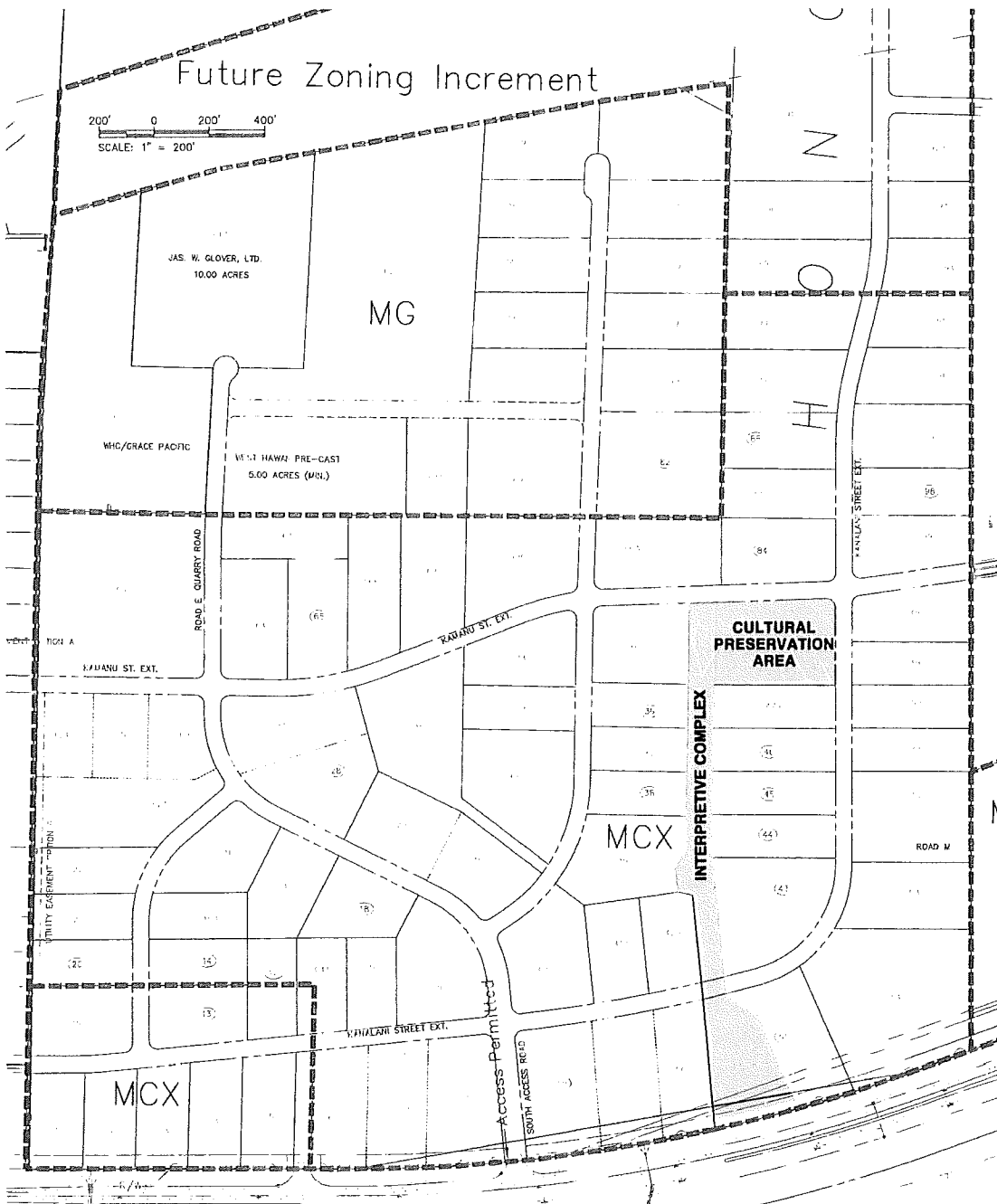


Figure 2.4 Interpretive Complex and Cultural Preservation Area

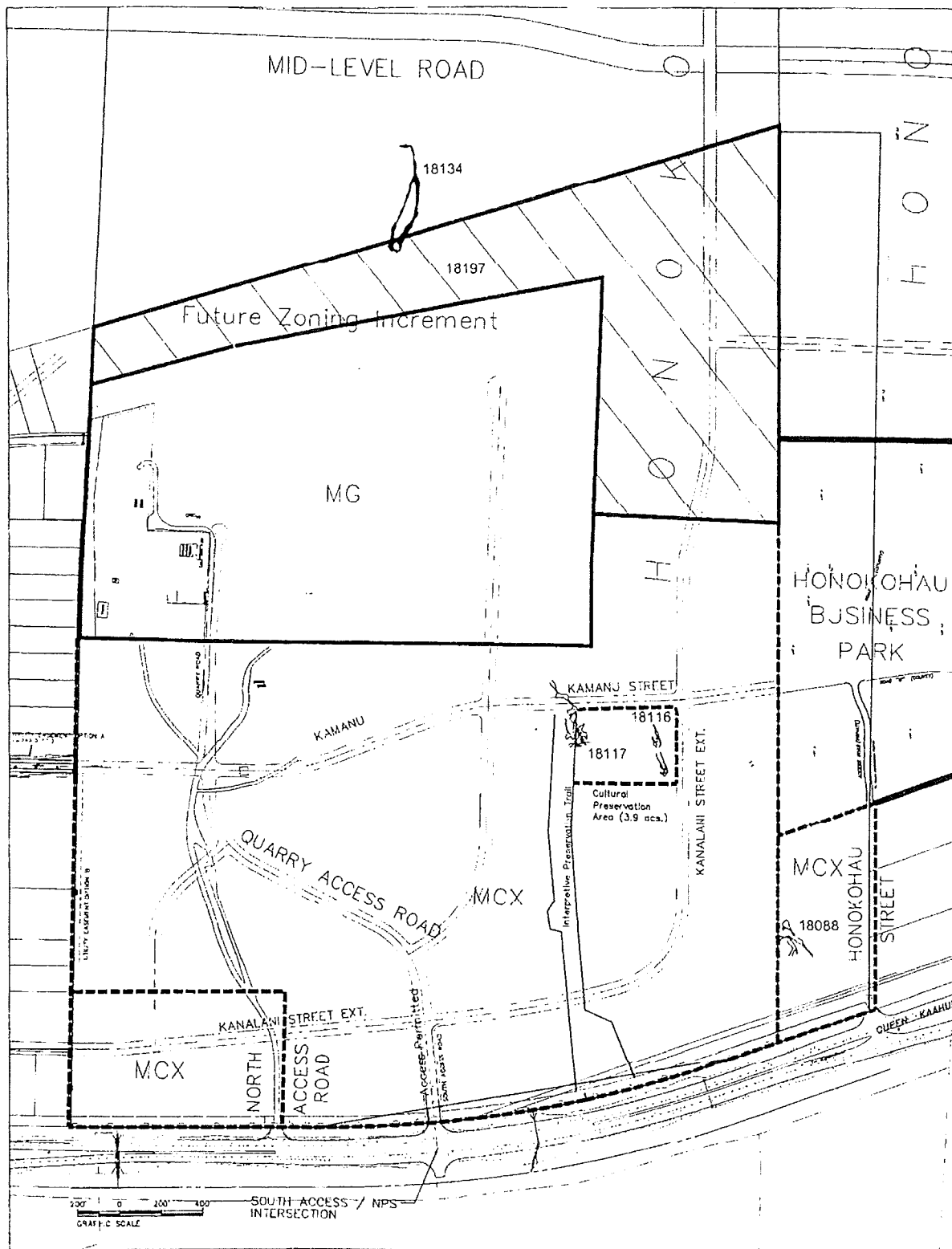


Figure 2.5 Burial Sites

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### 3 SITE PLANNING

The topography of the project site rises from an average elevation of 42' along Queen Ka'ahumanu Highway to 283' at the boundary of the General Industrial Property within the Open District. Over a distance of roughly 4,500', the increase in elevation is about 240', producing an average slope of 5.3%. The topography is not uniform, as the terrain undulates as it rises from west to east (makai to mauka). The topography is also irregular across the site in the north to south direction, including the portions of the Property that have been altered by previous quarry operations.

The variation in topography was a consideration during the layout of Lots on the project site, recognizing that terracing would be necessary to handle the sloping terrain. The grading concept for the Business Park accommodates the increase in elevation within the individual Lots, rather than attempting to create large, level "superpads" which would require huge slope banks or retaining walls.

#### 3.1 LOT GRADING AND DRAINAGE

Within each increment of development, Lots will be rough graded by the Declarant during mass grading operations. Fine ("finish") grading of the individual Lots will left to each Owner and the Design Consultants to provide flexibility in terms of locating structures and other Improvements. However, the layout of the Lot and finish grading must fully consider the manner in which storm water runoff is handled and disposed of on the Lot.

There is presently no runoff at the project site due to existing porous a'a and pahoehoe lava flows. The addition of hard surfaces as individual Lots are fully developed will generate storm water runoff. Site grading and drainage improvements shall be designed by a Civil Engineer and constructed to capture and dispose of runoff on the premises.

All grading and site work shall be done in compliance with the applicable provisions of the: Decision & Order, Zoning Ordinance, Administrative Rules of DOH - Chapter 23 of Title 11, Storm Water Covenants, Conditions and Restrictions ("Storm Water CCRs"), Pollution Prevention Plan ("PPP") and Hawai'i County Code ("HCC").

**Storm Water** - The following provisions are paraphrased from Section 2 of the Decision & Order (see Certificate of Conditions – Appendix B) and the Storm Water CCRs (Appendix D). Owners and Civil Engineers shall become familiar with the requirements of both documents.

- Storm water runoff shall be captured on the Lot.
- Storm water runoff entering the ground shall be treated to remove all industrial waste so that no Industrial Pollutants reach the Historical Park.
- All storm water improvements shall be engineered, constructed and maintained to ensure that no Federal, State or County water quality standards will be violated.



- No injection wells (drywells) shall be constructed as part of a storm water containment system, unless the requirements of Chapter 11-23, HAR, are satisfied and the DOH issues an Underground Injection Control ("UIC") permit.
- All drainage injection wells (drywells) or sub-surface drainage structures shall be designed with an appropriate size debris catch basin to allow the detention and periodic removal of rubbish and sediments deposited by runoff.

**Filtration Catch Basins** – Within the Business Park, FloGard Plus filtration units shall be installed on each Lot to remove debris and sediments prior to runoff entering each drywell. Information on the FloGard Plus catch basin is attached for reference in Appendix E. Civil Engineers may present alternative filtration devices with appropriate documentation for consideration by the Design Review Committee as part of the design review process. Use of an alternative filtration unit will be subject to review by the County and the National Park Service ("NPS").

**Pollution Prevention** – In consultation with the NPS, the Declarant has developed a Pollution Prevention Plan ("PPP") for the Business Park to minimize and eliminate conditions that could result in a release of Industrial Pollutants to the environment contaminating storm water runoff. The PPP details specific Structural, Procedural and Administrative Best Management Practices ("BMPs") by activity and type of pollutant. Owners and Design Consultants shall assess the Industrial Pollutants associated with the uses and activities planned for a Lot and implement the appropriate BMPs.

Owners and Design Consultants shall comply with the provisions on Storm and Surface Water Runoff detailed in Sections 4.5.2 and 5.5.2 of the PPP.

Owners shall post signs next to the inlets of all drainage/injection wells with the following warning (from Condition 3c of the Decision & Order):

**DUMP NO WASTES.  
GOES TO GROUNDWATER AND OCEAN.  
HELP PROTECT HAWAII'S ENVIRONMENT**

The PPP was recorded on June 26, 2008 and encumbers the lands that comprise the Business Park. A copy of the PPP shall be provided to perspective Owners at the time of purchase.

**Hawai'i County Code** – Owners and Design Consultants are referred to Chapters 23 (Subdivision), 25 (Zoning), and 27 (Drainage) of the Hawai'i County Code ("HCC") with respect to drainage and storm water disposal. It is important to recognize that the development of Lots in the MCX and MG zoning districts are subject to the Plan Approval provisions of Division 7 of the Zoning Code (Chapter 25, HCC). Particular attention is called to Section 25-2-72(3), which stipulates a storm water drainage system to contain and dispose of runoff generated by a proposed development of the premises. The HCC can be accessed at:

[<http://co.hawaii.hi.us/countycode.html#countycode>](http://co.hawaii.hi.us/countycode.html#countycode)

### **3.2 SIGHTLINES**

The terracing necessary to step-up the Lots with the terrain will create slope banks that may expose buildings and structures to sightlines from areas makai of the project site, including the Queen Ka'ahumanu Highway and the Historical Park. To mitigate visual impacts, buildings and structures on the upper Lot shall be sited away from the top of slope banks (or retaining walls) that exceed 8' in height. Where such conditions occur, the nearest wall of a building or structure shall be setback 1' for every 1' in height of the Improvement.

To further soften the visual impact of buildings and structures on the upper Lot, canopy trees shall be planted in the setback from the top of the slope bank (or retaining wall) at a maximum distance of 20' on center. The requirement for additional landscaping shall not be applicable where the difference in the finish grades between the adjacent upper and lower Lots is 8' or less.

### **3.3 LANDSCAPE ZONE**

Beginning at all property lines abutting streets, there shall be a Landscape Zone with a minimum continuous depth of 20 feet in compliance with the Front Yard Building Setback for the MCX and MG districts (Figure 3.1). With the exception of driveway access, utility installations and permitted ground signs no buildings or structures shall encroach into the Landscape Zone. Lots with two Front Yard Building Setbacks due to frontage on intersecting streets shall have two Landscape Zones.

The Landscape Zone of a Lot is restricted to the following uses: 1) landscaping, 2) driveway access, 3) connections to off-site utilities, 4) utility installations, and 5) business identification signs. No parking for vehicles or the storage of material shall be permitted within the Landscape Zone.

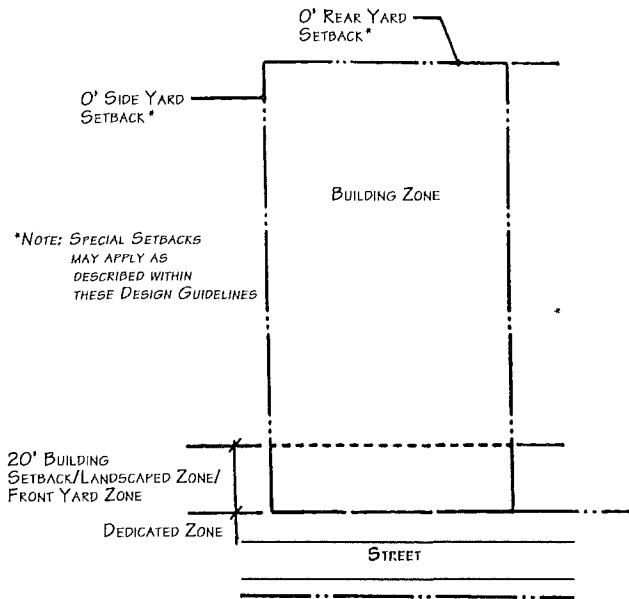


Figure 3.1 Basic Lot Areas and Setbacks

### 3.4 BUILDING ZONE

The Building Zone encompasses the portion of a Lot that is not restricted by setbacks or topographic conditions. Within the Building Zone, the layout of a Lot is subject to the individual requirements of each Owner. Site planning considerations include: the location of the primary building and ancillary structures, driveways and vehicle circulation, parking and loading zones, service areas (as defined in Section 3.9), utility installations, storm water collection and disposal systems, walls and fences. In the event the Lot is one of the 40 permitted to use Individual Wastewater Systems ("IWS) pursuant to the Decision & Order, the location of the IWS unit and the related Leach Field must also to be considered during the layout of the Lot (see Section 3.11).

Two or more contiguous Lots under common ownership may be consolidated into a single Lot to create a larger Building Zone. Lot consolidation shall be done in conformance with the provisions of the CCRs, and subject to the formal approval of the County Planning Department. Once consolidated, setback and other requirements shall be applied on the basis of the single consolidated Lot.

### 3.5 BUILDING SETBACKS

Setbacks are the minimum distances between property lines (or the top of slope banks/retaining walls) and the major vertical elements on a Lot such as a building or ancillary structure. With the exception of the Front Yard Building Setback (Landscape Zone), the special 30' rear yard building setback is applicable to Lots adjacent to the Highway Buffer Area (see Section 2.3.3), and setbacks from top of banks/retaining walls (Section 3.2), no side or rear yard building setbacks are required by the HCC for the MCX and MG zoning districts.

### 3.6 SETBACKS FROM BURIAL SITES

There are five Burial Sites on the Property that are situated in underground caves. These sites are subject to the provisions of a Burial Treatment Plan which requires the creation of a Preservation Buffer Zone around the cave. The Preservation Buffer Zone is established by setting a perimeter that is 25' from the walls of the burial chamber, 30' from any burial or burials, and 30' from the entrance to the cave. A low stone wall to be constructed along the perimeter is intended to identify the Preservation Buffer Zone. The Declarant is undertaking the construction of the buffer walls in consultation with a representative of the lineal and cultural descendants.

In addition, the Burial Treatment Plan requires the concentric setbacks be established from the exterior face of the low stone wall as follows:

- **Landscape Setback** – The area within 5' of the low stone wall, shall include the installation of appropriate landscape material.
- **Building Setback** – The area within 30' of the low stone wall, in which no permanent building may be erected, shall allow such improvements as roads, driveways, sidewalks and other improvements that do not involve the placement of permanent vertical elements.
- **Heavy Equipment Constraint** – The area within 70' of the low stone wall, shall not allow the use of construction equipment heavier than a D-7 tractor to be operated. The constraint is intended to mitigate the potential for damage to the cave system and the burial chambers.

The Preservation Buffer Zone, Landscape Setback, Building Setback and Heavy Equipment Constraint are illustrated in Figure 3.2. The setbacks and constraints impact the Lots on which the Burial Sites are located and may affect portions of adjacent Lots on to which the setbacks overlap. The Declarant shall disclose any restricted areas that overlap on to adjacent Lots by designating easements in favor of the respective Burial Sites as required.

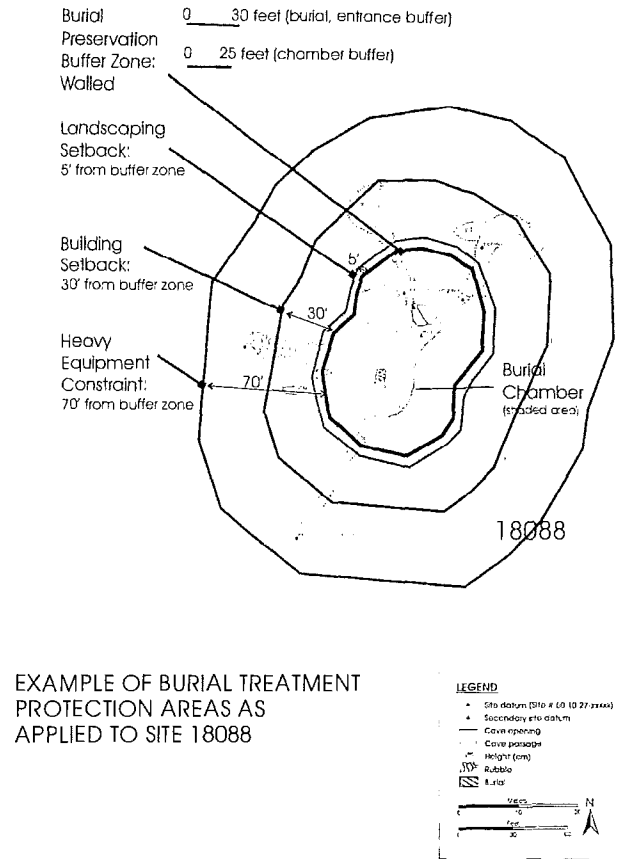


Figure 3.2 Burial Site Setbacks

Owners of Lots on which Burial Sites are situated shall be responsible for maintenance and security of the respective Preservation Buffer Zones (including the buffer walls). In addition, linear and cultural descendants shall be permitted access to the Burial Sites for religious and cultural purposes. The foregoing may require the designation of special access easements across the affected Lots. Specific information in regard to each Burial Site is detailed in the Burial Treatment Plan.

### 3.7 DRIVEWAYS

Vehicular access into individual Lots shall be provided by driveways conforming to the applicable provisions of the HCC. Driveway approaches may be wider than 36 feet, including flares, if designed by a Civil Engineer and approved by the County. The County may also permit

the creation of a common driveway approach for separate Lots when required by the site configuration of topography.

### **3.8 PARKING AREAS**

The dimensions of access drives to off-street parking and loading zones shall be in compliance with applicable requirements of the HCC. The number of off-street parking spaces, including designated handicapped stalls, shall not be less than 1 stall per 300 square feet of gross floor area for office/retail uses and 1 stall per 400 square feet of building area for light industrial uses. The layout of parking areas shall incorporate the landscaping provisions of Section 5.3.4.1 and comply with Rule 17 of the Planning Department.

The Decision & Order and the PPP require that all large vehicles, such as buses, trucks and construction equipment parked on the project site utilize drip pans to avoid the release of petroleum products on to paved or graveled surfaces. In the alternative, parking areas for large vehicles shall include grassed or vegetative swales to capture runoff.

On-street parking shall not be permitted on the major roadways (South Access Road, Kamanu Street and Kanalani Street). Street parking may be permitted in designated areas approved by the Declarant or the Association. These areas will be identified by appropriate signage and/or curb markings. All on- and off-street parking must be paved.

Off-street loading requirements shall be based on gross floor area in conformance with the applicable provisions of the HCC. Required loading space must be identified and be reserved for loading purposes. Loading space cannot occupy required off-street parking areas or restrict ingress to or egress from a Lot. Loading zones must be accessed from an on-site driveway; direct access from a public street is prohibited.

### **3.9 SERVICE AREAS**

Service areas include, but are not limited to, areas for minor vehicle/equipment repair and maintenance, parking for company vehicles, exterior storage of raw material and/or manufactured products, recycling and refuse collection, and exterior, pad mounted mechanical and/or electrical equipment. Service areas shall be designed with sufficient space and access for the proposed activity. Service areas shall be screened from public streets pursuant to the provisions of Section 4.4.5.

Vehicle and equipment maintenance activities shall be performed on an impermeable concrete surface that is bermed to contain any accidental spills or fluid leaks. All accidental releases shall be immediately cleaned and reported to the appropriate agencies as required by the PPP.

### **3.10 SOLID WASTE**

A Solid Waste Management Plan ("Plan") has been prepared for the Business Park and approved by the County Department of Environmental Management. A copy of the Plan will be provided to Owners at the time of purchase. The Plan recognizes the impact of trash, rubbish and other solid waste on the County's landfills and encourages recycling activities, which may be coordinated by the Association.

Owners and Design Consultants shall incorporate a suitable area for the segregation and accumulation of recyclables and trash as an integral part of the layout of a Lot. The area for the collection and storage of recyclables and trash shall be sited so that it does not detract from the appearance of the premises from the adjacent roadway. Such areas shall be screened as provided herein.

### **3.11 WALLS AND FENCES**

Within the 20-foot Landscape Zone all walls shall be constructed of lava or blue rock to maintain a natural look for the Business Park. To the extent permitted by topographic conditions, walls in the Landscape Zone shall be limited to a maximum height of 3' so that they do not become the dominant feature.

Fencing and wall materials used within the Building Zone shall be designed to complement the architectural character of the surrounding area. Walls and fences must be illustrated and detailed (height, width, layout, construction material, finish and color) on construction plans for review and approval by the DRC. The following are appropriate types of wall and fence material:

- Lava Rock
- Blue Rock
- Concrete Block
- Hardie-Board
- Wood

Galvanized chain-link fencing may be used selectively within the Retail-Commercial Area, subject to the approval of the ICDRC. Design consultants may submit types of wall/fence materials during the plan review process for review and approval by the appropriate DRC.

### **3.12 INDIVIDUAL WASTEWATER SYSTEMS**

Individual Wastewater Systems ("IWS") are intended solely to treat domestic type wastewater from firms within the Business Park. Wastewater contaminated by Industrial Pollutants from manufacturing, and processing operations or vehicle and equipment maintenance activities is to be collected and taken off of the project site for specialized treatment and disposal. IWS units are intended for temporary use, until connection to the County's Kealahou Wastewater Treatment Plant is available.

Condition 1d of the Decision & Order limits use of IWS units to no more than 40 Lots. To ensure compliance with the foregoing and other restrictions on the use, operation and maintenance of IWS units, the Declarant has developed a Wastewater Treatment System Program ("Program"). A copy of the manual for the Program shall be provided to Owners authorized to utilize IWS units within the project site. Additional site planning considerations for Lots utilizing IWS units include identification of the location for installation of the treatment units, including an adjacent area for the construction of an absorption field of imported material ("Leach Field").

In addition to review by the applicable DRC during the plan review process, installation of an IWS unit and Leach Field shall be subject to the approval of the DOH pursuant to the provisions of Chapter 62 of Title 11, HAR. Review by DOH typically takes place in conjunction with the processing of a Building Permit application for the improvements to be constructed on the Lot. To preclude issues from arising with DOH after final review by the DRC, the Civil Engineer should consult with the DOH Wastewater Branch during the initial review process (Step 3)

In attempting to comply with Condition 1c of the Decision & Order, the Declarant commissioned a study of the technology available for the treatment of domestic wastewater. Based on the study, the Declarant has selected the Cyclic Biological Treatment ("CBT") unit, a form of sequential batch reactor for smaller applications. *The CBT unit, manufactured in Honolulu by International Wastewater Technologies, LLC, is the only treatment system approved for use at the Business Park. The CBT unit meets the nitrogen reduction stipulated by Condition 1c (as amended – see Appendix B).* Information in regard to the installation, operation and maintenance of the CBT unit is incorporated into the manual for the Wastewater Treatment System Program.

### 3.13 MAINTENANCE

All on-site improvements shall be designed and constructed to permit the Lot and the facilities to be maintained in an attractive, orderly and functional condition. The standard of maintenance and repair shall conform to the General Industrial Community Wide Standard or the Industrial-Commercial Community Wide Standard, predicated on the underlying zoning. In addition, the sub-areas of the Industrial-Commercial Property shall be maintained in conformance with the Retail/Commercial Community Wide Standard or the Business Park/Industrial Community Wide Standard pursuant to the CCRs.



## **4 ARCHITECTURE**

The objective of this section of the Design Guidelines is to establish the architectural character for the Retail/Commercial Area and the Business Park/Industrial Area of the Industrial-Commercial Property. The overriding intent is to create an attractive environment that is cohesive, while offering the flexibility necessary to accommodate the needs of a range of users. This will be addressed through the use of architectural forms that are simple and strong, featuring rectangular shapes with pitched roofs as a basic model. This basic form shall be adapted to the respective areas of the Industrial-Commercial Property by modifying the massing and articulation of the structure, incorporating architectural details, and the selection of appropriate building materials, finishes, textures, and colors.

The topics that follow layout the key design elements for the Industrial-Commercial Property, with distinctions between the Retail/Commercial Area and the Business Park/Industrial Area detailed in the text. Discussion as to the design guidelines applicable to the General Industrial Property are subject to the provisions of the HCC, is also noted herein.

### **4.1 DESIGN STANDARDS**

Within the Retail/Commercial Area, structures shall be designed to reflect a contemporary, up-scale character, with special attention to the frontage along the Queen Ka'ahumanu Highway. The use of architectural forms, massing, articulation, design details, textures and finishes which project a sense of quality and substance is highly recommended. The creation of long, continuous exterior elevations is discouraged in favor of articulated exterior walls. Breaking the façade vertically through banding and horizontally through the use of bays is also desirable. Appropriate building systems shall include concrete, CMU and heavy wood construction. The foregoing shall be applicable to all structures to be constructed in the Retail/Commercial Area, regardless of the type of use or activity to be conducted within the premises.

Architecture for the Business Park/Industrial Area is not as driven by the consideration of massing, articulation and design detail. The aesthetic is intended to allow for more basic architectural forms and building materials, including slab-sided steel, pre-engineered or pre-fabricated structures. However, attention shall be given to the front elevation of all structures and the treatment of the street front shall incorporate appropriate architectural treatments to soften the "warehouse" look. The intent is to achieve a more contemporary ambiance that allows integration of the streetscape with the Retail/Commercial Area.

Within the General Industrial Property located on the excavated floor of the quarry, the requirement to facade the front elevation of a structure, while encouraged, is not mandated. For this heavy industrial area, the design requirements shall be primarily based on compliance with the provisions of the HCC, except where modified herein.

## **4.2 LOT COVERAGE**

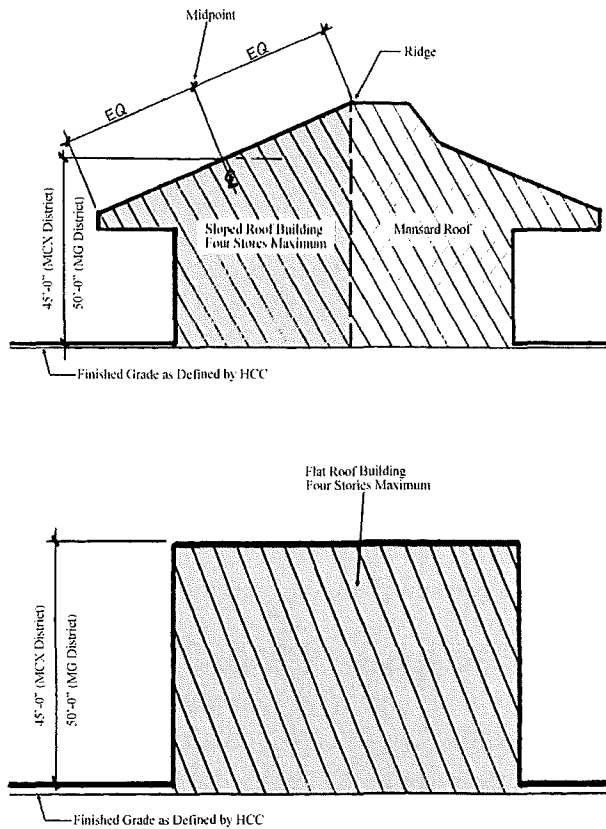
The scale of a building is primarily a function of its size relative to the area of a Lot and is a significant design consideration due to the potential visual intrusions. The intent of the Design Guidelines with respect to the Retail/Commercial Area is to preclude exceedingly large, rectangular structures that occupy the majority of the Building Zone. In cases where the footprint of a building covers 70% or more of the Building Zone of a Lot, the ICDRC shall consider the visual impact of the building during the preliminary plan review process. The ICDRC shall have the ability to require redesign of the building to a scale that is more sensitive relative to the surroundings. A Pre-Design Consultation between the Architect and the ICDRC is encouraged, particularly where schematic plans indicate substantial Lot coverage.

Within the Business Park/Industrial Area, coverage of a Lot shall take into consideration the contemplated use and compliance with the provisions of the HCC, particularly off-street parking. Certain types of business activities, such as wholesaling and distribution, self-storage facilities, warehousing and manufacturing operations require structures having a large volume with modest requirements for off-street parking. The Architect shall provide appropriate details as part of the application to the DRC.

Within the General Industrial Property, the range of heavy industrial activities can predicate structures with relatively small footprints (administration building within a construction base yard) to buildings with large enclosed floor areas (manufacturing and warehousing operations). Primary consideration would be guided by compliance with the HCC.

## **4.3 BUILDING HEIGHT**

Under the provision of the HCC, maximum building height is 45' for the Industrial-Commercial Property and 50' for the General Industrial Property. The maximum number of stories shall be limited to four (4), subject to the constraints of the building envelope for the particular Lot (Figure 4.1).



**Figure 4.1 Building Height Roof Details (sloped or flat roof)**

Building height is measured to the highest point of the coping of a flat roof, the deck line of a mansard roof, or the average height of the highest gable of a pitched or hipped roof. The reference datum shall be selected by either of the following, whichever yields a greater height of building:

- (A) The elevation of the highest adjoining sidewalk or ground surface within a five-foot horizontal distance of the exterior wall of the building, when such sidewalk or ground surface is not more than ten feet above lowest grade.
- (B) An elevation ten feet higher than the lowest grade when the sidewalk or ground surface described in (A) above is more than ten feet above lowest grade.

Under the provisions of the HCC, the height of a stepped or terraced building is the maximum height of any segment of the building relative to the adjacent grade.

For Lots abutting the Highway Buffer Area, special height restrictions shall apply in the form of a three-dimensional building envelope. The building envelope is intended to reduce the mass at the rear of the structure with respect to sight lines from the Queen Ka'ahumanu Highway and the Historical Park. Condition 10.f of the Decision & Order contemplates that the design criteria for the Business Park shall reduce the visual impact of the development and preserve of a feeling of open space. As noted in Section 2.3.2, these Lots are also subject to a rear yard building setback of 30' from the property line with the Highway Buffer Area (Figure 4.2).

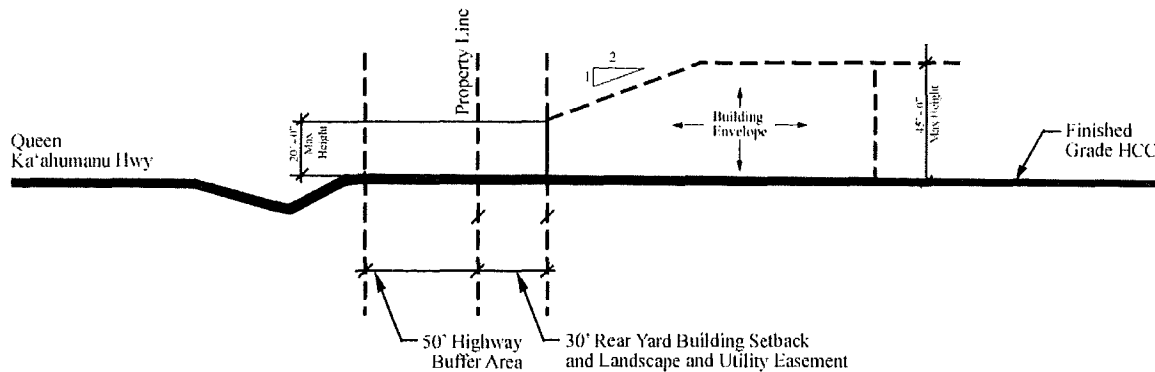


Figure 4.2 Building Envelope Along Queen Ka'ahumanu Highway

#### 4.4 DESIGN ELEMENTS

The architecture of the buildings and structures to be constructed in the Business Park shall adhere to the design principles outlined in Section 4.1. The following discussion of design elements, which are particularly applicable to the Retail/Commercial Area, is intended to further guide the development of architectural plans for a project.

- Use a variety of design elements, such as “pop outs” and multiple roof lines, to break the mass of a building into smaller segments, reducing the visual impact of a large box (Figure 4.3).
- Incorporate horizontal articulation or bays to break-up continuous, straight walls and elevations.

## West Hawai'i Business Park Design Guidelines

- Utilize hip and hip/gable roofs to soften the visual impact of high ridge lines and end walls found on gable roofed structures (Figure 4.4).
- Mix exterior building materials to reduce the mass of a wall horizontally and vertically through the introduction of bands and elements of texture and color.
- Incorporate fascia trims to create a band which visually separates the roof edge and the building wall. Reduces the impact of a building's scale and height through the focus on a horizontal element.

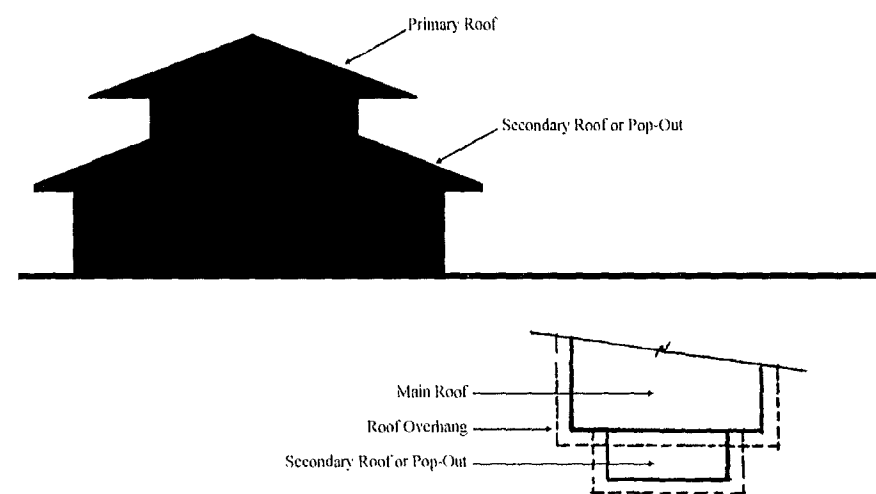


Figure 4.3 Building Pop-Out Details

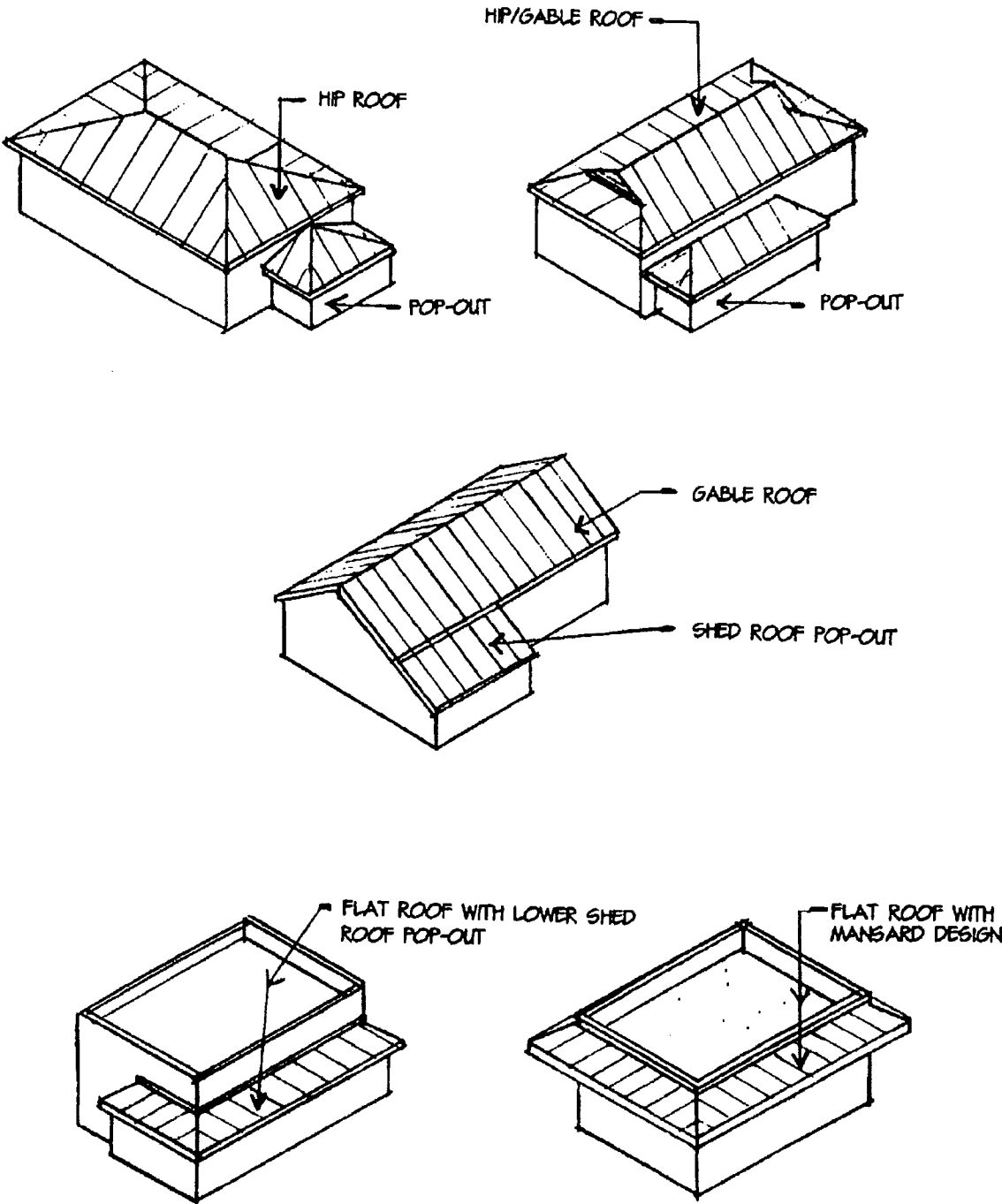


Figure 4.4 Roof Combinations

#### 4.4.1 Roof Systems

The following roof systems are defined and illustrated in Figure 4.5:

- **Mansard Roof:** Typically a combination of flat or low sloping roof deck area with a sloping roof area built around the perimeter.
- **Gable Roof:** Two sloping roof planes with vertical triangular end walls.
- **Shed Roof:** A roof shape having only one sloping plane. Shed roof will only be allowed as a secondary roof element.
- **Hip Roof:** A roof shape with four sloping roof planes.
- **Hip/Gable Roof:** Combination of the two roof types with an exposed triangular gable end wall.
- **Flat Roof:** Single plane roof having minimum slope required for drainage.

#### 4.4.2 Roof Materials

- **Metal Roof:** Jorgenson Steel and Aluminum, Super Rib 26 GA, or approved equal.
- **Roof Tile:** Monier Roof Tiles, The Hundred Pattern, or approved equal.
- **Asphalt Shingle Roofing:** Prestige Plus Elk Corp. or approved equal.
- **Cementitious Shingle Roofing:** James Hardie Building Products, Hardishake, or approved equal.
- **Modified Bitumen Roofing:** Siplast Roofing System or approved equal.

**Roof Colors** – White and silver colored roofing material is not permitted on structures in the Business Park.

**Skylights** – Skylight glazing shall be a clear or smoke-tinted safety glass or Plexiglas set in an anodized or powder-coated aluminum frame finished to match the roofing color. The skylight must meet all government code requirements.

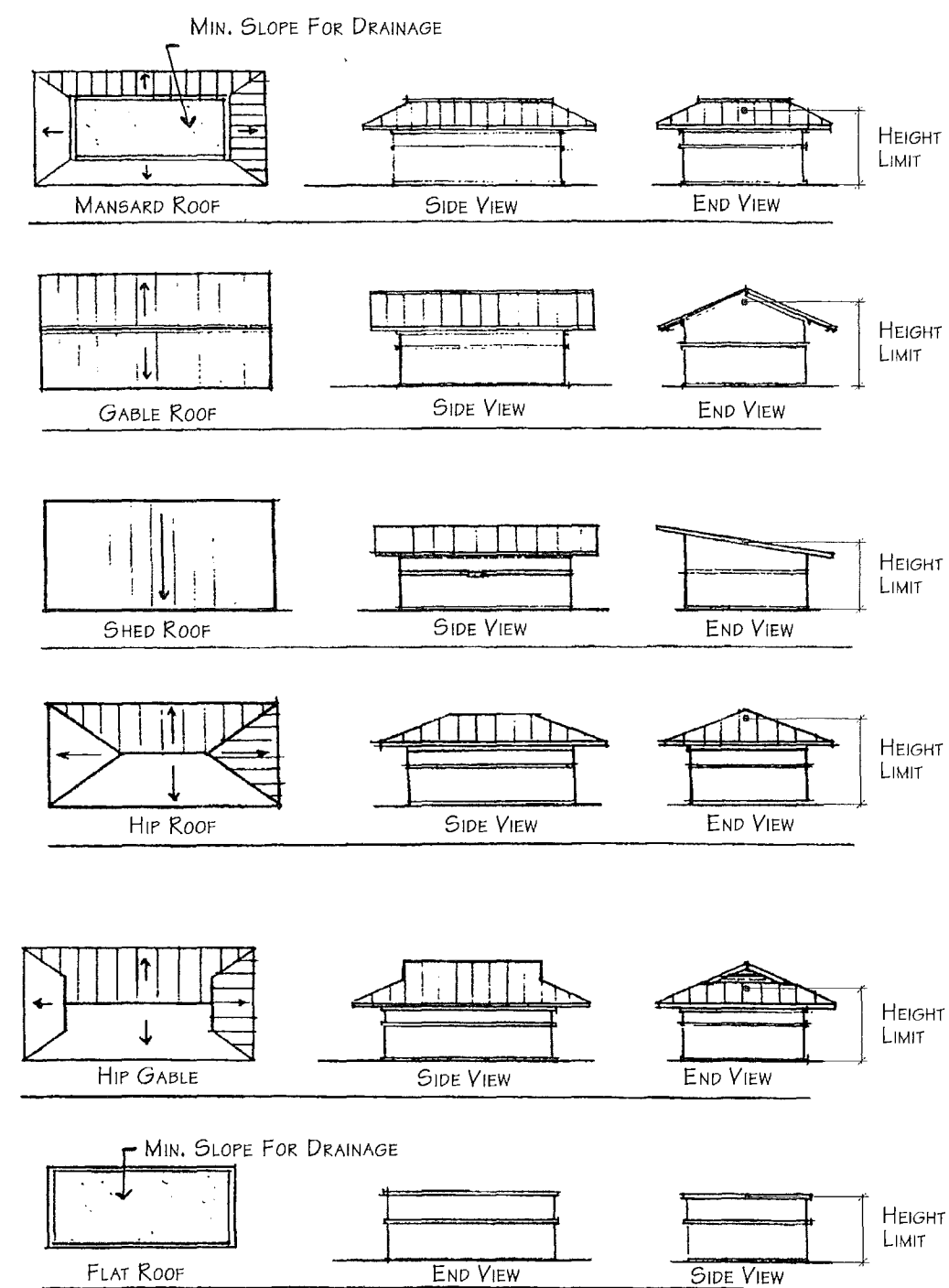


Figure 4.5 Basic Roof Design Options



#### 4.4.3 Wall Systems

- **Concrete:** Concrete tilt-up or poured in place wall systems (recommended in the Retail/Commercial Area).
- **Concrete Masonry Units (CMU):** All types of CMU blocks (recommended in the Retail/Commercial Area).
- **Metal:** Allowed as a primary wall system in The Business Park/Industrial area with a minimum rib or reveal spacing of 6 inch O.C. Not permitted in the Retail/Commercial Area.
- **Wood:** Finished grade wood finishes are appropriate in both areas (recommended in the Retail/Commercial Area).

#### 4.4.4 Window Systems

The window design and layout shall be an integral part of the building design as well as functional for purposes of ventilation. Safety glass is highly recommended. All-glass buildings are not allowed.

- **Tinting:** All windows used for display may be clear glass; clear UV tint is recommended. All windows not used for display shall be tinted (smoke or bronze) to match the overall color scheme for the building. No reflective tint shall be used in the Business Park.
- **Trim:** Aluminum used for window frames shall be of an anodized finish. In addition to anodized aluminum window frames, a high-quality vinyl frame shall be an acceptable alternate, so long as the frame material used is compatible to the color of the exterior wall.

#### 4.4.5 Visual Screening

Pad mounted utility installations and service areas (as defined in Section 3.9), exterior storage areas (including accumulated recyclables and trash) and exposed mechanical equipment shall be screened from the adjacent street. The visual screening shall be continuous, integrated with the building design. Screening shall be approved by the DRC. Screening may include landscaping pursuant to the provisions of Rule 17. Screening shall be a minimum of 6 feet in height, but no higher than the line of any adjacent roof eave.

The screening requirements in these Design Guidelines for utility installations, service areas, exterior storage areas and exposed mechanical equipment in the Industrial-Commercial Property shall not apply to the General Industrial Property., which shall meet the provisions of the HCC and Rule 17.

#### **4.4.6 Entry Design**

An important aspect of a building is its entry, which should impart a sense of arrival in addition to providing access. In the Retail/Commercial Area, entries that are popped out with a covered roof area or recessed from the front plane of the building are recommended to provide shade, cover and visual relief. A similar treatment is appropriate for the Business Park/Industrial Area and the General Industrial Property, but not a requirement.

#### **4.5 BUILDING COLORS**

The color palette for the West Hawai'i Business Park takes into consideration the surrounding physical environment (i.e., strong sunshine, average annual temperatures in the high 80s, arid climate, extensive lava fields with minimal vegetation and wind blown dust). In the Business Park/Industrial Area and the General Industrial Property, earth tones such as light brown, tan, beige, terra cotta, taupe, warm grey, muted green, and off white are recommended. Combinations of the foregoing palette should be limited to no more than three colors for the exterior walls and trim. The roofing material may introduce a fourth complementary color (where visible).

**Note:** Existing Structures of a different color are exempt and do not have to be repainted to comply with the foregoing. However, Existing Structures shall be brought into conformance with the color palette at the time they are repainted.

Within the Retail/Commercial Area, the color palette indicated above shall be augmented with subdued shades of gray, green-gray, and blue-gray. Consideration shall be given to the use of more vibrant accent colors, such as brighter greens, blues, teal, and mauve.

Lighter walls and darker roofs are recommended with contrasting accent trim. Color combinations proposed for use on a structure shall be approved by the DRC as part of the Final Review. Any substitution of colors that are not indicated above shall require the approval of the DRC.

#### **4.6 ANCILLARY STRUCTURES AND ADJACENCIES**

All ancillary structures and adjacencies on a Lot shall maintain a common architectural theme with the primary building. The ancillary structures and adjacencies must form a uniform expression, employing complementary colors, materials, textures and finishes with the primary building.

Satellite dishes, antennas, and other such equipment must be ground-mounted and screened from adjacent streets. All roof-mounted mechanical equipment, utility installments, duct work, communications equipment, radio or television antennas, or any other devices which project vertically more than 18 inches above the roof or roof parapet shall be screened by a solid visual barrier which is detailed in manner that is consistent with the building. Any device mounted on, or protruding from, a building face shall be screened. The color of the device will be the same as,

or complementary to, the building field color. The foregoing shall not be applicable to the General Industrial Property.

#### **4.7 ENERGY CONSERVATION**

All new structures intended for occupancy shall incorporate energy conservation technology in their design and construction and comply with all State and County energy conservation guidelines. Energy conservation design shall include:

- Architectural elements such as overhangs, shading devices, recessed windows, and interior window coverings or blinds are encouraged to minimize heat absorption.
- Solar collectors are permitted providing they are visually screened and/or integrated into the roof design of a structure.
- Incorporate fluorescent light fixtures, low-pressure sodium area lighting, and skylights into the design of buildings and exterior areas to reduce the consumption of electricity.

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## 5 LANDSCAPE

The goals and objectives of the landscape section of the Design Guidelines encompass the following:

- Integrating the developed environment of the Business Park with the rugged character of the Kaloko-Honokōhau area, which is dominated by overlapping a'a and pahoehoe lava flows.
- Retaining and protecting native vegetation in the Interpretive Complex and the Cultural Preservation Area.
- Unifying the aesthetic appeal of the built environment through the installation of appropriate landscaping, including "street" trees in the Landscape Zone of individual Lots.
- Filtering views into the project site through the placement of appropriate canopy trees along the frontage with the Queen Ka'ahumanu Highway and along the top of slope banks.
- Utilizing drought-tolerant, native Big Island plant material and incorporating areas of "re-naturalized" lava to reduce the volume of water required for irrigation.

### 5.1 LANDSCAPE CONCEPTS

The landscape concepts for the Business Park are separated into two categories based on orientation to: 1) the external environment or 2) internal to the project site:

- ***External Orientation:*** This refers to the 50' deep Highway Buffer Area along the Queen Ka'ahumanu Highway and the special rear yard building setback for the adjacent Lots within the Business Park. Although not as dramatic, the external orientation also recognizes the contribution of the canopy trees to be placed at the top of significant slope banks and retaining walls.
- ***Internal Orientation:*** This primarily references the installation of themed "street" trees along the internal roadways (outside of the road right-of-way) to produce unified streetscapes. **The interior orientation also contemplates the landscaping to be installed within the Landscape Zone of each Lot pursuant to the provisions of Rule 17 (Landscaping Requirements) of the Rules of Practice and Procedure of the Planning Department.**

## 5.2 EXTERNAL ORIENTATION

### 5.2.1 Highway Buffer Area

The initial 50' of the Property from the edge of the highway will be subdivided into Lots to be dedicated to the Association to ensure long-term maintenance. Landscaping and irrigation will be installed by the Declarant prior to conveyance to the Association.

The Highway Buffer Area will be set off by the interplay of landscaped areas incorporating native Big Island vegetation, interspersed with "re-naturalized" lava. The area of re-naturalized lava will be constructed to replicate the historic lava flows that comprise the Property. The concept plan attached as Appendix F illustrates the proposed landscape treatment.

The Highway Buffer Area will incorporate large canopy trees, such as Monkeypod and Female Kiawe, to provide the vertical elements necessary to filter views of the first tier of buildings in the Business Park. Medium-size canopy trees, such as Narra and Mahogany, will provide additional screening at lower levels without blocking out views into the project site.

Naupaka and other native Big Island plants and drought tolerant vegetation such as Akia, A'alii, Kului, Pōhinahina, Noni, and Naio will also be planted along the highway to provide color and visual interest. The entries into the Business Park will feature a more manicured treatment with entry monumentation and signage.

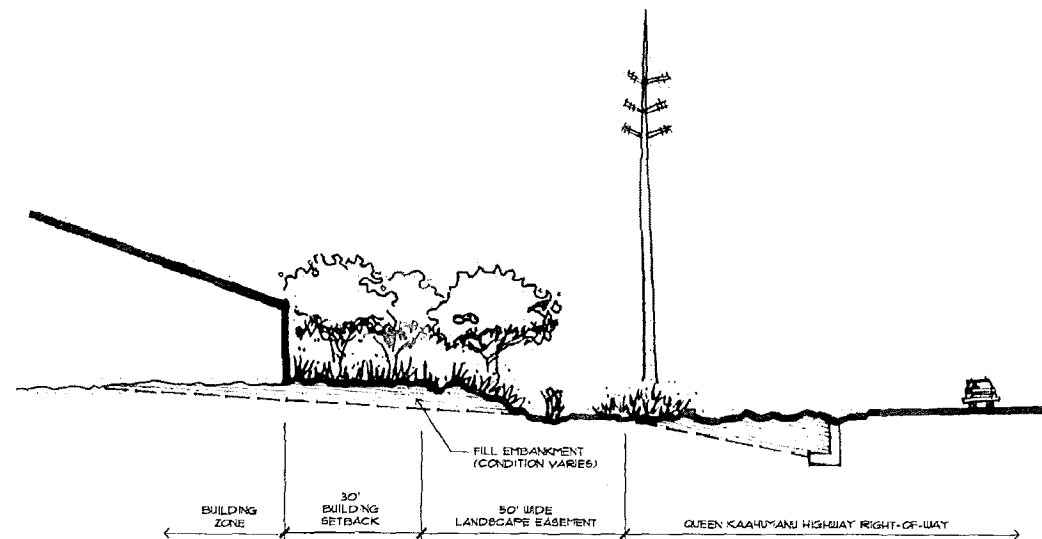


Figure 5.1 Queen Ka'ahumanu Highway Buffer Area Section

5.2.1.1 Special Rear-Yard Building Setback

The Highway Buffer Area will be augmented by a 30’ rear yard building setback on the first tier of the Lots, to be landscaped with canopy trees and irrigated. The setback area shall be maintained by the respective Owners and landscape easement will be designated in favor of the Association to ensure proper maintenance. The special setback area may be used for parking or other functions, subject to the requirements for screening.

The External Landscape elements will be handled as follows:

	Highway Buffer Area	Special Rear Yard Setback Area
Depth	50’ from Queen Ka‘ahumanu Highway	30’ from Highway Buffer Area
Landscaped By:	Declarant	Lot Owner
Maintained By:	Association	Lot Owner
Owned By:	Association	Lot Owner

5.2.2 Top of Slope Banks

Pursuant to the provisions of Section 3.2, the top of slope banks (or retaining walls) exceeding 8’ in height above the finish grade of the lower Lot shall be planted to provide screening if a building or structure is sited at the minimum setback. Canopy trees shall be planted 20’ on center with irrigation. An appropriate species having a minimum height of 15’ and caliper width of 3” shall be selected from the tree list in Appendix G.

5.3 INTERNAL ORIENTATION

The unifying landscape treatment for the Business Park will be executed in the Landscape Zone of each Lot through the planting of “street” trees. Additional landscaping in the Landscape Zone and the Building Zone shall augment the “street” tree plantings. The landscaping and irrigation to be installed by the Owner is described in the following sections.

5.3.1 Landscape Zone

The Landscape Zone of each Lot will be the major unifying element for the Business Park. Except for driveways, utility installations and ground signs, the Landscape Zone of each Lot shall be improved as illustrated in Figure 5.2 subject to the provisions of Rule 17. Corner lots with Front Yard Building Setbacks on two streets shall be subject to Landscape Zones along both roadways.

A list of appropriate plant material is provided in Appendix G to assist the Landscape Architect. The use of native Big Island and drought tolerant vegetation (“Xeriscape”) is encouraged. Landscape treatments for a Lot shall complement (but need not be identical to) the landscaping

installed on adjacent properties. In addition to "street" trees (covered in Section 5.3.2), one tree and 10 shrubs (as defined in Rule 17) shall be installed for every 35' of roadway frontage. Trees shall be installed 3 to 4 feet from Improvements (curbs, sidewalks, walls, fences, ground signs, utility installations, etc.) to minimize the potential for damage from roots.

Note: Lots in the General Industrial Property shall comply with the provisions of Section 25-5-157(a) of the Zoning Code and Rule 17.

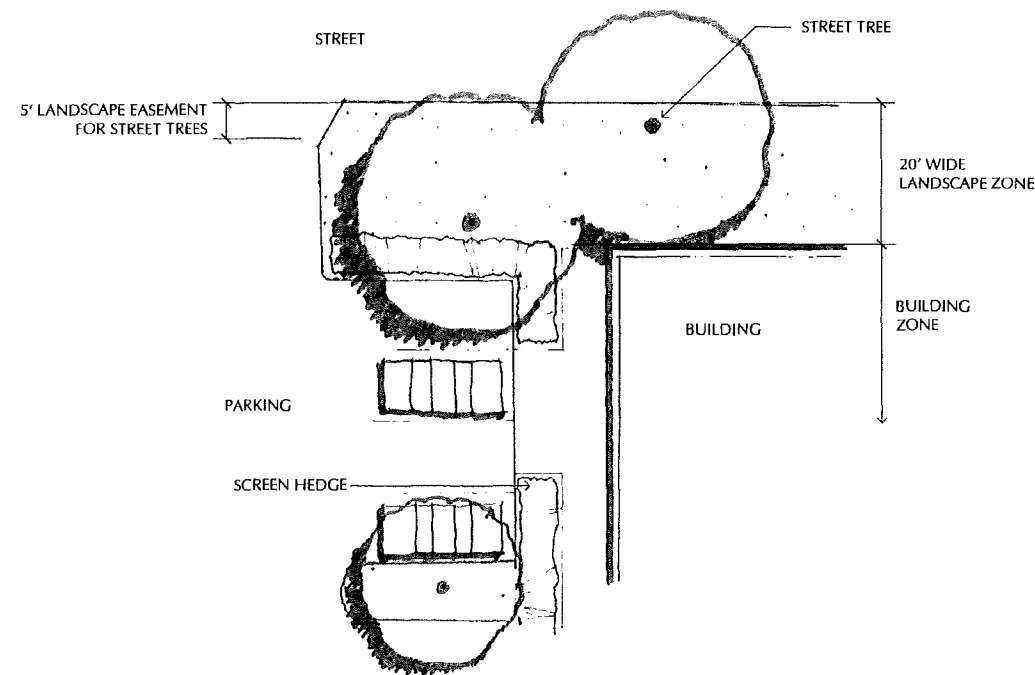


Figure 5.2 Landscape Zone

### 5.3.2 "Street" Trees

The design standard for County roadways does not permit trees to be planted within the public right-of-way ("ROW"). In order to create a pleasant and cohesive streetscape, each Owner shall install themed canopy "street" trees within the first 10' of the Landscape Zone, measured from the edge of the street ROW. The "street" trees are in addition to and not in lieu of the front yard landscaping required by Rule 17.

The "street" trees along with shrubs shall be installed at regular intervals, approximately (1) tree and (10) shrubs per 35' of linear frontage. The spacing between "street" trees may be modified to clear driveways, ground signs, and utility installations. The planting of "street" trees shall also comply with Section 22-2.2 of the HCC relating to sight distance at intersections and to the requirements of Rule 17. Care shall be taken to ensure that the canopy of the "street" trees do not overhang into the County ROW. Irrigation shall be provided for the "street" trees, which maybe provided by drip irrigation systems.



Note: Lots in the General Industrial Property are not exempted from the requirement to install “street” trees.

The canopy “street” trees, as illustrated in Figure 5.3, are designed to soften the streetscape through the introduction of color, texture and shade. The themed “street” trees will also provide visual continuity along the major internal roadways. At intersections, Owners shall install trees as illustrated in Figure 5.4.

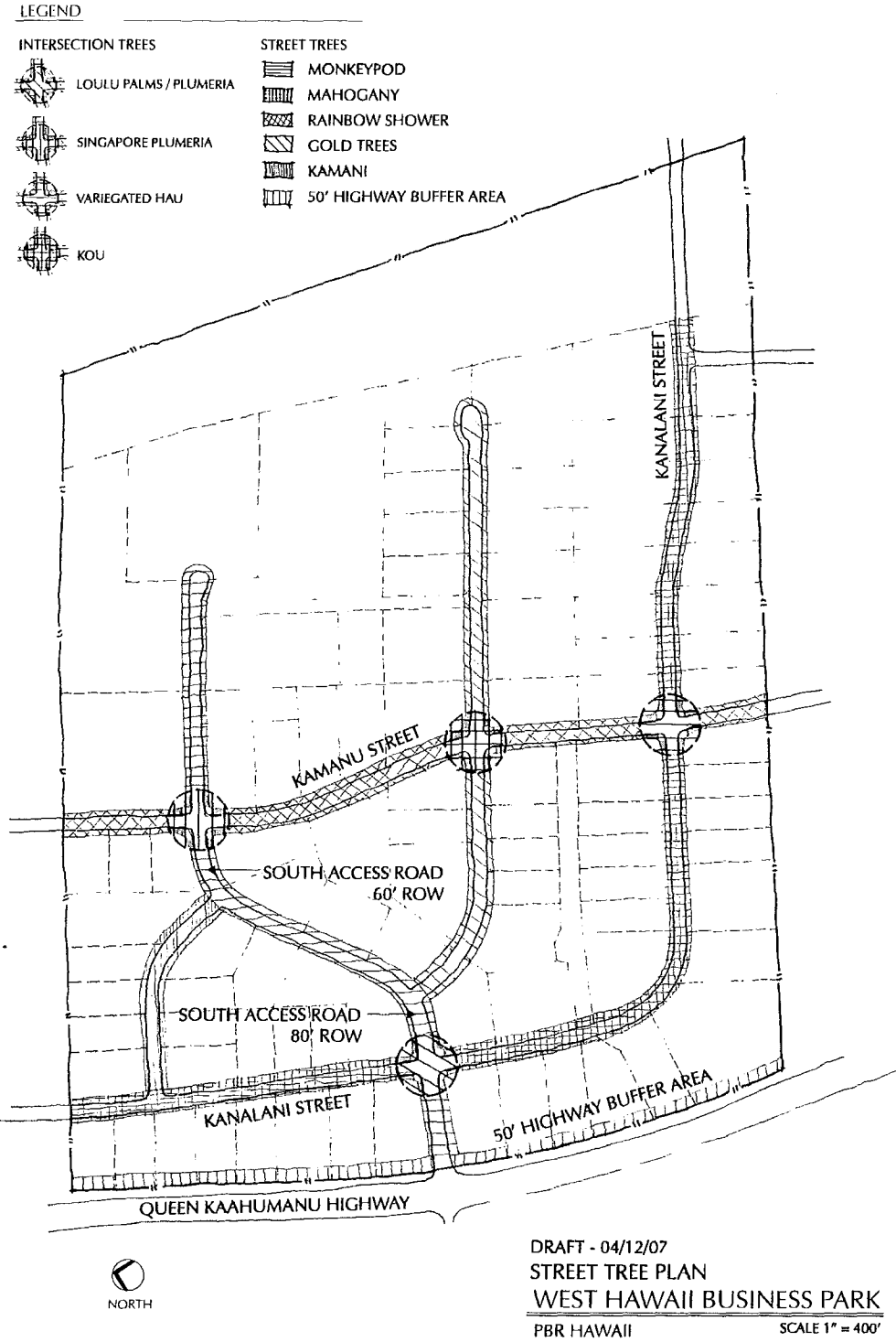


Figure 5.3 Street Tree Plan

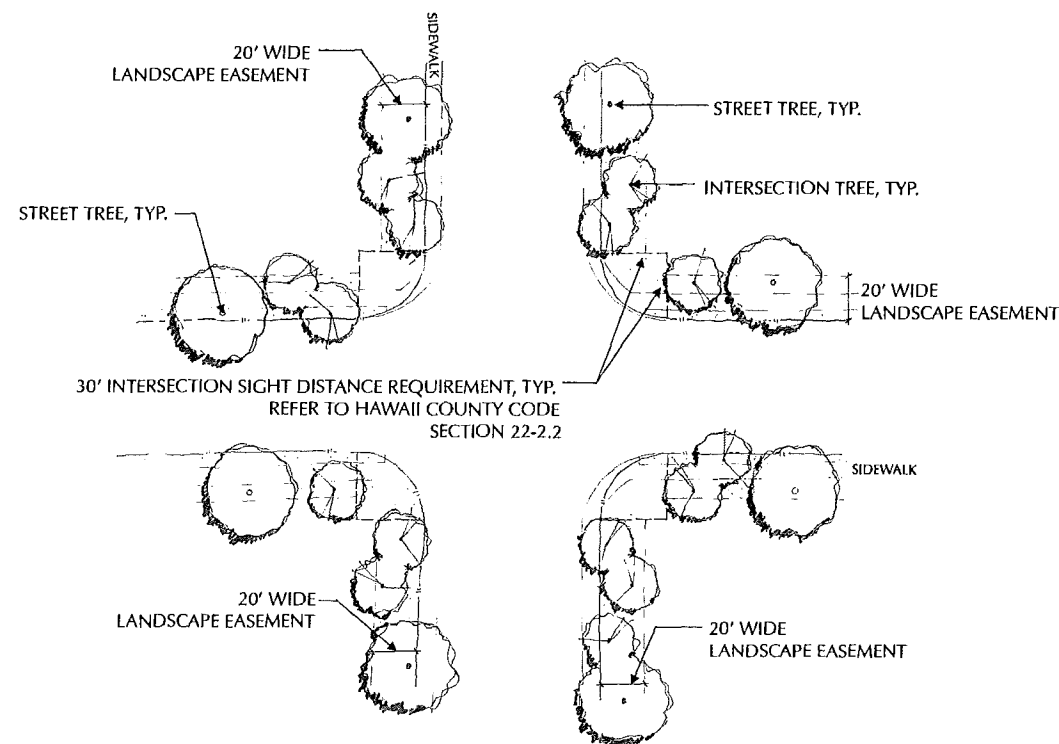


Figure 5.4 Intersection Planting

Suggested minimum sizes at the time of installation are indicated below. Size may be modified according to the specific tree specified by the Landscape Architect.

- Flowering and canopy trees – 8’ high, 2” caliper (measured at 4’ above grade)
- Large Palm varieties – 10’ clear trunk (excluding height of fronds)
- Small Palm varieties – 1’ clear trunk (excluding height of fronds)
- Shrubs – 2’ high, 2 gallon container
- Ground cover – well established cuttings

Trees should have straight trunks 12 to 15 feet high before the first branching so as not to obstruct line-of-sight for vehicular traffic. Root barriers should be used to protect hardscape and walls.

The following concept plans for the themed “street” trees along each of the internal roadways is presented to guide the development of landscape plans for the front yard area of each Lot. A site inspection is recommended so that placement of the “street” trees is coordinated between adjacent Lots.

5.3.2.1 Kamanu Street

Kamanu Street will be a major 60' collector road with concrete curbs, gutters, and sidewalks. The theme "street" tree for Lots along Kamanu Street is Rainbow Shower (25 gallon, 2" caliper, 8' height).

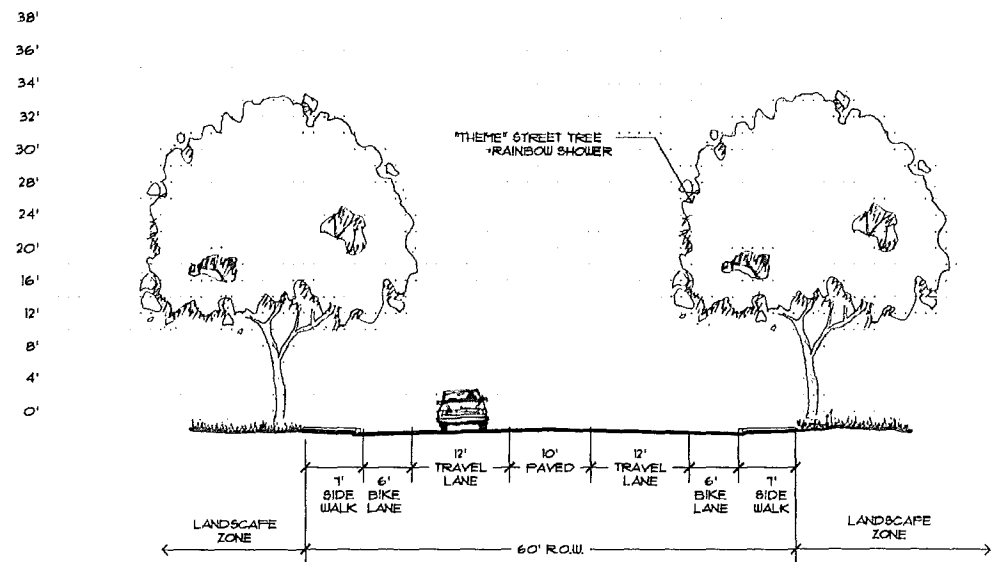


Figure 5.5 Kamanu Street Section

5.3.2.2 Kanalani Street

Kanalani Street will be a 60' roadway constructed with paved swales and shoulders (no curbs, gutters and sidewalks). The theme "street" tree for Kanalani Street is Mahogany (25 gallon, 2" caliper, 8' height).

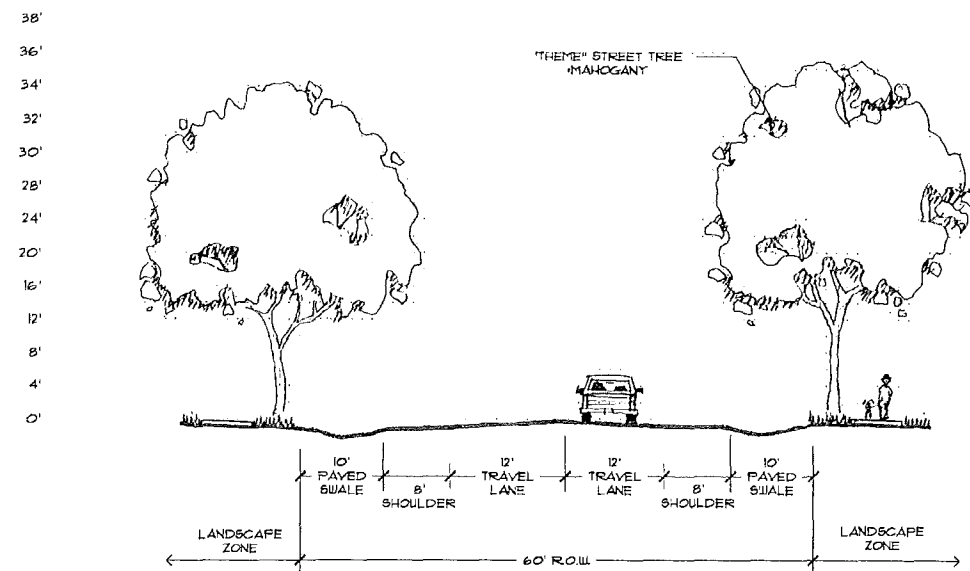


Figure 5.6 Kanalani Street Section

5.3.2.3 South Access Road

South Access Road will be the primary entry into Business Park. Makai of Kanalani, it will be an 80' right-of-way with concrete curbs, gutters and sidewalks. Mauka of Kanalani, the South Access Road will taper to a 60' right-of-way with paved swales and shoulders. The theme "street" tree for Lots along the South Access Road is Monkeypod (25 gallon, 2" caliper, 8' height).

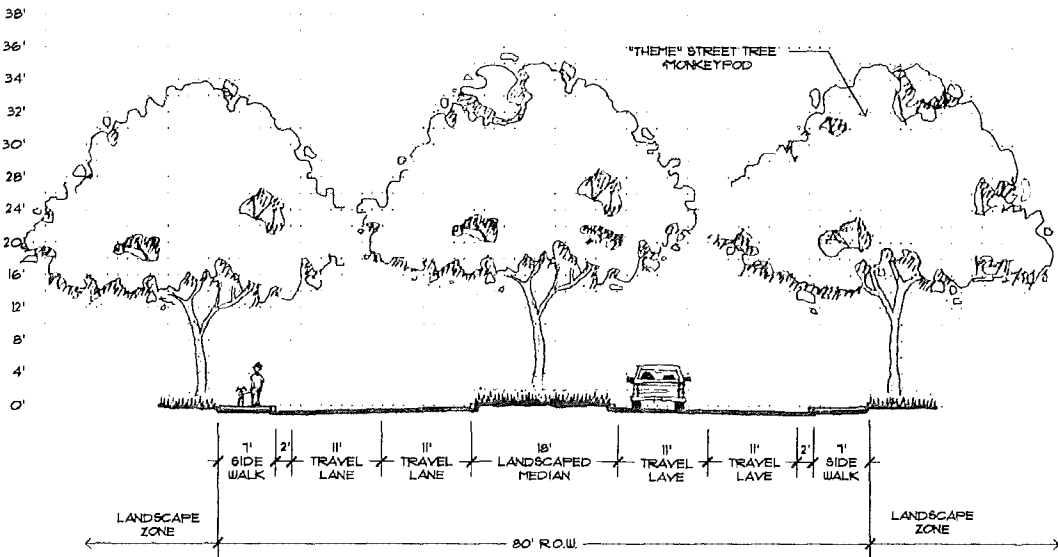


Figure 5.7 South Access Road Entry Section - 80' ROW

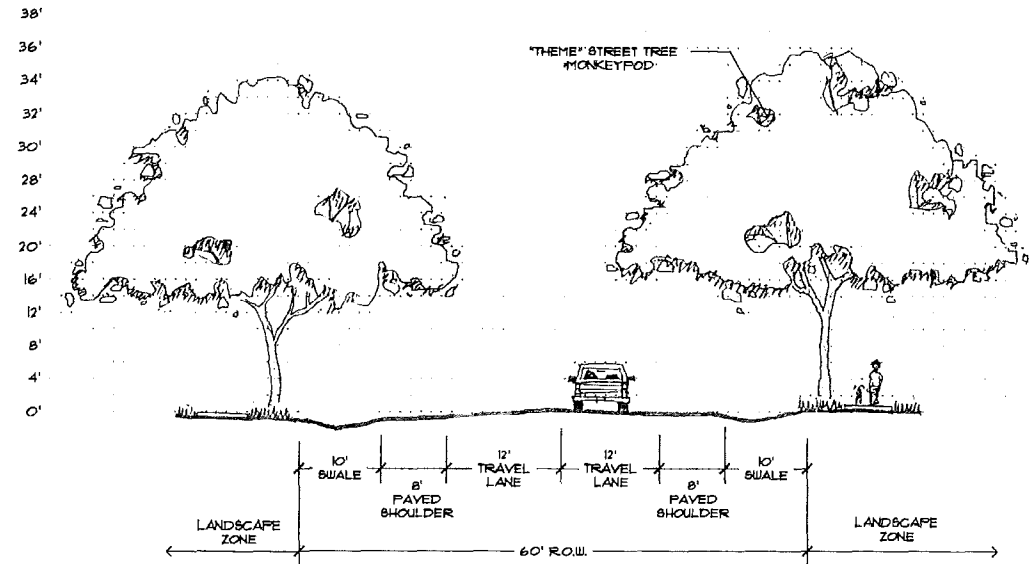


Figure 5.8 South Access Road Section – 60' ROW

5.3.2.4 Other Roadways

The other interior roads have a section similar to a 60' subdivision road, with paved swales and shoulders. The “street” trees for Lots along Other Roadways consist of Kamani (25 gallon, 2” caliper, 8’ height), Gold (25 gallon, 2” caliper, 8’ height), or Royal Poinciana (25 gallon, 2” caliper, 10’-12’ height).

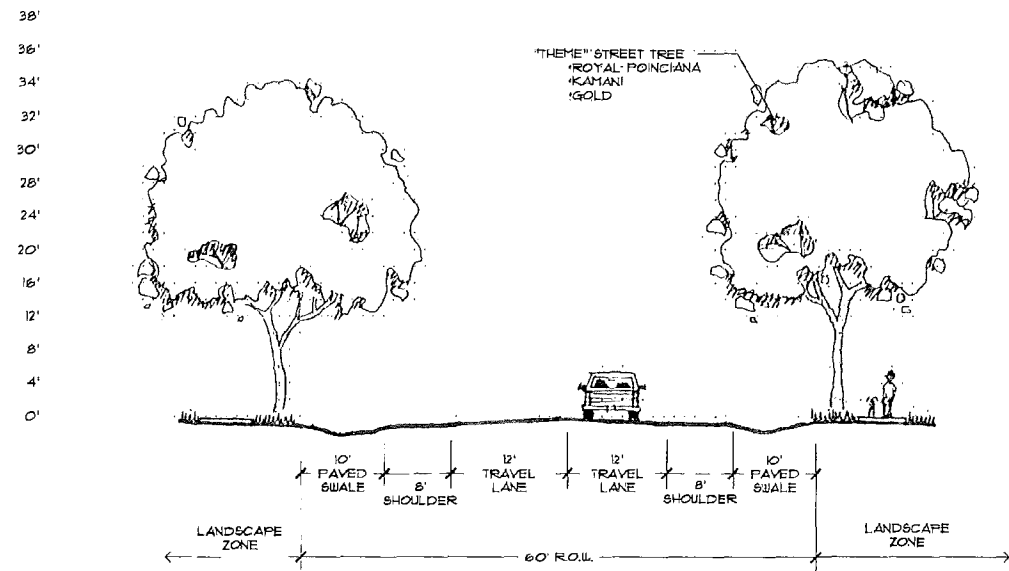


Figure 5.9 Other Roadways Section

### **5.3.3 Improvements Permitted within Landscaped Areas**

The following Improvements are permitted within landscaped areas:

- Walls & Fences
- Swales & Berms
- Walkways
- Driveways
- Utility Installations
- Re-naturalized Lava (limited to no more than 30% of the landscaped area)
- Irrigation
- Ground Signs
- Other Improvements approved by DRC

### **5.3.4 Building Zone**

Landscaping within the Building Zone is subject to the requirements of each Owner. Accordingly, a greater degree of latitude shall be permitted. The landscaping within the Building Zone shall complement the architecture of the building. Design standards are outlined in the following landscape requirements.

#### **5.3.4.1 Parking Areas**

Landscaping for parking and loading areas shall comply with the provisions of the HCC and Rule 17. Parking lots with 12 or more parking stalls shall have a minimum of one canopy tree (minimum two-inch caliper) for every 12 stalls or major fraction thereof. Trees will be sited so as to evenly distribute shade throughout the parking lot.

When a parking area is located adjacent to the Landscape Zone, a screen hedge shall be planted parallel to the street at a minimum spacing of 3' on-center. If a continuous line of shrubs or trees is provided within the Landscape Zone, no hedge at the boundary with the Building Zone is required..

#### **5.3.4.2 Service and Storage Areas**

Service and storage areas (as defined in Section 3.9) and pad mounted utility installations may be screened with landscaping pursuant to Rule 17. Appropriate combinations of trees and shrubs shall be planted and maintained at a size to achieve this function within a two-year period.

Note: Within the General Industrial Property, the requirement for the screening shall comply with the provisions of the HCC.

**5.3.4.3 Undeveloped Areas**

Any undeveloped areas held for future development shall be maintained to prevent the release of dust and to preclude the creation of an unsightly or unkempt condition. The applicable standard of maintenance to be applied to undeveloped shall be established by the Declarant or the Association to prevent such areas from becoming unsightly, unsanitary, or a hazard to health.

**5.4 PLANT MATERIAL LIST**

To ensure visual continuity, landscape material shall be limited to the list of appropriate trees, shrubs, and groundcovers and other plants provided in Appendix G. The use of drought tolerant, native Big Island plant species is encouraged.

**5.5 IRRIGATION**

All landscaping installed within a Lot shall be irrigated with a combination of spray and drip irrigation systems. Irrigation plans and specifications shall be prepared by the Landscape Architect and approved by the DRC.

**5.6 MAINTENANCE**

The landscaping installed on each Lot and any related Improvements shall be maintained by the Owner in good, healthy, clean, and attractive condition pursuant to the Community Wide Standard for the respective area of the project site.

Herbicides, pesticides and fertilizers used to maintain the landscaping have the potential to leach into the ground and impact the aquatic resources of the Historical Park. Owners are referred to Sections 4.4 and 5.4 of the PPP, which details the activities that have the potential to pollute the groundwater and the Best Management Practices (“BMPs”) to be observed.



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## **6 SIGNAGE**

The objective of this section of the Design Guidelines is to allow sufficient business identification in compliance with the provision of the HCC, so that the name of each business is clearly and individually associated with the building or structure that occupies a Lot when viewed from the street.

### **6.1 SIGNAGE RULES**

#### **6.1.1 General Standards**

Any sign erected and/or maintained within the Business Park, must conform to the provisions of the Design Guidelines, as well as the requirements of the HCC. Where the HCC is more restrictive, the regulations shall supersede the Design Guidelines.

- Application for a sign permit shall be made only after an Owner received written approval from the DRC.
- No sign variances shall be sought from the County without the prior approval by the DRC.
- Terminology with respect to signage shall be as defined in Chapter 3 of the HCC.
- Except as hereinafter provided, the only signs permitted on Lots within the Business Park shall be signs which identify a person, company, corporation, or other business entity operating a trade or business and/or which identifies a product or service produced and/or sold.
- No sign shall be erected unless the color, design, materials, and location are in strict conformity with the provisions of the HCC.
- Limitations as to the number and types of signs permitted on a Lot shall be governed by the provisions of the HCC.

Note: Within the General Industrial Property signs shall comply solely with the provisions of the HCC.

#### **6.1.2 Color**

All colors used for a sign, or combinations thereof, shall complement the color palette of the building. The color selection shall be subject to the approval of the DRC.

### **6.1.3 Size**

The total area of a sign shall be computed based upon the geometric shape, inclusive of any borders. The area shall include the background or field on which the letters, graphic designs and symbols comprising the sign are displayed. Where the background or field is difficult to determine, the area of the sign shall be based upon the smallest single geometric shape that encompasses all of the letters, graphic designs and symbols used to form the sign.

### **6.1.4 Lighted Signs**

Lighted signs, as opposed to signs that are illuminated by an external light source, are a sensitive issue and must comply with Section 3-15 of the HHC. In addition, lighted signs shall be approved by the DRC prior to submittal of an application to the County for a permit.

### **6.1.5 Wall Signs**

All wall signs must be flush-mounted at a maximum height of 10' on the exterior of a building measured from the upper edge of the sign to the finish grade at the bottom of the wall. No sign, graphic design, pictorial symbols, or murals shall be painted directly on the exterior surface of a wall. Wall signs shall comply with the provisions of Section 3-11(6) of the HCC.

### **6.1.6 Ground Signs**

No ground sign shall be more than 8 feet above the surrounding grade in vertical height or more than 16 square feet in area. No ground sign shall be located within the first 3 feet of a Landscape Zone as measured from the edge of the public ROW. Ground signs shall comply with Section 3-11(2) of the HCC.

### **6.1.7 Directional Signs**

Signs which display directions to destinations within a Lot shall conform to Section 3-11(1) of the HCC. Directional signs shall also comply with the following requirements of the Design Guidelines:

- Direction signs shall not have a panel space which exceeds 2 square feet in area per side.
- Directional signs shall not exceed a height of 8 feet above the underlying grade.
- Directional signs shall not be located where they may inhibit the safe flow of vehicles or pedestrians.
- Directional signs shall use the international symbols designed for the U.S. Department of Transportation (where applicable).

#### **6.1.8 Temporary Signs**

Temporary signs shall be subject to review and approval by the DRC. Owners shall remove temporary signs after a maximum period of 6 months. Notwithstanding any limitations set forth herein, the following temporary signs shall be permitted in accordance with HCC providing they do not exceed 32 square feet in area:

- A temporary real estate sign advertising the availability of a Lot for sale or lease.
- A temporary construction sign identifying the design consultants, contractor, and other information related to the construction of Improvements on the Lot on which the sign is located.
- A temporary future tenant identification sign listing the names of future tenants of the Lot or premises on which such sign is located and identifying the responsible agent or realtor.

#### **6.1.9 Prohibited Signs**

Signs prohibited within the Business Park include those listed in Section 3-7 of the HCC. In addition, the following signs are specifically prohibited by the Design Guidelines:

- Portable signs.
- Wind motion signs, except for temporary banners and flags that may be used to announce a special event and removed after 14 days.
- Inflatable signs, including balloons.
- Flashing signs.
- Signs composed primarily of reflective or fluorescent materials, including but not limited to, mirrors, bright metals, and highly reflective paint.
- Signs mounted on a vehicle or trailer.

#### **6.1.10 Typeface**

The typeface that will be used on signs within the Business Park, other than a temporary signs, shall be approved by the DRC.

#### **6.1.11 Submittals**

An overall signage location and sign graphics program, including any ground signs, wall signs, and directional signs shall be included as part of the submittals for Preliminary Review and Final Review by the DRC.

Whenever an Alteration or Modification is proposed to an existing sign or a new permanent sign is contemplated, the Owner or Tenant shall submit plans and drawings to the DRC for review and approval.

#### **6.1.12 Enforcement**

The Declarant and/or the Association shall have the right and the authority to remove any signs not approved by the DRC, or permitted by the Design Guidelines and/or the HCC. In such an event, the Owner shall be charged for the cost of such removal.

## 7 LIGHTING

The objective of the exterior lighting on a Lot is to provide for illumination of the premises at night for the safety and security of the Owner, Tenants, and customers. Exterior lighting shall not detract from the architectural character of the Business Park or glare on to adjacent properties or streets. Where the County's standards for outdoor lighting are more restrictive than the provision of the Design Guidelines, HCC shall prevail. No exterior lighting shall be erected without the approval of the DRC, in conformance with the HCC and the following provisions:

- The requirements of Condition 10.e of the Decision & Order relating to the shielding of external light sources.
- Shielding of external light sources is also required with respect to the observatories located at the top of Mauna Kea.

### 7.1 GENERAL LIGHTING RULES

Exterior lighting shall provide uniform levels of illumination throughout Business Park pursuant to the HCC. As required, the Declarant or the Association shall establish standards for the illumination of exterior areas taking into account activities to be conducted after dark.

All lighting visible from the adjacent street, except bollard, walkway or garden lights shall be indirect or shall incorporate a full cut-off shield type fixture. Refer to Figure 7.1.

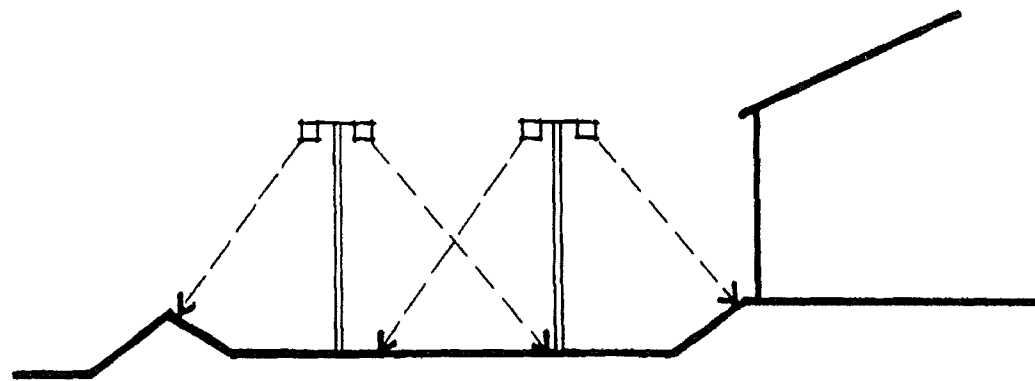


Figure 7.1 Conceal Light Sources

### 7.1.1 Service Area Lighting

Service area lighting shall be contained within the service yard boundaries and enclosure walls. No light spillover should occur outside the service area. The light source should not be visible from the street. Refer to Figure 7.2.

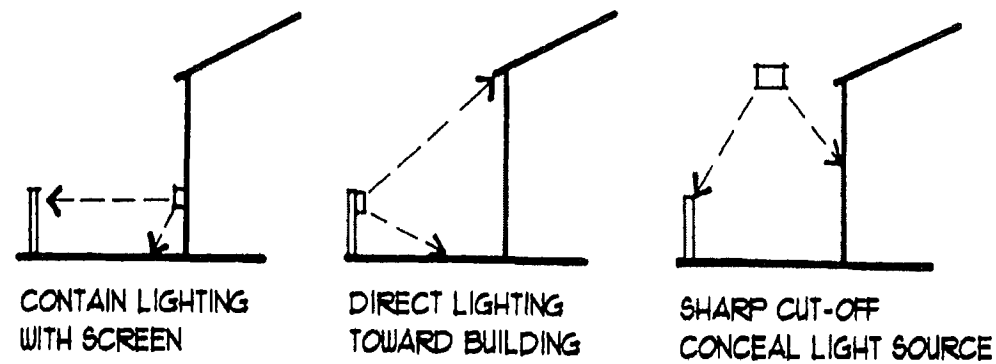


Figure 7.2 Service Area Lighting

### 7.1.2 Building Illumination and Architectural Lighting

Building illumination and architectural lighting shall be indirect (no visible light source). Indirect wall lighting or “wall washing”, overhead down lighting, or interior illumination which spills outside is encouraged. Architectural lighting should articulate and animate the particular building design as well as provide the required lighting for safety and clarity of pedestrian movement. Refer to Figure 7.3.

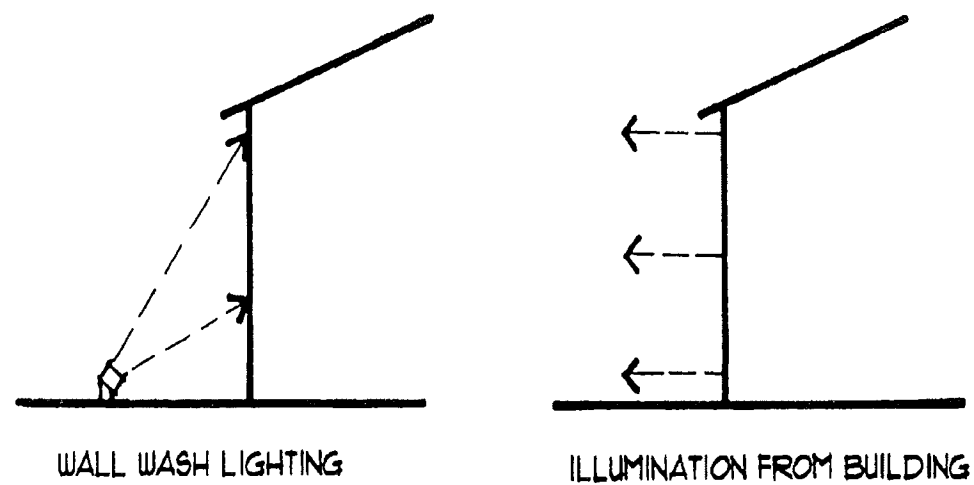


Figure 7.3 Building Lighting

### **7.1.3 Nightscaping**

The illumination of landscaping and hardscaping (water features and rockscapes) shall be by means of indirect light sources, down lights (not to exceed 10' in height), bollards, or low profile walkway/garden lighting. Light sources shall not be directed upwards. Landscape lighting shall be designed by the Landscape Architect and incorporated into the plans submitted to the DRC for Preliminary and Final Review.



**APPENDIX A**

---

**WEST HAWAII BUSINESS PARK  
PLAN REVIEW APPLICATION FORM**

**WEST HAWAII BUSINESS PARK**

**Plan Review Application**

Date: \_\_\_\_\_

- ☐ Preliminary Review  
☐ Final Review

Lot No.: \_\_\_\_\_ Street Address: \_\_\_\_\_

TMK: \_\_\_\_\_ Lot Area: \_\_\_\_\_ SF Buildable Area: \_\_\_\_\_ SF

Property Designation (Zoning): ☐ General Industrial (MG-1a)  
☐ Industrial-Commercial (MCX-20)

Area Designation (MCX Only): ☐ Retail/Commercial Area  
☐ Business Park/ Industrial Area

Owner(s): \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_ Mobile: \_\_\_\_\_

Facsimile: \_\_\_\_\_ E-Mail: \_\_\_\_\_

**Description of Use/Activity and Improvements**

Statement as to Use/Activity (Specify): \_\_\_\_\_

\_\_\_\_\_  
Special Permits/Approvals (If Required): \_\_\_\_\_

\_\_\_\_\_  
Variances (If Required): \_\_\_\_\_

**Primary Structure**

Footprint: \_\_\_\_\_ SF Enclosed Floor Area: \_\_\_\_\_ SF

Lot Coverage: \_\_\_\_\_ % Building Height: \_\_\_\_\_ Feet No. of Floors: \_\_\_\_\_

**Ancillary Structure**

Footprint:\_\_\_\_\_ SF      Enclosed Floor Area:\_\_\_\_\_ SF

Lot Coverage:\_\_\_\_\_ %      Building Height:\_\_\_\_\_ Feet      No. of Floors:\_\_\_\_\_

Use/Activity:\_\_\_\_\_

\_\_\_\_\_

(Note: Attach Sheet for Additional Structures on Lot)

**Site Requirements/Restrictions**

<input type="radio"/> Quarry Buffer Area Setback (Section 2.3.2)	<input type="radio"/> Rockfall Safety Setback (Section 2.3.2)
<input type="radio"/> Special Rear Yard Setback (Section 2.3.3)	<input type="radio"/> Top of Bank/Wall Setback (Section 3.2)
<input type="radio"/> Burial Site Setback/Constraint (Section 3.6)	<input type="radio"/> Double Street Frontage (Section 3.3)
<input type="radio"/> Storm Water Filtration (Section 3.1)	<input type="radio"/> IWS/Leach Field (Section 3.11)
<input type="radio"/> Other (Specify):_____	

Statement as to Emissions:\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Transmitted herewith are the documents required by Section 1.4.2 (Step 2) or Section 1.4.4 (Step 4) of the Plan Review Process, including a listing of the Design Consultants and their contact information. I understand and acknowledge that Preliminary Review or Final Review will not commence until all of the required documents, including any additional information reasonably requested by the Design Review Committee, is received by the Association.

\_\_\_\_\_  
Owner

**APPENDIX B**

---

**CERTIFICATE OF CONDITIONS  
(DECISION & ORDER)**



R-721  
STATE OF HAWAII  
BUREAU OF CONVEYANCES  
RECORDED  
FEB 17, 2004 08:02 AM  
Doc No(s) 2004-032728



/s/ CARL T. WATANABE  
REGISTRAR OF CONVEYANCES

24 1/1 Z3

LAND COURT

REGULAR SYSTEM

AFTER RECORDATION, RETURN BY: MAIL (X) PICK-UP ( )

R. BEN TSUKAZAKI  
TSUKAZAKI YEH & MOORE  
85 WEST LANIKAULA STREET  
HILO, HAWAII 96720

(Total Document Pages = 24)

Affects TMK: (3) 7-4-8:13 (portion) and 30

CERTIFICATE OF CONDITIONS

KNOW ALL MEN BY THESE PRESENTS:

THAT, WHEREAS, LANIHAU PROPERTIES, LLC (hereinafter "Petitioner"), a Hawaii limited liability company, fka LANIHAU PARTNERS, L.P., was the petitioner in State Land Use Commission (hereinafter "Commission") Docket No. A00-730, for the reclassification of approximately 336.984 acres of certain parcels of land situated at Honokohau, North Kona, Island of Hawaii, State of Hawaii, more particularly identified as Hawaii Tax Map Key No. (3) 7-4-8:13 (por.) and 30 (hereinafter "Petition Area"), and does hereby state and declare that the Commission, by its Findings of Fact, Conclusions of Law, and Decision and Order dated

September 26, 2003 (hereinafter "Decision and Order"), reclassified approximately 336.984 acres of the Petition Area under Docket No. A00-730, into the State Urban Land Use District, and more particularly described in Exhibit "A" attached hereto and made a part hereof (hereinafter referred to as the "Property"); and

WHEREAS, by its Decision and Order dated and entered on September 26, 2003, the Commission subjected its reclassification and redistricting of the Property to certain conditions (the "Conditions"), as more fully set forth on pages 80 through 96 of said Decision and Order; and

WHEREAS, pursuant to Section 205-4(g) of the Hawaii Revised Statutes, as amended, and §15-15-92 of the Rules and Regulations of the Land Use Commission, the Conditions are required to be recorded in the Bureau of Conveyances of the State of Hawaii as covenants running with the land; and

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, receipt whereof is hereby acknowledged, the reclassification and redistricting of the Property is made subject to the Conditions which are more fully set forth at pages 80 through 96 of said Decision and Order and which Conditions in their entirety are as shown on Exhibit "B" attached hereto and made a part hereof.

That the Conditions shall be binding upon Petitioner and each and every subsequent owner, lessee, sublessee, transferee, grantee, assignee or developer pursuant to §15-15-91, Hawaii Administrative Rules, and shall be covenants running with the Property as long as said reclassification and redistricting endures or until the Conditions have been fully satisfied and/or

terminated, modified or waived by the Commission as to all or any portion of the Property.

IN WITNESS WHEREOF, the undersigned has executed this Certificate of Conditions  
this 26<sup>th</sup> day of January, 2004.

LANIHAU PROPERTIES, LLC,  
a Hawaii Limited Liability Company

By

  
JAMES S. GREENWELL  
Its President

"Petitioner"

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

On this 26<sup>th</sup> day of January, 2004, before me personally appeared  
**JAMES S. GREENWELL**, to me known (or who has proven to me on the basis of satisfactory  
evidence) to be the person(s) described in and who executed the foregoing **CERTIFICATE OF**  
**CONDITIONS**, who, being by me duly sworn, did say that he is the President of LANIHAU  
PROPERTIES, LLC, a Hawaii corporation, that the foregoing instrument was signed in the name  
of and on behalf of said LANIHAU PROPERTIES, LLC, and who acknowledged that he  
executed the same as his free act and as the free act and deed of said LANIHAU PROPERTIES,  
LLC.

C.S.

[Seal]

Shirley J. Miller  
(Notary's signature)

Shirley J. Miller  
(Type/Print clearly notary's name)  
Notary Public, State of Hawaii

My commission expires: 4/21/2006



## CONSERVATION

PORTION OF LOT A-1  
BEING PORTION OF ROYAL PATENT 7587  
LAND COMMISSION AWARD 11216, APANA 36 TO M. KEKAUONOHI  
AND ALL OF PARCEL VIII  
BEING PORTION OF ROYAL PATENT 6855  
LAND COMMISSION AWARD 9971, APANA 9 TO W. P. LELEIOHOKU

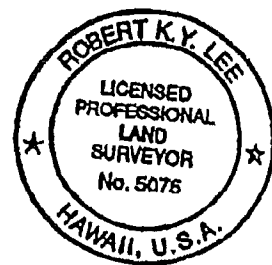
At Honokohau 1<sup>st</sup> and 2<sup>nd</sup>, North Kona, Island of Hawaii, Hawaii

Beginning at the Northwest corner of this parcel of land, situated on the Easterly side of QUEEN KAAHUMANU HIGHWAY (Proj. No. BD-65-352), the coordinates of said point of beginning, referred to Hawaii State Plane Coordinate System, Zone 1, being 310,073.85 feet North and 320,034.85 feet East, and thence running by coordinates measured clockwise from True South:

- |    |              |  |
|----|--------------|--|
| 1. | 259°01'40"   | 2,683.91 feet along Kaloko Light Industrial Subdivision, Unit I (FILE PLAN 1806) and the Lands of Kaloko, being L.P. 8214, L.C. Aw. 7715, Ap. 11 to L. Kamehameha; |
| 2. | 260°55'30"   | 1,187.55 feet along the Lands of Kaloko, being L.P. 8214, L.C. Aw. 7715, Ap. 11 to L. Kamehameha;  |
| 3. | 331°21'31.5" | 3,433.20 feet along the remainder of Lot A-1, being portion of R.P. 7587, L.C. Aw. 11216, Ap. 36 to M. Kekauonohi;   |
| 4. | 78°15'10"    | 3,429.84 feet along Lot 7A, being a remainder of R.P. 6855, L.C. Aw. 9971, Ap. 9 to W.P. Leleiohoku (Certificate of Boundaries No. 27);                            |
| 5. | 328°10'      | 459.24 feet along the same;  |
| 6. | 78°15'30"    | 871.25 feet along Parcel IX, being a remainder of R.P. 6855, L.C. Aw. 9971, Ap. 9 to W.P. Leleiohoku (Certificate of Boundaries No. 27);                           |
| 7. | 148°10'      | 672.95 feet along the Easterly side of QUEEN KAAHUMANU HIGHWAY (Proj. No. BD-65-352);  |
| 8. |              | Thence along the same, on a curve to the right with a radius of 5,904.00 feet, the chord azimuth and distance being: 158°04'45" 2,32.68 feet;                      |
| 9. | 167°59'30"   | 1,175.19 feet along the same, to the point of being and containing an area of 336.984 Acres.   |

R.M. TOWILL CORPORATION  
CIVIL ENGINEERS • SURVEYORS  
73-5574 KALAU STREET, #118 • KAILUA-KONA, HAWAII 96740

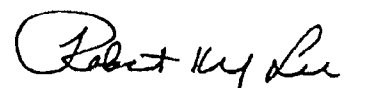
EXHIBIT "A"



73-5574 Mainu Street, #11B  
Kailua-Kona, Hawaii 96740  
March 1, 2000

R.M. TOWILL CORPORATION

Description Prepared by:

  
Robert K.Y. Lee  
Licensed Professional Surveyor  
Certificate Number 5075

R.M. TOWILL CORPORATION  
CIVIL ENGINEERS • SURVEYORS  
73-5574 MAINU STREET, #11B • KAILUA-KONA, HAWAII 96740



6. The endangered, endemic birds and the threatened and endangered sea turtles within the Park are valued and important natural resources.

7. The aforesaid native Hawaiian rights and natural and cultural resources would be damaged or destroyed by the pollution of groundwater that reaches the Park from surrounding areas, including Petitioner's Project on the Petition Area. Appropriate mitigation measures are, therefore, required under the Hawai'i Constitution and the Commission's decision-making criteria in order to approve reclassification of the Petition Area.

#### DECISION AND ORDER

IT IS HEREBY ORDERED that the Property being the subject of Docket No. A00-730, filed by Petitioner, Lanihau Properties, LLC, consisting of approximately 336.984 acres of land in the State Land Use Conservation District at Honokohau, North Kona, Island of Hawai'i, County of Hawai'i, State of Hawai'i, identified as Tax Map Key No. 7-4-8: 13 (por.) and 30, is hereby reclassified into the State Land Use Urban District, and the State land use district boundaries are amended accordingly, subject to the conditions of approval set forth herein.

This Commission is acutely aware that continuous development is planned for this coastline. Although each developer might claim that only a "small amount" of pollution will result from their development and that the area's ecosystem will show "little" effects, these developments and their impacts are cumulative and, absent strong mitigation measures, have the potential to devastate the fragile resources of the coastal and marine aquatic environments of the entire Kona coastal region.

Absent adequate, effective and enforceable conditions of approval, including removal of wastewater nutrients and surface runoff contaminants, Petitioner's Project has the

potential to cause unacceptable adverse impacts to coastal resources, particularly the natural and cultural resources of the adjacent Park and the traditional and customary native Hawaiian practices that depend on the sensitive nature of such resources.

Based upon the findings of fact and conclusions of law stated herein, it is hereby determined that the customary and traditional native Hawaiian practices, the cultural resources, and the important natural systems and habitats of the Park that have been identified herein shall be adequately protected by the conditions of this decision and order.

To protect the exercise of customary and traditional native practices; to protect the historical and cultural resources of the coastal area including KAHO; to ensure the health and preservation of the natural systems and habitats of KAHO, including the endangered, threatened, and endemic species and their habitat, the reclassification of the Property shall be subject to the following conditions:

**Wastewater**

1a. The Petition Area shall be developed with dry sewer lines for eventual connection to the Kealahou WWTP.

1b. The Petition Area shall be required to connect to the WWTP, when such connection is available. The Petitioner, its successors, and assigns, shall collaborate with the County of Hawai'i to include the Petition Area within an improvement district, if one is developed, to fund the connection to the WWTP. The Petitioner or individual lot owners within the Petition Area shall pay for their fair share of the cost to fund such connection to the WWTP, whether or not an improvement district is established.

1c. Except for the existing quarry operations and the construction of the roads and utilities as provided for below, the Petitioner and/or any future owners(s) of the Petition Area

shall refrain from constructing upon or occupying any portion of the Petition Area until such time as the portion (e.g., lot) to be constructed upon or occupied is connected to the WWTP, unless in the interim, the portion to be constructed upon or occupied has installed a septic tank system or other Individual Wastewater System (IWS) designed to remove no less than 60% Total Nitrogen from the treatment system (e.g., septic tank with FAST, Biofilter, Recirculation Filters, Sequential Batch Reactor, or comparable technology) and an absorption field of import material which is constructed in a manner to achieve no less than 80% reduction of nitrogen and 90% reduction in phosphorous; featuring adequate percolation rate. The existing quarry operation shall have in place an IWS as described above within one year of the date of issuance of boundary reclassification. Installation is subject to conditions of approval imposed by the Director of the Hawai'i State Department of Health and Hawai'i Administrative Rules (HAR) Title 11 Chapter 62. When connection to the WWTP becomes available, all portions of the Petition Area, including all individual lots therein, shall connect to the WWTP, whether or not an interim wastewater treatment system has been installed.

1d. Utilization of the IWS described above in Condition 1c shall be limited to no more than 40 lots to be developed in the Petition Area.

1e. The owner of the IWS shall certify with the Hawai'i State Department of Health that the IWS shall be operated and maintained in accordance with all of the provisions of the operation and maintenance manual developed pursuant to HAR 11-62. The certification shall include that upon the sale or transfer of ownership of the IWS, the sale or transfer will include the appropriate transfer documents and provisions binding the new owner to the operation and maintenance manual.

1f. Petitioner and/or each individual lot owner(s) shall develop and participate in a Wastewater Treatment System Maintenance Agreement, before constructing upon or

occupying any portion of the Petition Area, that shall provide for safe and effective operation and maintenance of the treatment unit(s), whether shared or individual, and/or the temporary sewage line. The Maintenance Agreement shall require a contract with a wastewater professional to regularly inspect, maintain and certify that the IWS unit(s) installed in the Petition Area are operating correctly. Necessary repairs shall be performed promptly and record of repairs shall be kept. This requirement shall be included in the conditions of sale of any lot and/or parcel in the Petition Area.

1g. Should the NPS elect to pursue installation of a temporary sewage line to the WWTP for the KAHO Visitor Center construction project, the Petitioner may elect, subject to prior authorization by the NPS, to dispose of wastewater from not more than 20 lots in the Petition Area, via such temporary line to the WWTP. In no event shall the temporary sewage connection be in place and utilized for longer than five (5) years from the date of completion of construction of such temporary line except at the sole discretion of the NPS. The Petitioner shall pay its fair share cost to fund such temporary connection to the WWTP, as determined by the NPS, the Petitioner and the County of Hawai'i. When connection to the WWTP becomes available through permanent sewer lines, all portions of the Petition Area, including all individual lots that may have been connected to the above described temporary sewage line, shall connect to the WWTP through permanent lines, whether or not one or more lots were connected via the temporary sewage line. Connection of not more than twenty (20) lots to the WWTP via such temporary sewage line does not release any other individual lots within the Petition Area from compliance with any other condition(s) of this decision and order.

**Storm water and Surface Water Run-off**

2a. To the extent possible, all storm and surface water runoff shall be captured on the premises. To the extent possible, all runoff entering the ground shall be first treated to

remove all industrial waste so that no industrial pollutants will reach KAHO or enter the water table. Petitioner shall be subject to and prepare covenants, conditions, and restrictions for the Petition Area and each lot into which the Petition Area may be subdivided, to contain spills and prevent materials associated with industrial uses attributable to the operations of the Property, including petroleum products, chemicals, or other pollutants from leaching or draining into the ground or subsurface storm drain collection areas. Said covenants shall be subject to the approval of the DOH, upon consultation with the NPS, and the County of Hawai'i. The Petitioner and/or tenant shall obtain all required permits and construct required improvements for storm water discharge on and from the Property. These conditions shall include the following:

2b. Prior to the occupancy of any part of the Petition Area, the Petitioner shall engineer, construct (or require to be constructed) and maintain surface water/storm water containment systems that ensure no Federal, State, or County water quality standards will be violated. The foregoing is not applicable to uses permissible under the existing quarry permit.

2c. No injection well shall be constructed as an element of a surface water/storm water containment system in the Petition Area unless, prior to the start of any construction, appropriate requirements of HAR Chapter 11-23 are satisfied and the Hawai'i State Department of Health issues an UIC (Underground Injection Control) permit. Contaminants shall be monitored and removed with best efforts prior to entering injection wells. Monitoring protocols for injection wells shall be established in the Pollution Prevention Plan, pursuant to Condition 3b. All monitoring records shall be maintained and made available to the DOH, the County and the NPS, upon request.

2d. If a large void, such as a lava tube or solution cavity, is encountered during drilling, where the drill rod drops more than three feet, measures shall be taken to prevent migration of the injected fluids to KAHO to the satisfaction of the Hawai'i State Department of



Health as described in HAR §11-23-09(f).

2e. All injection wells established in the Petition Area shall be operated in such a manner that they do not violate any of the DOH's administrative rules under title 11 HAR, regulating various aspects of water quality and pollution, and chapters 342-B, 342-D, 342-F, 342-H, 342-J, 342-L, and 342-N, HRS. Relevant HAR include but, are not limited to: i. Chapter 11-20, "Rules Relating to Potable Water Systems"; ii. Chapter 11-62, "Wastewater Systems"; and iii. Chapter 11-55, "Water Pollution Control".

2f. The operator of any injection well or wells in the Petition Area shall keep detailed records of the operation of the well or wells, including, but not limited to, the type and quantity of injected fluids, and the method and rate of injection for each well. Such records will be available for inspection or review by the Hawai'i State Department of Health as specified under appropriate sections of HAR Chapter 11-28.

2g. Any person who violates any of these conditions shall be subject to penalties as prescribed in appropriate chapters of HRS and HAR as they relate to (but are not limited to): Potable Water Systems; Wastewater Systems; Water Pollution Control; Safe Drinking Water; and Underground Injection Control.

2h. The Petitioner, successors and/or individual lot owners in the Petition Area shall ensure that all drainage injection wells or subsurface drainage structures are designed with an appropriate size debris catch basin to allow the detention and periodic removal of rubbish and sediments deposited by runoff. Storm water runoff shall first enter the debris catch basin before flowing into the drainage well. The debris catch basin shall be periodically inspected and cleaned accordingly. Oil/water separators shall be utilized where petroleum products are used.

2i. The Petitioner shall establish an owners' association with the power to oversee and report violations as a second line of defense against pollution violations.

**Pollution Prevention**

3a. Petitioner currently operates a quarry in a portion of the Petition Area. Any further public or private industrial development within the Petition Area which could be considered a new source of pollution or an increased source of pollution shall, in its initial project design and subsequent construction, provide the highest and best degree of waste treatment practicable under existing technology.

3b. Except for the existing quarry operation and the construction of roads and utilities, before constructing upon or occupying any portion of the Petition Area, a Pollution Prevention Plan (PPP), after consultation with the NPS, shall be developed that addresses each of the types of uses permissible in the Petition Area, by specifically designating Best Management Practices (BMPs) tailored to each specific use. Emphasis shall be given to structural BMPs to prevent any and all pollutants that may be associated with such industries from being released into the environment, including reaching the groundwater. Structural BMPs shall include, but shall not be limited to, oil/water separators, detention ponds, lined containment pits, and storm water filtration units designed to contain and remove industrial contamination. The PPP shall include but not be limited to: i. All cleaning, repairs and maintenance of equipment involving the use of industrial liquids, such as gasoline, diesel, solvent, motor oil, hydraulic oil, gear oil, brake fluid, acidic or caustic liquids, antifreeze, detergents, degreasers, etc. shall be conducted on a concrete floor, whether roofed or unroofed. The concrete floor shall be constructed to contain any drip or spills and to provide for the recovery of any spilled liquid. Water drainage from these concrete floors if necessary, shall pass through a separator sump before being discharged. The PPP may identify exceptions to this rule under specific circumstances, provided that

adequate alternative BMPs (structural or otherwise) are identified and utilized for containment.

ii. Any containers used for storage of used oil or other industrial liquids shall be kept on a concrete surface. The surface shall be bermed to prevent the loss of liquid in the event of spills or leaks. The containers shall be sealed and kept under shelter from the rain. (The Department of Labor and Industrial Relations' Occupational Safety and Health regulations, sections titled, "Housekeeping Standards" and "Storage of Flammable or Combustible Liquids," shall be followed along with the local fire code.) iii. All employees shall be informed to immediately collect and contain any industrial liquid spills on the concrete floor and should be informed against discharging or spilling any industrial liquids. Employees shall be aware to prevent any industrial spill onto the bare ground. In the event that the Petitioner and the NPS cannot agree upon a mutually acceptable final PPP within 12 months of the date of issuance of the boundary reclassification, the Commission shall review the draft PPP, along with written comments from Petitioner, the NPS and the other parties, and shall issue a final PPP. In no event shall the Petitioner and/or individual lot owner(s) construct upon or occupy any portion of the Petition Area until such time as the final PPP is complete. The final PPP shall be recorded and shall run with the land within the Petition Area in the same manner as all conditions of approval imposed by the Commission. In the event that a specific use is proposed for the Petition Area that is not specifically addressed in the final PPP, the Petitioner and/or the individual lot owner(s) proposing such use shall consult with the NPS to establish a set of BMPs appropriate for such proposed use and consistent with the goal of preventing any and all pollutants from being released into the environment.

3c. The Petitioner, its successors or individual lot owners shall provide signage for all drainage/injection wells in the Petition Area with warnings such as the following:  
DUMP NO WASTES. GOES TO GROUNDWATER AND OCEAN. HELP PROTECT

HAWAII'S ENVIRONMENT. Signage shall be either stand-up (legible from at least 30 feet, permanently posted at an effective and safe height) or painted on the ground next to the drainage well's inlet.

3d. For parking areas, BMPs will be established as covenants running with the land, which emphasize pollution prevention rather than treatment. All large vehicles such as buses, trucks or construction equipment shall utilize drip pans to avoid release of petroleum onto paved or graveled surfaces or, in the alternative, all parking areas for large vehicles shall include grassed or vegetative swales to capture drainage from such parking areas. Areas used primarily for automobile parking shall be periodically checked and cleaned to avoid build up of oil or other automotive fluids. Protocol for cleaning parking areas shall be established in the Pollution Prevention Plan, pursuant to Condition 3b. Maintenance work other than emergency work on vehicles will be banned in parking areas.

3e. Where site geometry permits, the Petitioner, its successors or individual lot owners shall design and construct (or require to be constructed) landscaped areas, including grassed or vegetative swales to capture storm water drainage from all perimeter lots, facilities, and parking areas of the Petition Area. For all vegetative swales, Petitioner and/or individual lot owners may apply only the minimum required nutrients (fertilizer) to maintain the vegetation without causing significant nutrient runoff, and the water used for irrigation purposes shall not exceed the amount necessary to maintain the vegetation.

3f. Owner or operator covenants developed for the Petition Area shall expressly disclose to all future individual lot owner(s) the existence of the National Park System Resource Protection Act, 16 U.S.C. Sections 19jj-19jj-4, and the consequences of violation of such act. In particular, future land owners shall be made aware that any person who destroys, causes the loss of, or injures any park system resource is liable to the United States for response

costs and damages resulting from such destruction, loss or injury.

3g. In performing the requirements of this Condition 3, the Petitioner shall consider and, to the extent practical, incorporate the information and ideas brought forth in the regional (Kaloko-Honokohau) pollution prevention forum convened by the Commission on November 4, 2002. The information and ideas at the forum included: pollution prevention planning; best available control technologies (BACT); structural and operation BMPs addressed to the type of uses permissible in an industrial park, and formulas for determining fair share and reasonable pro-rata share costs relating to any groundwater monitoring program.

#### Groundwater Quality Monitoring

4. The Petitioner shall contribute its fair and reasonable pro-rata share of costs relating to a groundwater monitoring program of USGS Wells 4161-01, 4161-02 and 4061-01, Aimakapa Pond, Kaloko Pond and two (2) other anchialine ponds of KAHO as identified by the NPS. Monitoring would continue once every six months for 10 years from initial occupancy, or until such time as sewer lines and hookup to the WWTP is implemented provided further that if conditions of approval in Docket Nos. A89-643 and A00-732 are amended to require a longer monitoring period or the Petitioners in those dockets otherwise agree to a longer monitoring period, the Petitioner shall be required to participate in the monitoring program for the extended period. Constituents to be monitored shall be of a full suite of nutrients (including nitrogen and phosphate), contaminants (including metals, phenolic compounds, pesticides and pesticide breakdown products, chlorinated solvents, BTEX compounds, selected pharmaceutical endocrine disruptive compounds, such as ethinyl estradiol, and nonylphenol), and standard water quality parameters (including pH, temperature, dissolved oxygenates, and salinity). The fair and reasonable pro-rata share of costs will be determined by the Commission and in conjunction with the findings generated at the regional pollution prevention forum discussed above.

**Prohibited Uses**

5. The Petitioner, its successors and assigns are prohibited from engaging in or allowing the following uses in the Petition Area: heliports, bulk storage of flammable and/or explosive materials (tank farms), landfills for dumping or disposal of refuse or waste matter (except for green waste/composting facilities), fertilizer manufacturing plants, junkyards, public dumps, saw mills, refining of petroleum products, slaughterhouses, commercial pesticide and/or extermination facilities, and power plants.

**Transportation**

6a. With respect to the Petition Area, the Petitioner shall contribute its fair share and reasonable pro-rata funding and construction of regional transportation improvements and programs to the satisfaction of the State Department of Transportation.

6b. The Petitioner shall participate and collaborate with the County of Hawai'i Department of Public Works and other affected agencies in the development of county feeder streets within the Petition Area.

6c. Petitioner shall participate in the fair and reasonable pro-rata funding and construction of any such roadways from its northern boundary to the southern boundary in accordance with the roadway requirements of the County of Hawai'i.

6d. The Petitioner shall participate and collaborate in a regional transportation planning committee to be established by the County of Hawai'i. Participants in this regional transportation planning committee shall include, but not be limited to, representatives from the State Department of Transportation, County of Hawai'i Planning Department and individuals or entities with a property or development interest within the region.

**Financial Contribution Plan**

7. The Petitioner shall coordinate with affected State or County agencies the development of a financial plan for satisfying any financial contributions or requirements associated with this Project. All such plans may provide for an annual fair share incremental payment to the affected agency by the Petitioner out of the development revenues or otherwise. The affected State or County agency may establish a dedicated escrow account for the deposit and utilization of the financial contribution from Petitioner to facilitate this plan.

**Affordable Housing**

8. The Petitioner shall submit a housing needs assessment and implementation plan to the Commission and appropriate County housing agency for their review and approval within six months of the issuance of this decision and order and comply with the County of Hawai'i affordable housing policy. The housing needs assessment shall be based on an analysis of the jobs generated by the Project, the projected number of qualified households which may be entitled to housing assistance as specified by the County of Hawai'i, the number and availability of affordable housing units and rentals in the West Hawai'i area (both planned and built), the projected number of employees from the development who might be expected to commute from East Hawai'i, the number of owner occupants (within the Petition Area) who reside in the West Hawai'i area and the number of employees who might already reside in the West Hawai'i area.

**Archaeological/Historical Sites**

9a. The Petitioner shall prepare a mitigation and preservation plan for review and approval by the Department of Land and Natural Resources State Historic Preservation Division, prior to any land alteration activity in the vicinity of the sites. The preservation plan

shall include the following eight (8) sites recommended for preservation in the Archaeological Inventory Survey: 02; 18081; 18088; 18099; 18116; 18117; 18134; and 18197.

9b. The Petitioner shall coordinate with the State Historic Preservation Division regarding burial treatment plans for all of the burial sites (5 identified within sites 18088, 18116, 18117, 18134, and 18197). Petitioner shall also comply with all applicable statutory provisions and administrative rules regarding inadvertent burial finds within the Property.

9c. The Petitioner shall incorporate, where possible, portions of one *mauka-makai ahupua'a* trail (site 18099) and portions of the Mamalahoa Trail (02) into the site/project plans for the Project. Additionally, the petroglyph concentrations (site 180181) located immediately east of the Mamalahoa Trail (site 02) will also be preserved. 9d. Should any previously unidentified burial, archaeological or historical sites such as artifacts, marine shell concentrations, charcoal deposits, stone platforms, pavings or walls be found, the Petitioner, developer(s) and/or landowners of the affected properties shall stop work in the immediate vicinity and the State Historic Preservation Division of the Department of Land and Natural Resources (SHPD) shall be notified immediately. The significance of these finds shall then be determined and approved by the SHPD. Subsequent work shall proceed upon an archaeological clearance from the SHPD when it finds that mitigative measures have been implemented to its satisfaction.

#### Landscaping

10a. In consultation with the NPS, Petitioner shall develop a landscaping plan for the Petition Area that must be followed by each subsequent lot owner/tenant. Fisherman knowledgeable of traditional reference points used in locating fishing grounds, and the NPS shall



be consulted on the development of building and landscape design guidelines prior to construction to maintain these reference points. In particular, landscaping and other visual design elements at the South Access Road intersection will be designed to render a harmonious connection between the Petition Area and the Park.

10b. Petitioner, where feasible, shall use indigenous and water conserving plants and incorporate the same into common area landscape planting.

10c. The Amy B.H. Greenwell Botanical Garden, KAHO and other interested parties and educational institutions shall be afforded the opportunity to gather seeds and cuttings of native plants on the Property that cannot be rescued or incorporated into the project's landscaping plan.

10d. The Petitioner shall provide buffer fences/buffer strips, with a minimum width of 30 feet, to protect the existing *Bidens Micrantha* population in or adjacent to the northeast corner of the Petition Area as identified in the Char & Associates survey dated April 2000.

10e. To reduce the potential for interactions between nocturnally flying Dark-rumped petrels with external lights and man-made structures, exterior lighting within the Petition Area will be shielded.

10f. Landscaping and architectural design criteria shall be developed and implemented to reduce visual impacts of the Project, preserve a feeling of open-space and avoid the look of an industrial corridor. Architectural design criteria shall include limitations and restrictions on building profiles, height and design, exterior color and surface treatment, and exterior lighting and sign standards.

10g. A minimum fifty (50) foot landscaping buffer shall be established along Queen Ka'ahumanu Highway.

10h. The Petitioner shall map the location of the existing Bidens Micrantha located near the northeast corner of the Petition Area when the Petition Area's boundaries are surveyed. A copy of the map shall be provided to DLNR prior to commencement of construction of the Project but, in any event, within one year after the effective date of the issuance of this order.

#### **Soil Erosion and Dust Control**

11. Petitioner shall implement efficient soil erosion and dust control measures during and after the development process to the satisfaction of the Hawai'i State Department of Health.

#### **Civil Defense**

12. Petitioner, developers and/or landowners of the Property shall add a solar powered siren with 115 Dbc omni directional speaker array, and insure that the siren be installed in a central location funded and constructed according to adequate civil defense measures as determined by the County of Hawai'i and State Civil Defense agencies.

#### **Solid Waste**

13. The Petitioner shall produce a Solid Waste Management Plan, coordinated and approved by the County of Hawai'i, Department of Environmental Management Solid Waste Division, to divert construction waste and operational waste for alternative uses rather than sending all refuse products to the County's landfills. The plan shall address and encourage an awareness of the need to divert the maximum amount of waste material caused by developments away from the County's landfills.

#### Standard Conditions

14. Petitioner shall develop the Petition Area in full compliance with all material representations made by the Petitioner to the Commission. Failure to do so for any reason including but not limited to economic feasibility, may result in the imposition of fines as provided by law for each and every separate violation, reversion of the Petition Area to its former condition by Petitioner at Petitioner's own expense, reversion of the Petition Area to its former classification or a change to a more appropriate classification and/or any legal remedies, including but not limited to suit for actual and punitive damages under Federal or State law or suit for injunctive relief that requires the Petitioner to restore the Petition Area to its former condition.

15. Petitioner shall give notice to the Commission of any intent to sell, lease, assign, place in trust, or otherwise voluntarily alter the ownership interests in the Petition Area, prior to or during development of the Petition Area.

16. Petitioner shall timely provide without any prior notice, annual reports to the Commission, the Office of Planning, and the County of Hawai'i Planning Department in connection with the status of the subject project and Petitioner's progress in complying with the conditions imposed herein. The annual report shall be submitted in a form prescribed by the Executive Officer of the Commission.

17. The Commission may fully or partially release the conditions provided herein as to all or any portion of the Petition Area upon timely motion and upon the provision of adequate assurance of satisfaction of these conditions by the Petitioner.

18. Within 7 days of the issuance of the Commission's Decision and Order for the subject reclassification, Petitioner shall (a) record with the Bureau of Conveyances a

statement that the Petition Area is subject to conditions imposed by the Land Use Commission in the reclassification of the Petition Area, and (b) shall file such copy of such recorded statement with the Commission. Petitioner shall record the conditions imposed by the Commission with the Bureau of Conveyances pursuant to Section 15-15-92 Hawai'i Administrative rules. All such conditions shall run with the land.

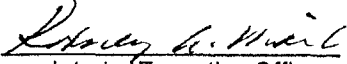
BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In the Matter of the Petition of	)	DOCKET NO. A00-730
	)	
LANIHAU PROPERTIES, LLC	)	ORDER GRANTING MOTION TO
	)	AMEND CONDITIONS AND
To Amend the Conservation Land Use	)	EXTEND TIME FOR COMPLIANCE
District Boundary into the Urban Land	)	
Use District for Approximately 336.984	)	
Acres at Honokohau, North Kona, Hawaii,	)	
	)	
Tax Map Key Nos.: 7-4-08: portion of	)	
13 and 7-4-08: 30	)	

ORDER GRANTING MOTION TO AMEND CONDITIONS  
AND EXTEND TIME FOR COMPLIANCE

This is to certify that this is a true and correct  
copy of the document on file in the office of the  
State Land Use Commission, Honolulu, Hawaii.

JAN 31 2008	by	
Date		Interim Executive Officer

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In the Matter of the Petition of	)	DOCKET NO. A00-730
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LANIHAU PROPERTIES, LLC	)	ORDER GRANTING MOTION TO
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Tax Map Key Nos.: 7-4-08: portion of	)	
13 and 7-4-08: 30	)	
	)	

ORDER GRANTING MOTION TO AMEND CONDITIONS  
AND EXTEND TIME FOR COMPLIANCE

The Land Use Commission ("Commission"), considered the Motion To Amend Conditions and Extend Time For Compliance ("Motion") filed on August 24, 2007, by West Hawaii Business Park, LLC, successor to Lanihau Properties, LLC ("Petitioner"), relating to the Findings of Fact, Conclusions of Law, and Decision and Order filed herein on September 26, 2003 ("Decision and Order"), at its meeting on September 7, 2007, at Kailua-Kona, Hawaii. R. Ben Tsukazaki, Esq. appeared on behalf of Petitioner. Brooks Bancroft, Esq., and Norman Hayashi appeared on behalf of the County of Hawaii Planning Department ("County"). Bryan C. Yee, Esq. and Abe Mitsuda appeared on behalf of the State office of Planning ("OP"). Richard Boston and

Sallie Beavers appeared on behalf of Intervenor Koloko Honokohau National Historical Park, National Park Service.

On September 7, 2007, the Intervenor submitted a response to the Motion with respect to Condition 1c.

The Petitioner argued that the requested amendment to Condition 1c will clarify that the respective standards for reduction of phosphorus and nitrogen are understood to apply to the reduction of total nitrogen pursuant to the design of the individual wastewater systems, and, separately, the reduction of the phosphorus pursuant to the design of the absorption field in combination with treatment in the individual wastewater system. With respect to condition 2a, the Department of Health has declined to approve various covenants, conditions and restrictions required to ensure that future development on lots within the Petition Area will include mitigation measures to protect against potential run-off containing industrial pollutant reaching Koloko Honokohau National Historical Park. Consequently, Petitioner cannot comply with the condition unless it is amended. With respect to Condition 7, Petitioner argued that there is no basis in the Decision and Order to require Petitioner to develop a financial plan for satisfying the fair-share contribution requirements agreed to by Petitioner. Petitioner acknowledged that there were fair-share contribution requirements in the Decision and Order and that it intended to comply with them.

The County had no objection to the Motion.

The OP stated that it (i) had no objection to the request for extension of time; (ii) had no position and no opposition to the deletion of Condition 7; (iii) supported the Amendment to Condition 2a in light of the position of the Department of Health; and (iv) suggested deferring action on the amendment to Condition 1c until the Intervenor could get an attorney involved.

The Intervenor stated that it did not have any objection to the proposed language change in Condition 1c although it did not believe the change was necessary. Intervenor took no position with respect to the rest of the Motion.

After considering the Motion, the memorandum in support of motion filed by Petitioner, and the Intervenor's response, and having examined the record and considered the arguments by counsel on behalf of West Hawaii Business Park, LLC, the OP, the County, and by representatives of Intervenor, a motion was made and seconded to grant Petitioner's motion. There being a vote tally of 6 ayes and 1 absent, the motion carried.

#### ORDER

A motion having been made at a hearing on September 7, 2007, in Kailua-Kona, Hawaii, and the motion having received the affirmative votes required by section 15-15-13, HAR, this Commission hereby GRANTS Petitioner's Motion. The Decision and Order is amended as follows:

1. CONDITION 1c is amended to read as follows:



"1c. Except for the existing quarry operations and the construction of the roads and utilities as provided for below, the Petitioner and / or any future owner(s) of the Petition Area shall refrain from constructing upon or occupying any portion of the Petition Area until such time as the portion (e.g., lot) to be constructed upon or occupied is connected to the WTP, unless in the interim, the portion to be constructed upon or occupied has installed a septic tank system or other Individual Wastewater System (IWS) designed to remove no less than 80% Total Nitrogen from the treatment system (e.g., septic tank with FAST, Biofilter, Recirculation Filters, Sequential Batch Reactor, or comparable technology) and an absorption field of import material which is constructed in a manner to achieve no less than 90% reduction in phosphorous, featuring adequate percolation rate. The existing quarry operation shall have in place an IWS as described above within one year of the date of issuance of boundary reclassification. Installation is subject to conditions of approval dictated by the Director of the Hawaii State Department of Health and Hawaii Administrative Rules (HAR) Title 11 Chapter 62. When connection to the WTP becomes available, all portions of the Petition Area, including all individual lots therein, shall connect to the WTP, whether or not an interim wastewater treatment system has been installed."

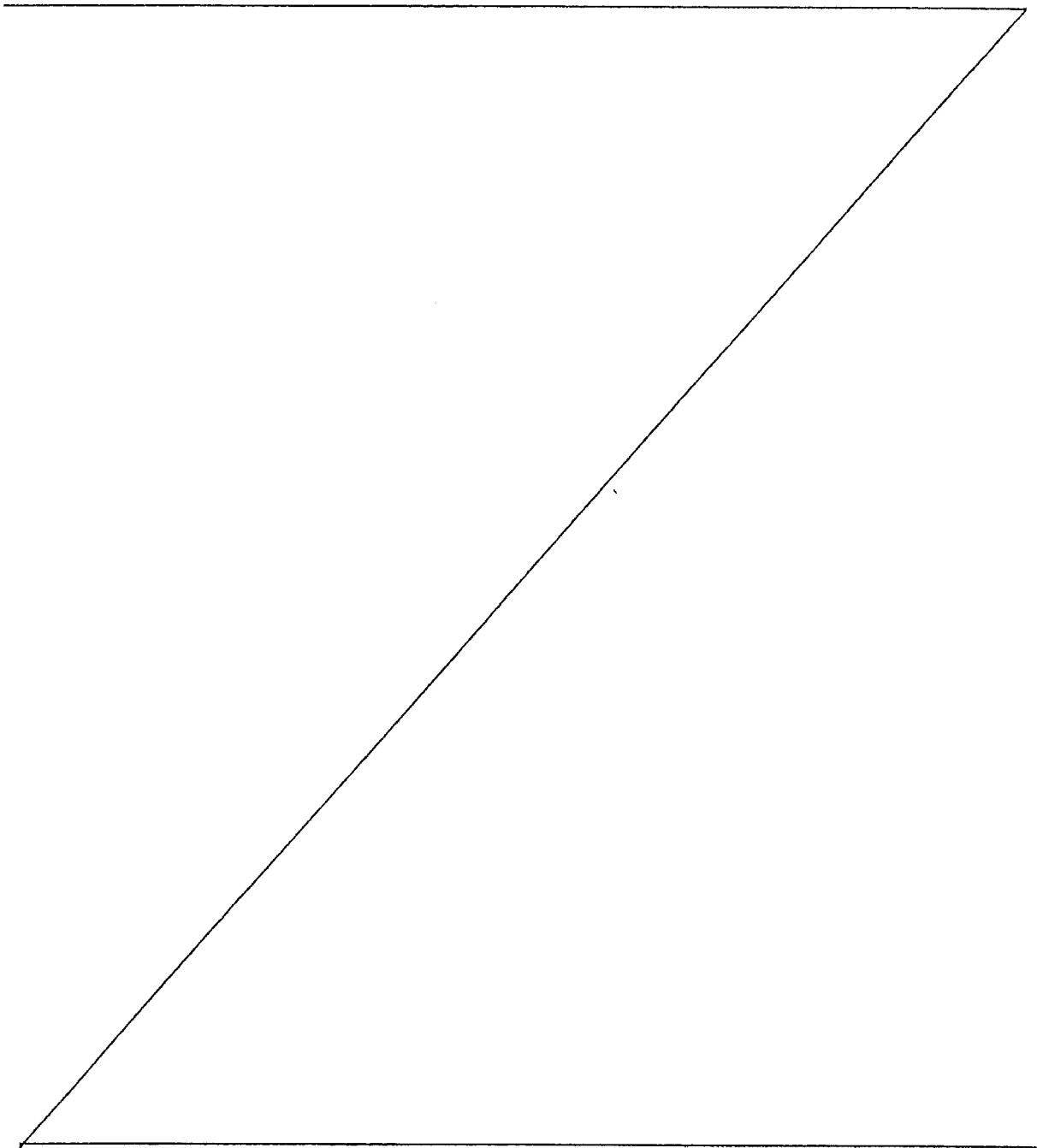
2. CONDITION 2 is amended by amending 2a to read as follows:

"2a. To the extent possible, all storm and surface water runoff shall be captured on the premises. To the extent possible, all runoff entering the ground shall be first treated to remove all industrial waste so that no industrial pollutants will reach KAHO or enter the water table. Petitioner shall be subject to and prepare covenants, conditions, and restrictions for the Petition Area to contain spills and prevent materials associated with industrial uses attributable to the operations of property, including petroleum products, chemicals, or other pollutants from leaching or draining into the ground or subsurface storm drain collection areas. Said covenants shall be prepared by Petitioner upon consultation with the NPS and the County of Hawai'i. The Petitioner and/or tenant shall obtain all required permits and construct required improvements for storm water discharge on and from the property. These conditions shall include the following:"

3. CONDITION 7 is deleted.

4. The time of compliance with Conditions 1c and 2a, as amended, shall be extended to August 31, 2008.

All other findings of fact, conclusions of law, and conditions in the Decision and Order are affirmed and continue in full force and effect.



ADOPTION OF ORDER

The undersigned Commissioners, being familiar with the record and proceedings, hereby adopt and approve the foregoing ORDER this 31st day of January, 2008. This ORDER and its ADOPTION shall take effect upon the date this ORDER is certified and filed by this Commission.

Done at Honolulu, Hawai'i, this 31st day of January, 2008, per motion on September 7, 2007.

APPROVED AS TO FORM

Diane Glickson  
Deputy Attorney General

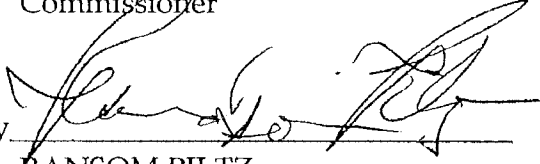
LAND USE COMMISSION  
STATE OF HAWAII

By Lisa M. Judge  
LISA M. JUDGE  
Chairperson and Commissioner

By Duane Kanuha  
DUANE KANUHA  
Vice Chair and Commissioner

By Thomas Conrades  
THOMAS CONTRADES  
Commissioner

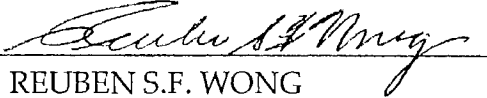
By   
VLADIMIR PAUL DEVENS  
Commissioner

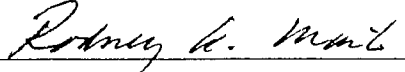
By   
RANSOM PILTZ  
Commissioner

By (absent)  
NICHOLAS W. TEVES, JR.  
Commissioner

Filed and effective on:  
JAN 31 2008

Certified by:

By   
REUBEN S.F. WONG  
Commissioner

  
Interim Executive Officer

BEFORE THE LAND USE COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Petition of	)	DOCKET NO. A00-730
	)	
LANIHAU PROPERTIES, LLC	)	CERTIFICATE OF SERVICE
	)	
To Amend the Conservation Land Use	)	
District Boundary into the Urban Land	)	
Use District for Approximately 336.984	)	
Acres at Honokohau, North Kona, Hawaii,	)	
	)	
Tax Map Key Nos.: 7-4-08: portion of	)	
13 and 7-4-08: 30	)	

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Order Granting Motion To Amend  
Conditions And Extend Time For Compliance was served upon the following by either  
hand delivery or depositing the same in the U. S. Postal Service by regular or certified  
mail as noted:

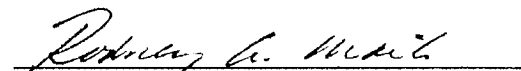
DEL.	MARY LOU KOBAYASHI, Acting Director Office of Planning P. O. Box 2359 Honolulu, Hawaii 96804-2359  BRYAN C. YEE, Esq. Deputy Attorney General Hale Auhau, Third Floor 425 Queen Street Honolulu, Hawaii 96813
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CERT. R. BEN TSUKAZAKI, Esq.  
Tsukazaki Yeh & Moore  
85 W. Lanikaula Street  
Hilo, Hawaii 96720

Dated: Honolulu, Hawaii, JAN 31 2008.

  
\_\_\_\_\_  
RODNEY A. MAILE  
Interim Executive Officer

**APPENDIX C**

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**ORDINANCE 04-110**  
**(ZONING ORDINANCE)**

COUNTY OF HAWAI'I



STATE OF HAWAI'I

BILL NO. 309  
Draft 4

ORDINANCE NO. 04 110

AN ORDINANCE AMENDING SECTION 25-8-3 (NORTH KONA ZONE MAP), ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAI'I COUNTY CODE, BY CHANGING THE DISTRICT CLASSIFICATION FROM OPEN (O) TO INDUSTRIAL-COMMERCIAL MIXED (MCX-20) AND GENERAL INDUSTRIAL (MG-1a) AT HONOKOHAU 1<sup>ST</sup> AND 2<sup>ND</sup>, NORTH KONA, HAWAI'I, COVERED BY TAX MAP KEY 7-4-8:PORTION 13 & 30.

BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF HAWAI'I:

SECTION 1. Section 25-8-3, Article 8, Chapter 25 (Zoning Code) of the Hawai'i County Code, is amended to change the district classification of property described hereinafter as follows:

The district classification of the following area situated at Honokohau 1<sup>st</sup> and 2nd, North Kona, Hawai'i, shall be Industrial-Commercial Mixed (MCX-20):

PARCEL "1"

Beginning at the Northwest corner of this parcel of land, the coordinates of said point of beginning referred to Hawaiian Plane Coordinate Grid System Zone 1 being 310,073.83 feet North and 320,034.85 feet East and thence running by azimuths measured clockwise from true South:

- |    |              |          |  |
|----|--------------|----------|--|
| 1. | 259° 01' 40" | 2,361.73 | feet along Lots 57 and 17 of Kaloko Light Industrial Subdivision Unit 1 (File Plan 1806), Kanalani Street, Lots A, being a portion of R.P. 8214, L.C. Aw. 7715, Ap. 11 to Lota Kamehameha, Lots 53 and 52 of Kaloko Light Industrial Subdivision Unit 1 (File Plan 1806), Lot 50-A, being a portion of R.P. 8214, L.C. Aw. 7715, Ap. 11 to Lota Kamehameha, Lots A and F, being portions of R.P. 8214, L.C. Aw. 7715, Ap. 11 to Lota Kamehameha; |
| 2. | 349° 01' 40" | 596.91   | feet;  |
| 3. | 348° 15'     | 1,852.52 | feet;  |
| 4. | 258° 15'     | 410.00   | feet;  |
| 5. | 260° 10'     | 226.89   | feet;  |



- |     |   |     |        |   |
|-----|---|-----|--------|---|
| 6.  | 350°  | 10' | 888.31 | feet;   |
| 7.  | 78°   | 15' | 10"    | 1,522.85 feet along Lots 8, 7, 6 and 5, Road G and Lot 3, being portions of R.P. 6855, L.C. Aw. 9971, Ap. 9 to William Pitt Leleiohoku;   |
| 8.  | 78°   | 15' | 30"    | 1,000.00 feet along Lot 8-A, being a portion of R.P. 6855, L.C. Aw. 9971, Ap. 9 to William Pitt Leleiohoku; Lot 8-B, being all of Grant S-15098 to Lanihau Corporation, et al.; and Lot 8-C, being a portion of R.P. 6855, L.C. Aw. 9971, Ap. 9 to William Pitt Leleiohoku; |
| 9.  | 148°  | 10' | 213.70 | feet along the East side of Queen Kaahumanu Highway (Project Number BD-65-352);   |
| 10. | Thence along the East side of Queen Kaahumanu Highway (Project Number BD-65-352), on a curve to the right with a radius of 5,904.00 feet, the chord azimuth and distance being: |     |        |   |
|     | 158°  | 04' | 45"    | 2,032.68 feet;  |
| 11. | 167°  | 59' | 30"    | 1,175.19 feet along the East side of Queen Kaahumanu Highway (Project Number BD-65-352), to the point of beginning and containing an <u>area of 186.733</u> Acres.  |

The district classification of the following area situated at Honokohau 1<sup>st</sup> and 2nd, North Kona, Hawaii, shall be General Industrial (MG-1a):

PARCEL "2"

Beginning at the Northwest corner of this parcel of land, the coordinates of said point of beginning referred to Hawaiian Plane Coordinate Grid System Zone 1 being 310,523.35 feet North and 322,353.41 feet East and thence running by azimuths measured clockwise from true South:

- |    |      |     |     |          |   |
|----|------|-----|-----|----------|---|
| 1. | 259° | 01' | 40" | 322.18   | feet along Lot F, being a portion of R.P. 8214, L.C. Aw. 7715, Ap. 11 to Lota Kamehameha; |
| 2. | 260° | 55' | 29" | 914.00   | feet along Lot F, being a portion of R.P. 8214, L.C. Aw. 7715, Ap. 11 to Lota Kamehameha; |
| 3. | 332° | 45' |     | 710.32   | feet;   |
| 4. | 337° | 00' |     | 1,798.39 | feet;   |
| 5. | 80°  | 10' |     | 1,374.70 | feet;   |
| 6. | 78°  | 15' |     | 410.00   | feet;   |
| 7. | 168° | 15' |     | 1,852.52 | feet;   |
| 8. | 169° | 01' | 40" | 596.91   | feet to the point of beginning and containing an area of 85.733 Acres.                    |

The district classification of the following area situated at Honokohau 1<sup>st</sup> and 2nd, North Kona, Hawai'i, shall be Industrial-Commercial Mixed (MCX-20):

PARCEL "3"

Beginning at the Southwest corner of this parcel of land, the coordinates of said point of beginning referred to Hawaiian Plane Coordinate Grid System Zone 1 being 306,466.91 feet North and 321,393.14 feet East and thence running by azimuths measured clockwise from true South:

- |    |      |     |  |        |   |
|----|------|-----|--|--------|---|
| 1. | 148° | 10' |  | 459.24 | feet along the East side of Queen Kaahumanu Highway (Project Number BD-65-352); |
|----|------|-----|--|--------|---|

- |    |              |          |  |
|----|--------------|----------|--|
| 2. | 258° 15' 30" | 1,000.00 | feet along Lot A, being a portion of R.P. 7587, L.C. Aw. 11216, Ap. 36 to M. Kekauonohi (Certificate of Boundaries No. 138);   |
| 3. | 328° 10'     | 459.24   | feet along Lot 3, being a portion of R.P. 6855, L.C. Aw. 9971, Ap. 9 to William Pitt Leleiohoku;   |
| 4. | 78° 15' 30"  | 1,000.00 | feet along Lots IX-A, IX-B and IX-C, being portions of R.P. 6855, L.C. Aw. 9971, Ap. 9 to William Pitt Leleiohoku to the point of beginning and containing an area of 9.901 Acres. |

All as shown on the map attached hereto, marked Exhibit "A" and by reference made a part hereof.

SECTION 2. In accordance with Section 25-2-44, Hawai'i County Code, the County Council finds the following conditions are:

- (1) Necessary to prevent circumstances which may be adverse to the public health, safety and welfare; or
- (2) Reasonably conceived to fulfill needs directly emanating from the land use proposed with respect to:
  - (A) Protection of the public from the potentially deleterious effects of the proposed use, or
  - (B) Fulfillment of the need for public service demands created by the proposed use.

- A. The applicant, successors or assigns shall be responsible for complying with all of the stated conditions of approval.
- B. The applicant shall comply with all conditions of approval of the State Land Use Commission's Decision and Order (Docket No. A00-730) dated September 26, 2003.

C. Prior to the issuance of a water commitment by the Department of Water Supply, the applicant shall submit the anticipated maximum daily water usage calculations as recommended by a registered engineer, and a water commitment deposit in accordance with the "Water Commitment Guidelines Policy" to the Department of Water Supply within ninety days from the effective date of this ordinance.

D. The subject area shall be zoned in multiple increments:

1. The first increment shall consist of Parcel 2 (MG zoned area) and Parcel 3 (9.9-acre MCX zoned area) whose zoning shall be effective upon adoption of this ordinance.
2. Zoning increments within Parcel 1 (186.7-acre MCX zoned area) shall be identified by the applicant as part of future subdivision applications. The effective date of these future zoning increments shall be upon completion of construction or acceptance of financial assurance thereof, by bond or other means, meeting with the approval of the Planning Director, whichever occurs first, for the portion of road improvements as shown on the approved circulation plan within each increment. The incremental zoning boundaries shall be identified on the subdivision maps and shall be along the portions of the roads proposed to be improved and shall not include large lots, as described in Section 23-28, Chapter 23, Hawaii County Code, or any remainder lot that is designated by the applicant on its subdivision plans.

E. Prior to construction on the proposed lots, the applicant, successors or assigns  
shall secure Final Plan Approval for the proposed development from the  
Planning Director in accordance with Section 25-2-70, Chapter 25 (Zoning  
Code), Hawaii County Code. Plans shall identify all existing and/or proposed  
structures, paved driveway access and parking stalls associated with the proposed  
development. Landscaping shall also be indicated on the plans for the purpose of  
mitigating any adverse noise or visual impacts to adjacent properties in

accordance with the requirements of Planning Department's Rule No. 17  
(Landscaping Requirements).

- F. An overall landscaping master plan, including a minimum 50-foot wide landscaping buffer along the property's frontage on Queen Kaahumanu Highway shall be submitted to and approved by the Planning Department prior to the issuance of Final Plan approval for any development within Lots 1 and 3. The Landscaping Master Plan shall reflect the proposed landscaping concept depicted in Figure 4-4g of the petitioner's Final Environmental Impact Statement dated April 2003 and shall include, but not necessarily limited to, plant species list, identification of view corridors from within and outside of the project area and maintenance program. The required landscaping improvements shall be installed in conjunction with the development of immediate surrounding areas.
- G. An updated Traffic Impact Analysis Report (TIAR) certified by a licensed engineer shall be submitted for review and approval to the Planning Director and Department of Public Works, prior to receipt of Final Subdivision Approval. The TIAR shall be updated to include the increase in the MCX-zoned area and the inclusion of interior intersections along the South Access Road and Honokohau Street. The revised TIAR shall also evaluate impacts to the Kamanu Street and Kealakehe Parkway intersection. The improvements identified in the updated TIAR shall be provided in an appropriate design year or phased with the needed right-of-way provided. Mitigation measures called for in the revised TIAR that are reasonably related to the project impacts shall be implemented meeting with the approval of the Planning Director in consultation with the Department of Public Works.
- H. All access and intersection improvements along Queen Kaahumanu Highway shall be constructed meeting with all the requirements and approval of the State Department of Transportation. Access to Parcel 1 from Queen Kaahumanu Highway shall be limited to the North Access Road and, after construction of the National Park Service/Lanihau (South Access Road) signalized intersection, to the National Park Service/Lanihau (South Access Road) intersection and to the

North Access Road under such terms and conditions required by the Department of Transportation.

- I. Prior to the granting of Tentative Subdivision Approval for any lot within the subject area, the applicant shall prepare an overall Roadway Circulation Plan showing the major road corridors within the project area for review and approval by the Planning Department, in consultation with the Department of Public Works and the State Department of Transportation.
  
- J. Prior to the issuance of a Certificate of Occupancy of any structure within the project area, except as provided in Conditions K, L and M below, Kamanu Street Extension shall be constructed and available for use across the entire project area. The applicant shall construct Kamanu Street extending from the north property boundary to the south property boundary meeting with the approval of the Department of Public Works. At its sole discretion, the applicant may construct Kamanu Street Extension in stages, the first of which shall consist of preliminary vehicular access (hereinafter defined as road improvements constructed to non-dedicable standards) meeting with the safety and design requirements of the Department of Public Works, suitable for through-vehicular travel. Construction of the first stage shall be completed prior to the issuance of the County's issuance of a Certificate of Occupancy for any portion of the subject property, except as provided herein. The second stage shall consist of upgrading the preliminary vehicular access to dedicable standards including curbs, gutters and sidewalks, meeting with the approval of the Department of Public Works, which shall be constructed in conjunction with Final Subdivision Approval for any lands along the roadway improvements constructed in the first stage, excluding large lots or remainder lots. In the event that Kamanu Street is constructed with County or other government funding or financing, the applicant shall dedicate the Kamanu Street right-of-way to the County at no cost, and the Kamanu Street improvements shall be improved to County dedicable standards, including curb, gutter and sidewalks, prior to the issuance of a Certificate of Occupancy within the subject property, except as provided in Conditions K, L and M herein. In this event, prior to the granting of Final Subdivision approval for

lots fronting Kamanu Street, other than bulk or remainder lots, the applicant shall reimburse or otherwise contribute to the appropriate agency for the cost of construction. Provided that reimbursement shall occur within five years of completion of construction, or if reimbursement is by way of the applicant taking over bond payments, such repayment shall begin within four years of completion of construction. Reimbursement of the cost of construction of Kamanu Street shall not include any costs in excess of those necessary for a County-dedicable road serving the project area only.

K. Prior to the issuance of a Certificate of Occupancy for improvements within an approximately 10-acre portion of Parcel 1 along Kanalani Street Extension between the north property boundary and North Access Road, Kanalani Street Extension from the north property boundary to the North Access Road and the construction of improvements within the North Access Road/Queen Kaahumanu Highway intersection and North Access Road, as provided in the TIAR, shall be completed to County dedicable standards.

L. Prior to the issuance of a Certificate of Occupancy for improvements within Parcel 2 other than for uses or improvements permitted or allowed as part of the on-going quarry and related activities, Kamanu Street Extension shall be constructed and available for use across the entire project area as provided in Condition J above.

M. Prior to the issuance of a Certificate of Occupancy within Parcel 3, the applicant shall improve the north side of Honokohau Street, meeting with the approval of the Department of Public Works.

N. Street lights, traffic signals and applicable traffic control devices shall be installed as required by the Department of Public Works as warranted pursuant to the Manual on Uniform Traffic Control Devices.

O. In order to address and mitigate potential impacts from non-point source pollutants, the applicant shall participate with the County of Hawaii in a pilot storm drainage program for roadways within the Kaloko-Honokohau region.

This pilot program may potentially include other developments within the County and apply to all other government and private developments. The applicant shall participate by constructing all roadways within the proposed industrial-commercial park to County dedicable standards with paved swales. The drainage system within the road rights-of-way shall, if required by the County of Hawaii, include storm drain filtration devices which meet with the approval of the Department of Public Works, in consultation with the National Park Service, and the applicable permitting requirements of the Underground Injection Control (UIC) of the Federal Safe Drinking Water Action and the National Pollutant Discharge Elimination System of the Federal Clean Water Act. The roadway and related improvements covered herein shall be considered eligible for dedication to the County of Hawaii.

- P. An Emergency Response Plan shall be submitted to the Civil Defense Agency for review and approval prior to the issuance of a Certificate of Occupancy.
- Q. An Archaeological Preservation and Burial Treatment Plan shall be submitted for the review and approval of the Planning Director, in consultation with the Department of Land and Natural Resources - State Historic Preservation Division (DLNR-SHPD). Proposed mitigation treatment for the burial sites within the subject property shall be approved by the SHPD's Hawaii Island Burial Council before detailed mitigation plans are finalized for these sites. A copy of the approved Final Archaeological Preservation and Burial Treatment Plan shall be submitted to the Planning Director for its files prior to submitting plans for Final Plan Approval, Final Subdivision review or prior to the issuance of any land alteration permit, whichever comes first.
- R. Should any unidentified sites or remains such as artifacts, shell, bone, or charcoal deposits, human burials, rock or coral alignments, pavings or walls be encountered, work in the immediate area shall cease and the Department of Land and Natural Resources-Historic Preservation Division (DLNR-HPD) shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the DLNR-HPD when it is found that sufficient mitigation measures have been taken.



- S. To ensure that the Goals and Policies of the Housing Element of the General Plan are implemented, the applicant shall comply with the requirements of Chapter 11, Article 1, Hawaii County Code, relating to Affordable Housing Policy.
- T. Should the Council adopt a Unified Impact Fees Ordinance setting forth criteria for imposition of exactions or the assessment of impact fees, conditions included herein shall be credited towards the requirements of the Unified Impact Fees Ordinance.
- U. Comply with all other applicable laws, rules, regulations and requirements of other affected agencies.
- V. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of the enactment of the ordinance. The report shall include, but not be limited to, the status of the development and the extent to which the conditions of approval are being satisfied. This condition shall remain in effect until all of the conditions of approval have been satisfied and the Director acknowledges that further reports are not required.
- W. An initial extension of time for the performance of conditions within the ordinance may be granted by the Planning Director upon the following circumstances:
1. The non-performance is the result of conditions that could not have been foreseen or are beyond the control of the applicant, successors or assigns, and that are not the result of their fault or negligence.
  2. Granting of the time extension would not be contrary to the General Plan or Zoning Code.

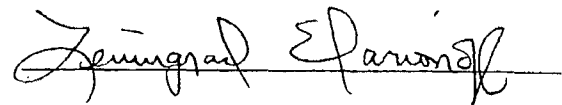
3. Granting of the time extension would not be contrary to the original reasons for the granting of the change of zone.
4. The time extension granted shall be for a period not to exceed the period originally granted for performance (i.e., a condition to be performed within one year may be extended for up to one additional year).

X. Should any of the conditions not be met or substantially complied with in a timely fashion, the Planning Director may initiate rezoning of the area to its original or more appropriate designation.

SECTION 3. In the event that any portion of this ordinance is declared invalid, such invalidity shall not affect the other parts of this ordinance.

SECTION 4. This ordinance shall take effect upon its approval.

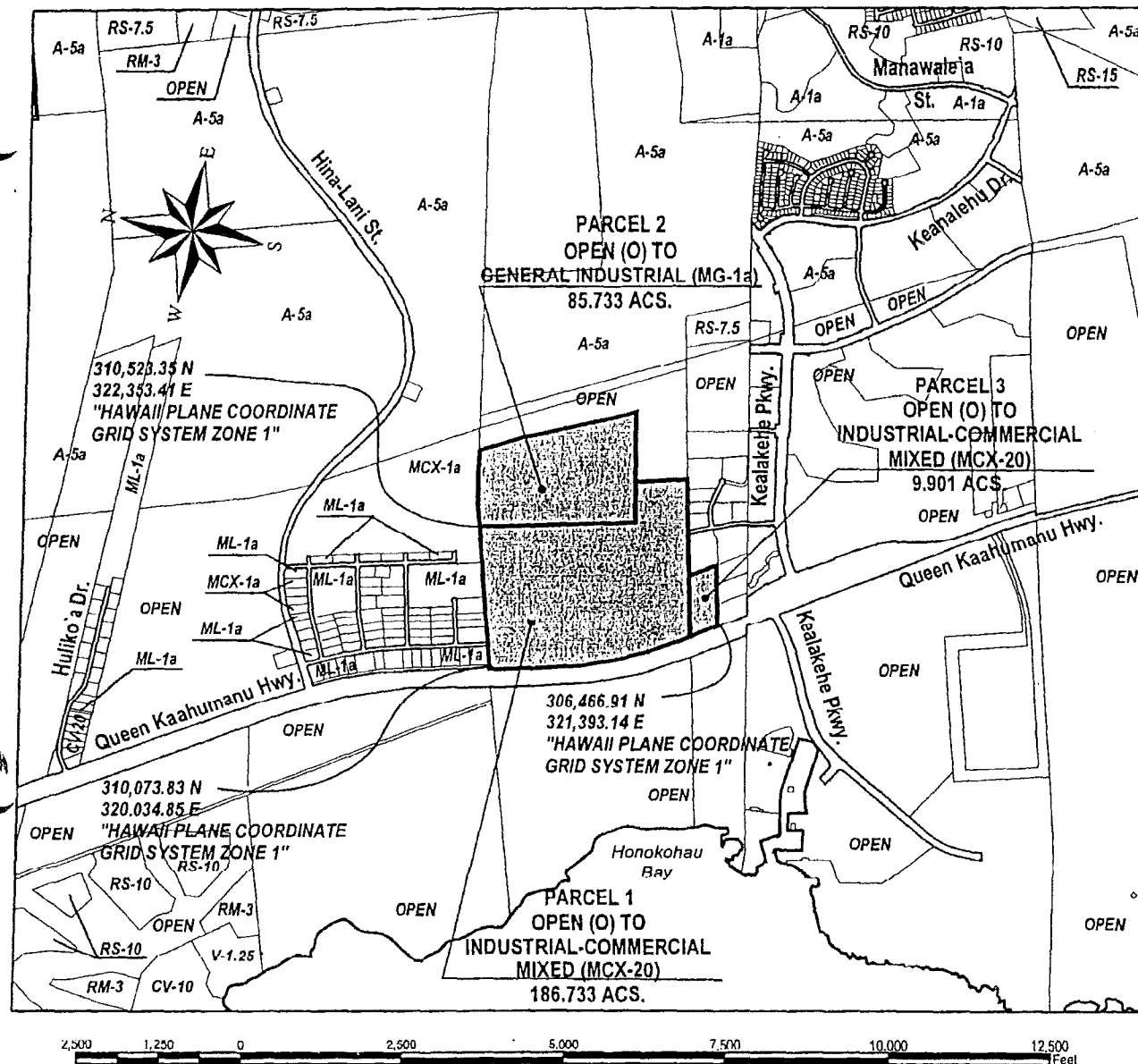
INTRODUCED BY:

  
COUNCIL MEMBER, COUNTY OF HAWAII

Hilo, Hawai'i

Date of Introduction: September 15, 2004  
Date of 1st Reading: September 15, 2004  
Date of 2nd Reading: October 4, 2004  
Effective Date: October 12, 2004

REFERENCE: Comm. 722.12



# AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-8-3 (NORTH KONA ZONE MAP)  
 ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE,  
 BY CHANGING THE DISTRICT CLASSIFICATION  
 FROM OPEN (O)  
 TO INDUSTRIAL-COMMERCIAL MIXED (MCX-20)  
 AND GENERAL INDUSTRIAL (MG-1a)  
 AT HONOKOHAU 1st, NORTH KONA, HAWAII

PREPARED BY: PLANNING DEPARTMENT  
 COUNTY OF HAWAII

OFFICE OF THE COUNTY CLERK

County of Hawaii

Hilo, Hawaii

2004 OCT 12 PM 2 15

(Draft 4)

Introduced By: Leninograd Elarionoff  
Date Introduced: September 15, 2004  
First Reading: September 15, 2004  
Published: N/A

REMARKS: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Second Reading: October 4, 2004  
To Mayor: October 5, 2004  
Returned: October 12, 2004  
Effective: October 12, 2004  
Published: October 17, 2004

MARKS: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki	X			
Chung	X			
Elarionoff	X			
Holschuh	X			
Jacobson		X		
Reynolds	X			
Safarik		X		
Tulang	X			
Tyler	X			
	7	2	0	0

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki	X			
Chung			X	
Elarionoff	X			
Holschuh	X			
Jacobson		X		
Reynolds			X	
Safarik	X			
Tulang	X			
Tyler	X			
	6	1	2	0

I DO HEREBY CERTIFY that the foregoing BILL was adopted by the County Council published as indicated above.

APPROVED AS TO  
FORM AND LEGALITY:

B. J. Keithhead-Todd  
DEPUTY CORPORATION COUNSEL  
COUNTY OF HAWAII

Date October 6, 2004

Approved/Disapproved this 12<sup>th</sup> day  
of October, 2004.

Mayor  
MAYOR, COUNTY OF HAWAII

[Signature]  
COUNCIL CHAIRMAN  
[Signature]  
COUNTY CLERK

Bill No.: 309 (Draft 4)  
Reference: C-722.12/PC-107  
Ord: 04 110

**APPENDIX D**

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**STORM WATER COVENANTS,  
CONDITIONS & RESTRICTIONS**

Return by Mail ( ) Pickup ( ) To:

Document contains \_\_\_\_\_ pages

Tax Map Key Nos. (3) 7-4-8-13, -74, -76, -77, -78, and -79

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR  
STORM WATER AND SURFACE WATER RUN-OFF**

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR STORM WATER AND SURFACE WATER RUN-OFF (this “Declaration”) is executed by WEST HAWAII BUSINESS PARK LLC, a Hawaii limited liability company (“Declarant”), as of the date set forth on the signature page hereof.

**ARTICLE I  
RECITALS**

1.1 Declarant is the owner of certain real property which is the site of the West Hawaii Business Park, described on Exhibit “A” attached hereto and incorporated herein by reference (the “Property”).

1.2 This Declaration is required by the LUC Conditions (as defined below) and imposes certain covenants, conditions and restrictions upon the Property in order to contain spills and prevent materials associated with industrial uses attributable to operations of the Property, including petroleum products, chemicals, or other pollutants, from leaching or draining into the ground or subsurface storm drain collection areas.

1.3 Pursuant to the LUC Conditions, Declarant is required to establish an owners’ association “...with the power to oversee and report violations as a second line of defense against pollution violations.”

## **ARTICLE II**

### **DEFINITIONS**

2.1    “Association” – An association of Owners of Units established by Declarant pursuant to the LUC Order, which association may be incorporated as a Hawaii non-profit corporation, and its successors.

2.2    “Board of Directors” or “Board” – The body responsible for administration of the Association, generally serving the same role as the board of directors under Hawaii corporate law.

2.3    “Common Area” – All real and personal property, including easements, which the Association owns, leases or otherwise holds possessory or other rights in for the common use and enjoyment of the Owners. For purposes of this Declaration, Common Area shall not include any portion of a Unit that an Owner thereof may designate as a common area for any purpose or in any other document unless such other document specifically declares such common area to be a Common Area within the scope of this Declaration, and Declarant or the Association accepts such area as a Common Area by an executed instrument recorded in the Public Records.

2.4    “Declarant”. West Hawaii Business Park LLC, a Hawaii limited liability company, or any one or more successor, who takes title to any portion of the Property described on Exhibit “A” for the purpose of development and/or sale and who is designated as the Declarant or Co-Declarant in a recorded instrument executed by the immediately preceding Declarant.

2.5    “Declarant Control Period” – The period of time during which the Declarant is entitled to appoint at least a majority of the members of the Board.

2.6    “DOH” - Department of Health of the State of Hawaii.

2.7    “Existing Quarry Permit” - That certain Conservation District Use Permit (“CDUP”) dated July 13, 1966, issued by the Department of Land and Natural Resources to J.M. Tanaka Construction Inc.

2.8    “HAR” - Hawaii Administrative Rules, as the same may be amended from time to time.

2.9    “HRS” - Hawaii Revised Statutes, as the same may be amended from time to time.

2.10   “KAHO National Park” - Certain real property owned by the United States of America known as the Kaloko-Honokohau National Historical Park (“KAHO National Park”) which is located directly west of the Property, seaward of Queen Ka’ahumanu Highway, and operated and managed by the NATIONAL PARK SERVICE, a Bureau of the United States Department of the Interior (“NPS”).

2.11 “LUC Conditions” - The conditions set out in the LUC Order, as such conditions may be amended from time to time. The conditions of the Original LUC Order are set out in that certain Certificate of Conditions recorded in the Public Records as Document No. 2004-032728.

2.12 “LUC Order” - That certain Decision and Order dated June 16, 2003, and entered on September 26, 2003 (the “Original LUC Order”), issued by the Land Use Commission of the State of Hawaii, as part of its Stipulated Findings of Fact, Conclusions of Law, and Decision and Order for a State Land Use District Boundary Amendment in Docket No. A00-730, as amended by Order Granting Motion to Amend Conditions and Extend Time for Compliance adopted on January 31, 2008, as such order may be further amended from time to time.

2.13 “Owner”. One or more Persons who hold the record title to any Unit (including Declarant, if Declarant holds record title to any Unit), but excluding in all cases any party holding an interest merely as security for the performance of an obligation. If a Unit is sold under a recorded agreement of sale, and the contract specifically so provides, the purchaser (rather than the fee owner) will be considered the Owner. In no event shall any Unit have, individually or collectively, more than one Owner for purposes of this Declaration, provided, however, that where an Owner consists of more than one Person, each such Person shall be jointly and severally liable for the performance of the Owner’s obligations under this Declaration and notice to one such Person shall be deemed notice to all such Persons. If a Unit is submitted to a condominium property regime, all of the “unit owners” thereof as defined in Hawaii Revised Statutes Chapter 514B, as the same may be amended from time to time, shall collectively be the Owner, and any notice to the condominium association shall be deemed notice to all such unit owners.

2.14 “Person” - A natural person, a corporation, a partnership, a limited liability company, a trustee, or any other legal entity.

2.15 “Pollution Prevention Plan”. That certain Pollution Prevention Plan dated \_\_\_\_\_, prepared by Masa Fujioka & Associates, and recorded in the Public Records as Document No. \_\_\_\_\_, as the same may be amended from time to time.

2.16 “Property”. The real property described in Exhibit “A” attached hereto and made a part hereof.

2.17 “Public Records” - The Bureau of Conveyances of the State of Hawaii or such other place which is designated as the official location for recording of deeds and similar documents affecting title to real estate.

2.18 “Unit” or “Units” - A portion or portions of the Property, whether improved or unimproved, which are legally subdivided and may be independently owned and conveyed (but not any units in a condominium project) and which is intended for development, including the construction of improvements, occupancy and use in a trade or business. In the case of a portion of the Property intended and suitable for subdivision but as to which no final lot subdivision map has been filed, such property shall be deemed to be a single Unit until such time as a final lot subdivision map is filed of record with respect to all or a portion of the property. The term “Unit” shall refer to the land which is part of the Unit as well as any improvements thereon. The



development of a condominium project on any Unit shall not, by reason thereof, convert such Unit into separate Units.

**ARTICLE III**  
**STORM WATER AND SURFACE WATER RUN-OFF COVENANTS, CONDITIONS**  
**AND RESTRICTIONS**

NOW THEREFORE, Declarant declares, covenants and agrees, by and for itself, its successors and assigns, and its successors in interest, and all persons claiming under or through them, that the Property shall be held, transferred, encumbered, used, sold, conveyed, leased, improved, and occupied subject to the covenants, conditions and restrictions hereinafter set forth.

3.1 To the extent possible, all storm and surface water runoff shall be captured on the Property, including the individual Units. To the extent possible, all such runoff entering the ground shall be first treated to remove all industrial waste so that no industrial pollutants will reach KAHŌ National Park or enter the water table.

3.2 The Declarant or the Association shall obtain all required permits and construct required improvements for storm water discharge on and from the portions of the Property comprising the Common Area. Each Owner shall obtain all required permits and construct required improvements for storm water discharge on and from the Owner's Unit. All improvements shall be subject to the provisions of this Article and other applicable sections of this Declaration.

3.3 Except for uses permissible under the Existing Quarry Permit, prior to the occupancy of any portion of the Property comprising the Common Area, Declarant or the Association shall engineer, construct (or require to be constructed) and maintain surface water/storm water containment systems that ensure no Federal, State or County of Hawaii water quality standards will be violated.

3.4 Except for uses permissible under the Existing Quarry Permit, prior to the occupancy of any Unit, Owner shall engineer, construct (or require to be constructed) and maintain surface water/storm water containment systems that ensure no Federal, State or County of Hawaii water quality standards will be violated.

3.5 No injection well shall be constructed as an element of a surface water/storm water containment system on the Property, including the individual Units, unless, prior to the start of any construction, appropriate requirements of HAR Chapter 11-23 are satisfied and the DOH issues a UIC (Underground Injection Control) permit. Contaminants shall be monitored and removed with best efforts prior to entering injection wells pursuant to the monitoring protocols for injection wells established in the Pollution Prevention Plan. All monitoring records shall be maintained for a period of ten years or such other period of time as may be required by DOH and made available to the DOH, the County of Hawaii and NPS, upon request.

3.6 If a large void, such as a lava tube or solution cavity, is encountered during drilling, where the drill rod drops more than three feet, measures shall be taken to prevent migration of the injected fluids to KAHŌ National Park to the satisfaction of the DOH as described in HAR § 11-23-09(f).

3.7 All injection wells established in the Property, including injection wells established in the individual Units, shall be operated in such a manner that they do not violate any of the DOH's administrative rules under Title 11 HAR, regulating various aspects of water quality and pollution, and chapters 342-B, 342-D, 342-F, 342-H, 342-J, 342-L and 342-N, HRS. Relevant HAR sections include, but are not limited to: (i) Chapter 11-20, "Rules Relating to Potable Water Systems"; (ii) Chapter 11-62, "Wastewater Systems"; and (iii) Chapter 11-55, "Water Pollution Control."

3.8 The operator of any injection well or wells in the Property, including the operator of an injection well in the individual Units, shall keep detailed records of the operation of the well or wells, including, but not limited to, the type and quantity of injected fluids, and the method and rate of injection for each well. Such records will be maintained for a period of ten years or such other period of time as may be required by DOH and made available for inspection or review by the DOH as specified under appropriate sections of HAR Chapter 11-28.

3.9 Any Person who violates any of these conditions shall be subject to penalties as prescribed in appropriate chapters of HRS and HAR as they relate to (but are not limited to): Potable Water Systems; Wastewater Systems; Water Pollution Control; Safe Drinking Water; and Underground Injection Control.

3.10 The Declarant shall ensure that all drainage injection wells or subsurface drainage structures on the portions of the Property comprising the Common Area be designed with an appropriate size debris catch basin to allow the detention and periodic removal of rubbish and sediments deposited by runoff. Each Owner shall ensure that all drainage injection wells or subsurface drainage structures on the Owner's Unit be designed with an appropriate size debris catch basin to allow the detention and periodic removal of rubbish and sediments deposited by runoff. Storm water runoff shall first enter the debris catch basin before flowing into the drainage well. The debris catch basin shall be periodically inspected and cleaned accordingly. Oil/water separators shall be utilized where petroleum products are used.

3.11 Declarant and the Association shall have the power to oversee and report violations of this Declaration to DOH or other governmental authority having jurisdiction over the violation as a second line of defense against pollution violations.

#### **ARTICLE IV** **ENFORCEMENT**

4.1 The Association, acting through the Board, and the Declarant during the Declarant Control Period, shall have the exclusive right to enforce this Declaration.

4.2 Only the Board and Declarant may impose sanctions for violation of this Declaration. The Board's actions shall be subject to its compliance with any applicable approval, notice and hearing procedures that may be set out in the Association's articles of incorporation, bylaws and other governing documents. Such sanctions may include, without limitation:

(a) imposing reasonable monetary fines which shall constitute a lien upon the Unit of the violator (In the event that any employee, lessee, occupant, invitee, client, customer or

guest of a Unit violates this Declaration, and a fine is imposed, the fine shall first be assessed against the occupant; provided however, if the fine is not paid by the occupant within the time period set by the Board, the Owner shall pay the fine upon notice from the Board.);

(b) filing liens in the Public Records for nonpayment of any assessments or fees;

(c) filing notices of violations in the Public Records providing record notice of any violation of this Declaration; and

(d) levying assessments against the Owner of a Unit to cover costs incurred in bringing a Unit into compliance.

In addition, Declarant or the Board may elect to enforce any provision of this Declaration by entering the Unit and exercising self-help (specifically including, but not limited to, the correction of any maintenance, construction or other violation of this Declaration) or by suit at law or in equity to enjoin any violation or to recover monetary damages or both.

All remedies set forth in this Declaration shall be cumulative of any remedies available at law or in equity. In any action or remedy taken by the Association or the Declarant to enforce the provisions of this Declaration, if the Association or the Declarant, as the case may be, prevails, it shall be entitled to recover, to the maximum extent permissible, all costs, including, without limitation, attorneys fees and court costs, reasonably incurred in such action.

The Association may, but shall not be obligated to, take action to enforce any covenant, restriction, or rule in this Declaration. Any such determination shall not be construed as a waiver of the right of the Association to enforce such provision under any circumstances or estop the Association from enforcing any other covenant, restriction or rule. The Declarant similarly may, but shall not be obligated to, take action to enforce any covenant, restriction, or rule in this Declaration. Any such determination shall not be construed as a waiver of the right of the Declarant to enforce such provision under any circumstances or estop the Declarant from enforcing any other covenant, restriction or rule.

4.3 The Association may exercise any right or privilege given to it expressly by this Declaration, or reasonably implied from or reasonably necessary to effectuate any such right or privilege. Except as otherwise specifically provided in this Declaration, or the articles of incorporation or bylaws of the Association, or by law, all rights and powers of the Association may be exercised by the Board without a vote of the membership.

**ARTICLE V**

**DECLARANT'S RIGHTS**

Any or all of the special rights and obligations of the Declarant set forth in this Declaration, may be transferred or assigned from time to time, in whole or in part, to a successor Declarant or the Association, which will assume the position of Declarant pertaining to the particular rights, powers, easements and reservations assigned, provided that the transfer shall not reduce an obligation nor enlarge a right beyond that which the Declarant has under this

Declaration. No such transfer or assignment shall be effective unless it is in a written instrument signed by the Declarant and duly recorded in the Public Records.

This Article may not be amended without the written consent of the Declarant. The rights contained in this Article shall terminate upon the earlier of (a) the expiration of the Declarant Control Period, or (b) upon recording by Declarant of a written statement that all sales activity has ceased.

ARTICLE VI

COVENANTS TO RUN WITH THE LAND

This Declaration is designed to create equitable servitudes and covenants appurtenant to the Property and running with the Property. Declarant hereby declares that all of the Property shall be held, transferred, encumbered, used, sold, conveyed, leased, improved, and occupied subject to the covenants, conditions, restrictions and equitable servitudes contained herein, all of which are for the purposes of uniformly enhancing or protecting the value, attractiveness and desirability of the Property. The covenants, conditions, restrictions, reservations, equitable servitudes, liens and charges set forth herein shall run with the title to the Property and shall be binding upon all Persons having any right, title or interest in the Property, or any part thereof, their heirs, successors and assigns, shall inure to the benefit of each owner of every portion of the Property and its successors and assigns and successors in interest, and shall be binding upon and shall inure to the benefit of the Declarant and the Association

ARTICLE VII  
MISCELLANEOUS

7.1 Effective Date. The covenants, conditions and restrictions contained in this Declaration shall become effective upon execution by a duly authorized representative of Declarant.

7.2 Modification This Declaration may be modified, terminated or rescinded, in whole or in part, in a written instrument duly executed and acknowledged by Declarant or the Association, and duly recorded in the Public Records, pursuant to any order of the Land Use Commission of the State of Hawaii. This Declaration may not otherwise be modified, terminated or rescinded, in whole or in part, except by a written instrument duly executed and acknowledged by Declarant, after consultation with the Superintendent of KAHU National Park, and duly recorded in the Public Records.

7.3 Governing Law. This Declaration shall be governed by and construed in accordance with the laws of the State of Hawaii.

7.4 Severability. The invalidity or inability to enforce any provision of this Declaration with respect to a particular set of circumstances shall not in any way affect the validity and enforceability of any other provision hereof, or the same provision when applied to a different set of circumstances.

7.5 Captions. The captions and paragraph headings set forth herein are for convenience only and shall not be referred to or considered in resolving questions as to the interpretation or construction of this Declaration.

IN WITNESS WHEREOF, the undersigned \_\_\_\_\_ day of \_\_\_\_\_,  
200\_.

WEST HAWAII BUSINESS PARK LLC,  
a Hawaii limited liability company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

(DECLARANT)

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

On this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_, before me personally appeared \_\_\_\_\_ and \_\_\_\_\_, to me known, who, being by me duly sworn or affirmed, did say that such persons executed the foregoing instrument as the free act and deed of such person and if applicable in the capacities shown, having been duly authorized to execute such instrument in such capacities.

Signature: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Notary Public, State of Hawaii

My commission expires: \_\_\_\_\_

**EXHIBIT “A”**

[Legal description of Lots A-1-A, A-1-B, A-1-C, A-1-D, A-1-E and Parcel 74]

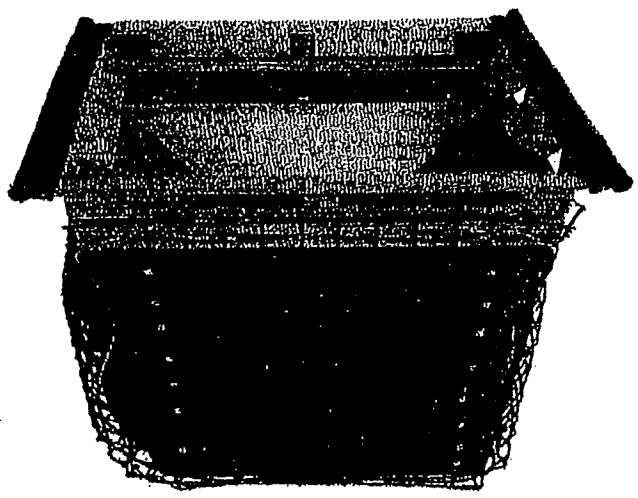
**APPENDIX E**

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**FLOGARD PLUS**  
**FILTRATION CATCH BASIN**



Innovative stormwater management products



FloGard®  
+PLUS  
Catch Basin Insert Filter

FloGard®+PLUS Catch Basin Insert Filter

GENERAL FILTER CONFIGURATION

FloGard®+PLUS catch basin insert filter shall provide solids filtration through a filter screen or filter liner, and hydrocarbon capture shall be effected using a non-leaching absorbent material contained in a pouch or similar removable restraint. Hydrocarbon absorbent shall not be placed at an exposed location at the entry to the filter that would allow blinding by debris and sediment without provision for self-cleaning in operation.

Filter shall conform to the dimensions of the inlet in which it is applied, allow removal and replacement of all internal components, and allow complete inspection and cleaning in the field.

FLOW CAPACITY

Filter shall provide two internal high-flow bypass locations that in total exceed the inlet peak flow capacity. Filter shall provide filtered flow capacity in excess of the required "first flush" treatment flow. Unit shall not impede flow into or through the catch basin when properly sized and installed.

MATERIALS

Filter support frame shall be constructed of type 304 stainless steel. Filter screen, when used in place of filter liner, shall be type 304 or 316 stainless steel, with an apparent opening size of not less than 4 U.S. mesh. Filter liner, when used in place of filter screen, shall be woven polypropylene geotextile fabric liner with an apparent opening size (AOS) of not less than 40 U.S. mesh as determined by ASTM D 4751. Filter liner shall include a support basket of polypropylene geogrid with stainless steel cable reinforcement.

Filter frame shall be rated at a minimum 25-year service life. All other materials, with the exception of the hydrocarbon absorbent, shall have a rated service life in excess of 2 years.

FloGard®+PLUS TEST RESULTS SUMMARY

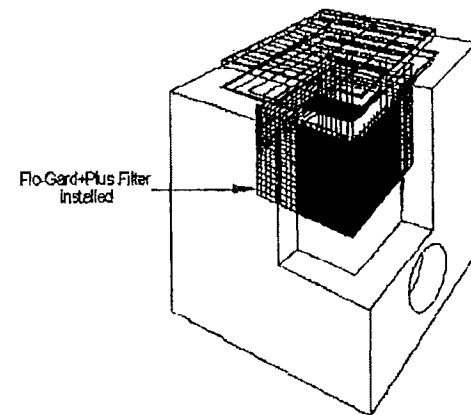
Testing Agency	% TSS Removal	% Oil and Grease Removal	% PAH Removal
UCF A	80	70 to 80	
U of Auckland Tonking & Taylor Ltd. (for city of Auckland)	78 to 95		
U of Hawaii (for city of Honolulu)	80		20 to 40

FEATURES

- Easy to install, inspect and maintain
- Can be retrofitted to existing drain catch basins - or used in new projects
- Economical and efficient
- Catches pollutants where they are easiest to catch (at the inlet)
- No standing water - minimizes vector, bacteria and odor problems
- Can be incorporated as part of a "Treatment Train"

BENEFITS

- Lower installation, inspection and maintenance costs
- Versatile installation applications
- Higher return on investment
- Allows for installation on small and confined sites
- Minimizes vector, bacteria and odor problems
- Allows user to target specific pollutants



### FloGard<sup>®</sup> +Plus

A multipurpose catch basin insert designed to capture sediment, debris, trash & oils/grease from low (first flush) flows.

A (dual) high-flow bypass allows flows to bypass the device while retaining sediment and larger floatables (debris & trash) AND allows sustained maximum design flows under extreme weather conditions.

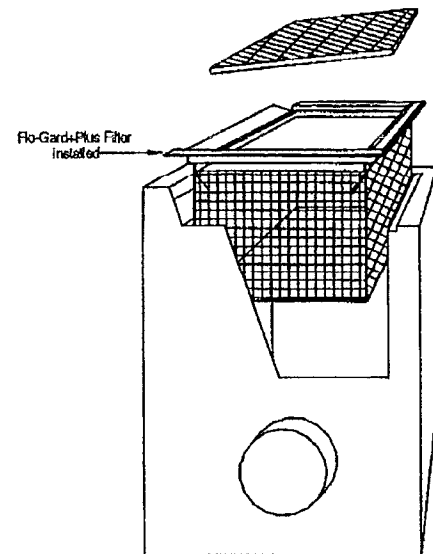
FloGard<sup>®</sup> +Plus inserts are available in sizes to fit most industry-standard drainage inlets (...flat grated, combination, curb and round inlets).

FloGard<sup>®</sup> +Plus catch basin inserts are recommended for areas subject to silt and debris as well as low to moderate levels of petroleum hydrocarbon (oils and grease). Examples of such areas are vehicle parking lots, aircraft ramps, truck and bus storage yards, corporation yards, subdivision streets and public streets.

Standard Filter Fabric Properties*			
Property	Test Method	Units	Value
Mass/Unit Area	ASTM D 5261	g/m <sup>2</sup> (oz/yd <sup>2</sup> )	190 (5.6)
Grab Tensile Strength	ASTM D 4632	N (lbs)	890 (200)
Grab Tensile Elongation	ASTM D 4632	%	10
Tear Strength	ASTM D 4533	N (lbs)	330 (75)
Puncture Strength	ASTM D 4833	N (lbs)	440 (100)
Burst Strength	ASTM D 3786	kPa (psi)	3097 (450)
Permittivity	ASTM D 4991	sec <sup>-1</sup>	2.14
Flow Rate	ASTM D 4491	l/min/m <sup>2</sup> (gal/min/ft <sup>2</sup> )	5907 (145)
Apparent Opening Size	ASTM D 4751	mm (U.S. Sieve)	0.425 (40)
Ultraviolet Stability	ASTM D 4355	%	90

\*also available with custom fabrics and stainless steel screens

Questions? Contact Kristar at (800) 579-8819.



SPECIFIER CHART

Model No.	Inlet ID min. (in x in)*	Grate OD (in x in)*	Solids Storage Capacity (cu ft)	Filtered Flow (cfs)	Total Bypass Cap. (cfs)
FGP-1836FGO	24 x 36	18 x 40	2.3	1.6	6.7
FGP-2436FGO	36 x 36	24 x 40	3.4	2.0	8.0
FGP-48FGO	48 x 48	18 x 52	9.5	3.5	13.2

\*Dimensions shown are approximate -- submit exact measurements when ordering

NOTES:

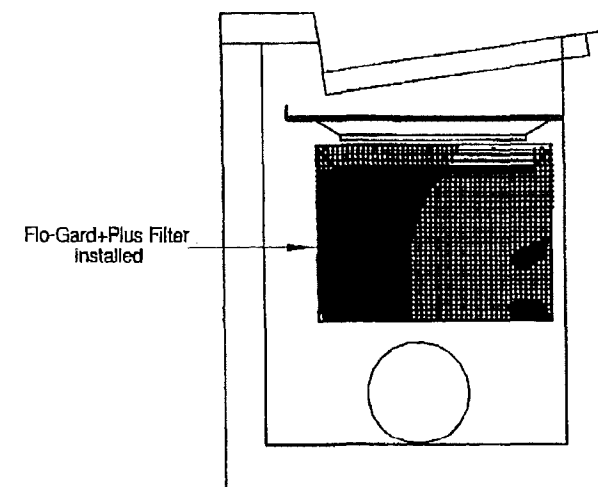
1. Storage capacity reflects 80% of maximum solids collection prior to impeding filtering bypass.
2. Filtered flow rate includes a safety factor of 2.
3. Flogard® +Plus Delch Deadn Filter Inserts are available in the standard sizes (see above) or in custom sizes. Call for details on custom size inserts.
4. Flogard® +Plus filter inserts should be used in conjunction with a regular maintenance program. Refer to manufacturer's recommended maintenance guidelines.

US PATENT

**FLOGARD® +PLUS  
CATCH BASIN FILTER INSERT  
(Wall Mount)  
COMBINATION INLET**

KriStar Enterprises, Inc., Santa Rosa, CA (800) 579-8819

11/04



SPECIFIER CHART

Model No.	Inlet ID min. (in x in)*	Inlet ID max. (in x in)*	Solids Storage Capacity (cu ft)	Filtered Flow (cfs)	Total Bypass Cap. (cfs)
FGP-1636W	16 x 33	22 x 37	2.3	1.6	6.7
FGP-1636WE	16 x 33	22 x 39	2.3	1.6	6.7
FGP-24W	22 x 22	27 x 27	2.2	1.5	5.9
FGP-28W	26 x 26	28 x 28	2.2	1.5	5.9
FGP-2436W	22 x 33	27 x 37	3.4	2.0	7.7
FGP-2436WE	22 x 37	27 x 39	3.4	2.0	7.7
FGP-36W*	32 x 33	37 x 42	4.6	2.4	8.7
FGP-36WE**	32 x 37	39 x 42	4.6	2.4	8.7
FGP-3648W*	33 x 44	37 x 54	6.8	3.2	11.5
FGP-3648WE**	37 x 44	39 x 54	6.8	3.2	11.5

\*Dimensions shown are approximate -- submit exact measurements when ordering  
 \*\*Z pieces

NOTES:

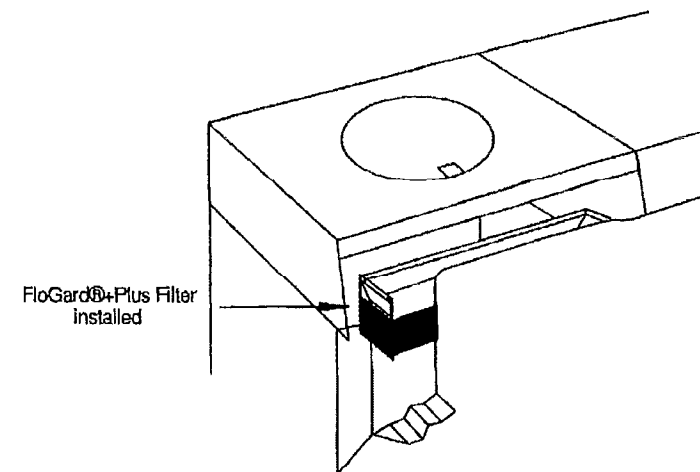
1. Storage capacity reflects 80% of maximum solids collection prior to impeding filtering bypass.
2. Filtered flow rate includes a safety factor of 2.
3. FloGard®+Plus Catch Basin Filter Inserts are available in the standard sizes (see above) or in custom sizes. Call for details on custom size inserts.
4. FloGard®+Plus filter inserts should be used in conjunction with a regular maintenance program. Refer to manufacturer's recommended maintenance guidelines.

US PATENT

**FLOGARD® +PLUS**  
**CATCH BASIN FILTER INSERT**  
 (Wall Mount)  
**COMBINATION INLET**

KiStar Enterprises, Inc., Santa Rosa, CA (800) 579-8819

11/04



SPECIFIER CHART

Model No.	Inlet Width (in)*	Solids Storage Capacity (cu ft)	Filtered Flow (cfs)	Total Bypass Cap. (cfs)
FGP-24CI	24	0.9	0.8	5.6
FGP-30CI	30	1.1	1.0	6.7
FGP-36CI	36	1.4	1.2	7.9
FGP-42CI	42	1.6	1.4	8.8
FGP-48CI	48	1.9	1.5	9.9
FGP-5.0CI	60	2.3	1.8	11.6
FGP-6.0CI	72	2.8	2.2	13.8
FGP-7.0CI	84	3.2	2.5	15.9
FGP-8.0CI	96	3.7	2.9	18.0
FGP-10.0CI	120	4.6	3.5	21.9
FGP-12.0CI	144	5.6	4.2	26.2
FGP-14.0CI	168	6.5	4.9	30.1
FGP-16.0CI	192	7.5	5.6	34.4
FGP-18.0CI	216	8.3	6.2	38.2
FGP-21.0CI	252	9.7	7.2	44.3
FGP-28.0CI	336	13.0	9.5	58.6

\*Dimensions shown are approximate -- submit exact measurements when ordering

NOTES:

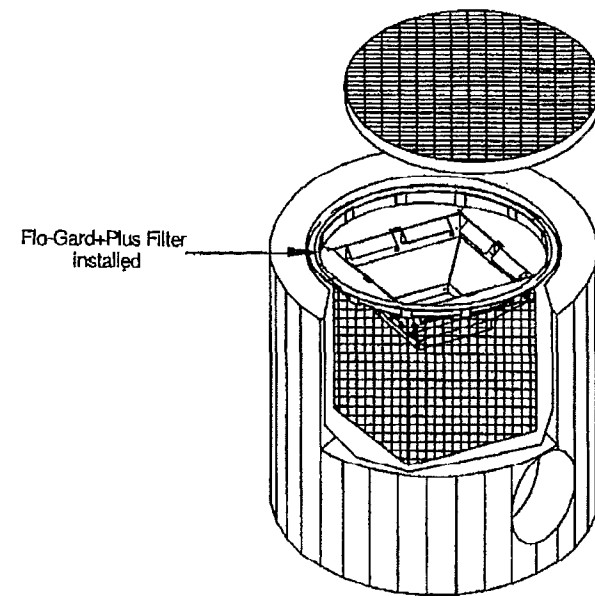
1. Storage capacity reflects 80% of maximum solids collection prior to impending filtering bypass.
2. Filtered flow rate includes a safety factor of 2.
3. FloGard®+Plus Catch Basin Filter inserts are available in the standard sizes (see above) or in custom sizes. Call for details on custom size inserts.
4. Available with recessed mount package including fiberglass tray allowing maintenance access from manhole.
5. FloGard®+Plus Filter Inserts should be used in conjunction with a regular maintenance program. Refer to manufacturer's recommended maintenance guidelines.

**FLOGARD® +PLUS**  
**CATCH BASIN FILTER INSERT**  
 (Curb Mount)  
**CURB INLET**

KylStar Enterprises, Inc., Santa Rosa, CA (800) 579-8819

08/05

US PATENT



SPECIFIER CHART

Model No.	Inlet ID (in dia.)*	Grate OD (in dia.)*	Solids Storage Capacity (cu ft)	Filtered Flow (cfs)	Total Bypass Cap. (cfs)
FGP-RF15F	15	18	0.3	0.4	2.8
FGP-RF18F	18	20	0.3	0.4	2.8
FGP-RF20F	22	24	0.5	0.7	4.7
FGP-RF24F	24	26	0.8	0.7	4.7
FGP-RF36F	36	39	2.2	1.5	5.1

\*Dimensions shown are approximate — submit exact measurements when ordering

NOTES:

1. Storage capacity reflects 80% of maximum solids collection prior to impeding filtering bypass.
2. Filtered flow rate includes a safety factor of 2.
3. FloGard+Plus Catch Basin Filter Inserts are available in the standard sizes (see above) or in custom sizes. Call for details on custom size inserts.
4. FloGard+Plus Filter Inserts should be used in conjunction with a regular maintenance program. Refer to manufacturer's recommended maintenance guidelines.

US PATENT

**FLO-GARD® +PLUS**  
**CATCH BASIN FILTER INSERT**  
 (Frame Mount)  
**FLAT GRATED INLET**

KriStar Enterprises, Inc., Santa Rosa, CA (800) 579-8819

11/04

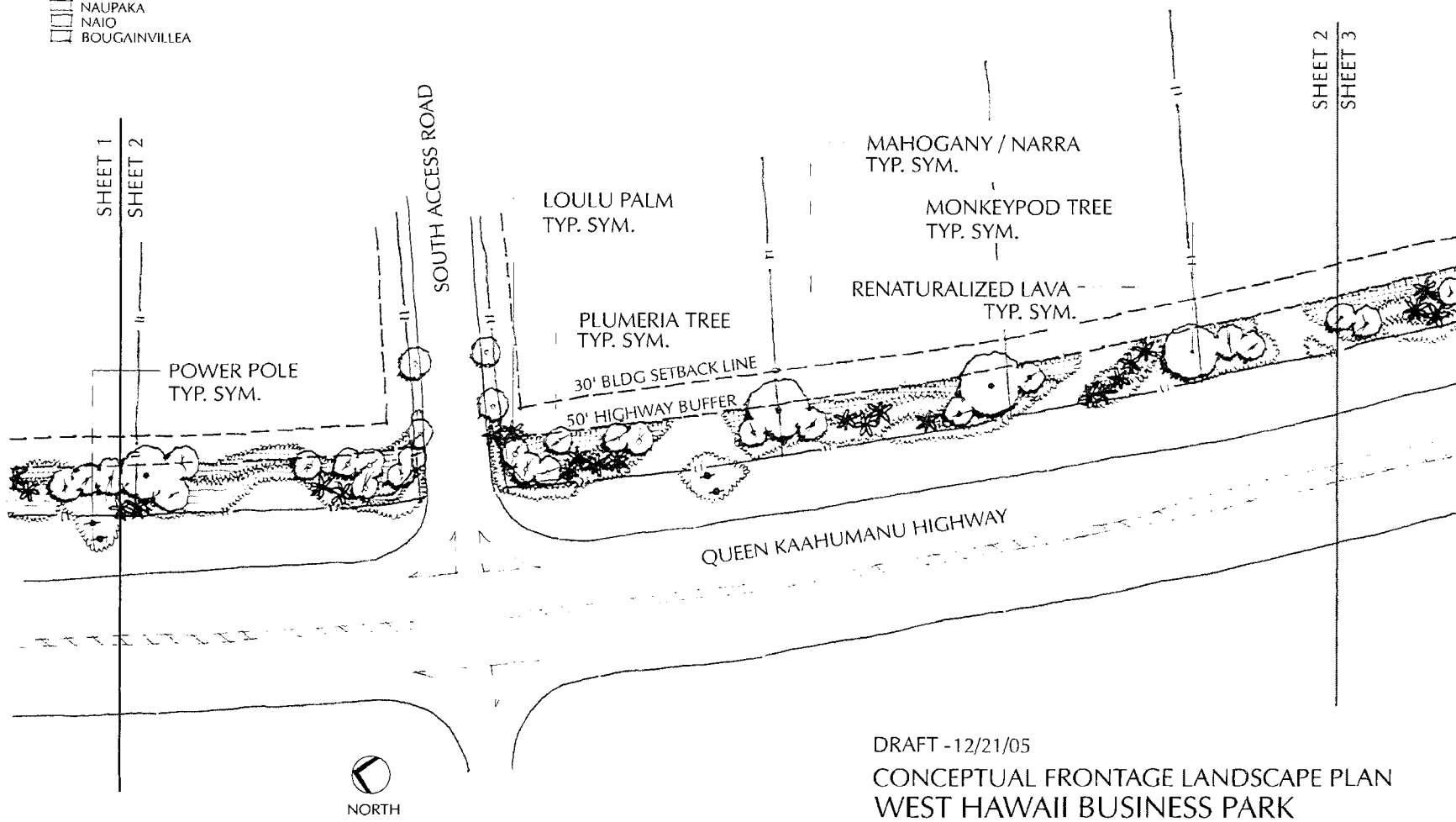
**APPENDIX F**

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**CONCEPTUAL FRONTAGE  
LANDSCAPE PLANS**

LEGEND - SHRUBS / GROUNDCOVERS

- AKIA
- AALII
- KULUI
- POHINAHINA
- NAUPAKA
- NAIO
- BOUGAINVILLEA



DRAFT -12/21/05

CONCEPTUAL FRONTAGE LANDSCAPE PLAN  
WEST HAWAII BUSINESS PARK

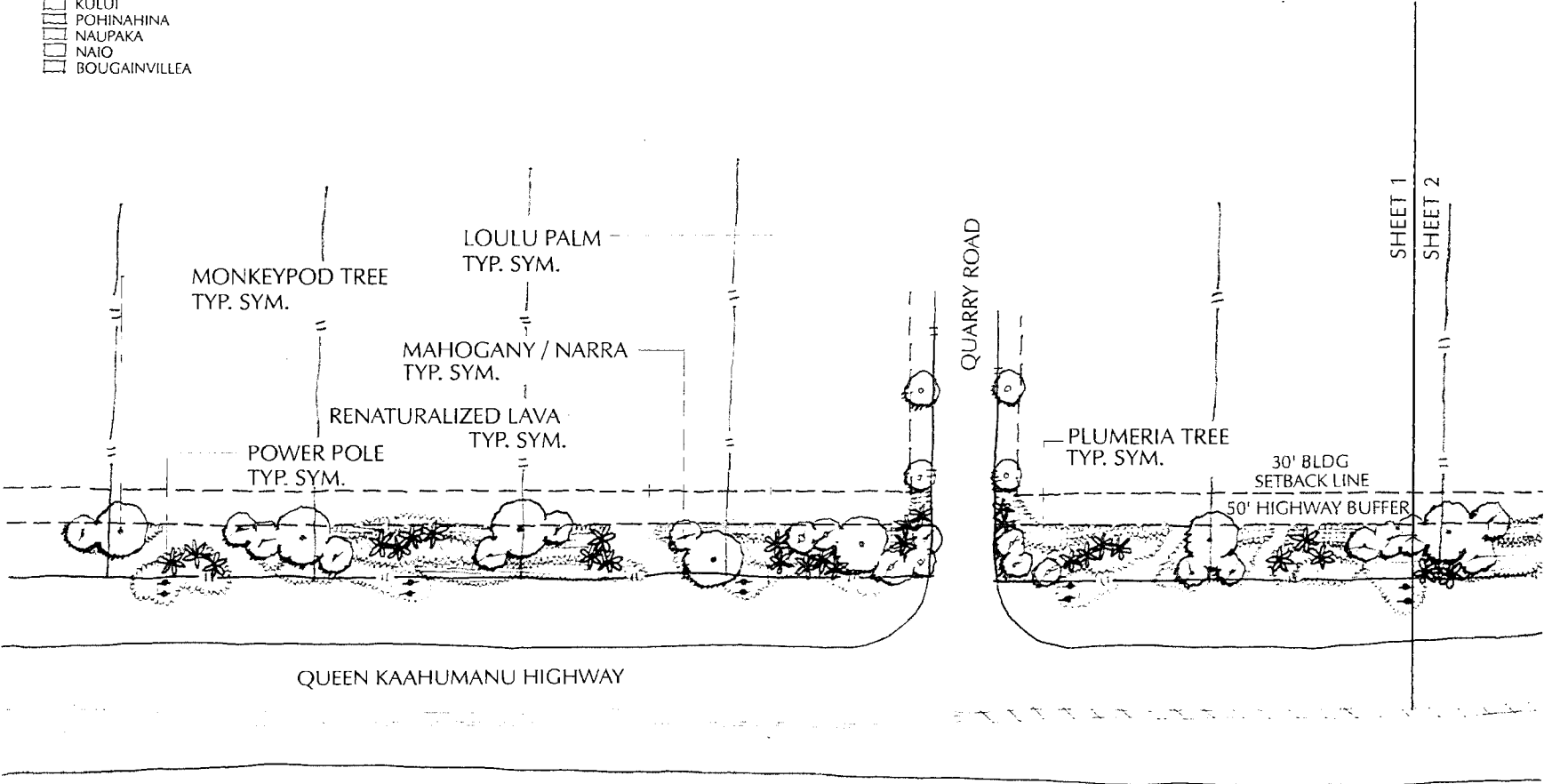
PBR HAWAII

SCALE 1" = 100'



LEGEND - SHRUBS / GROUNDCOVERS

- AKIA
- AALII
- KULUI
- POHINAHINA
- NAUPAKA
- NAIO
- BOUGAINVILLEA

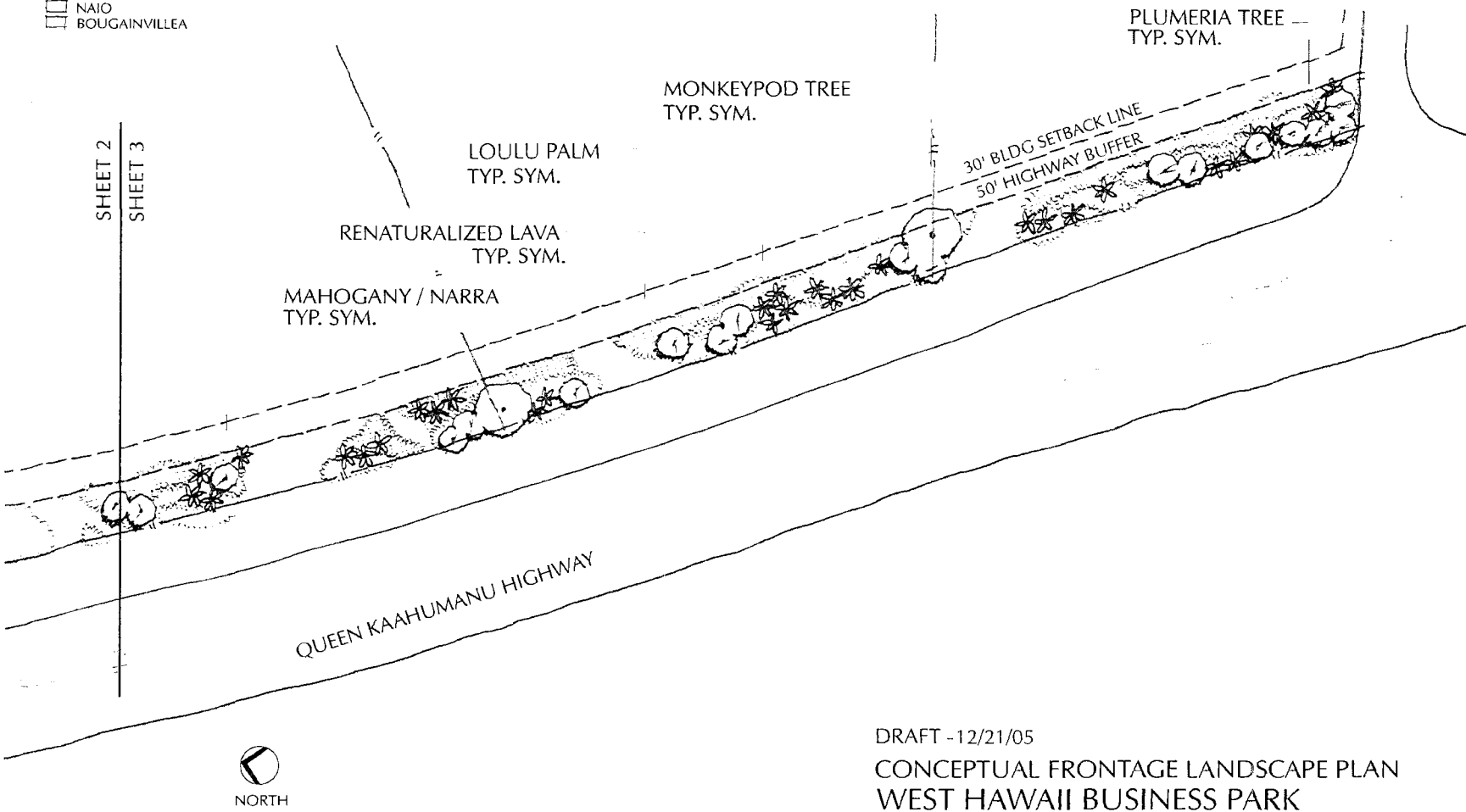


DRAFT -12/21/05  
CONCEPTUAL FRONTAGE LANDSCAPE PLAN  
WEST HAWAII BUSINESS PARK

PBR HAWAII SCALE 1" = 100'

LEGEND - SHRUBS / GROUNDCOVERS

- AKIA
- AALII
- KULUI
- POHINAHINA
- NAUPAKA
- NAIO
- BOUGAINVILLEA



DRAFT -12/21/05

CONCEPTUAL FRONTAGE LANDSCAPE PLAN  
WEST HAWAII BUSINESS PARK

PBR HAWAII

SCALE 1" = 100'

**APPENDIX G**

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**PLANT MATERIALS LIST**

Drought Tolerant	Common Name	Botanical Name	Ultimate Size Height, Spread	Found At Kaloko- Honokohau Historical Park
	TREES			
	Alahee*	<i>Canthium odoratum</i>	12 ht., 8 spr.	X**
D	Be Still Tree	<i>Thevetia peruviana</i>	25 ht., 20 spr.	
D	Beach Heliotrope	<i>Messerschmidia argenta</i>	30 ht., 20 spr.	X**
	Coffee	<i>Coffea spp.</i>	12 ht., 8 spr.	
	Coral Tree	<i>Erythrina crista-galli</i>	30 ht., 35 spr.	
	Geiger Tree	<i>Cordia sebestena</i>	25 ht., 10 spr.	
	Giant Bird of Paradise	<i>Strelitzia nicolai</i>	20 ht., 10 spr.	
	Hala Tree*	<i>Pandanus odoratissimus</i>	30 ht., 30 spr.	
	Hao*	<i>Rauvolfia sandwicensis</i>	20 ht., 15 spr.	
	Hapuu Tree Fern*	<i>Cibotium splendens</i>	15 ht., 12 spr.	
	Hau *	<i>Hibiscus tiliaceus</i>	20 ht., 20 spr.	X**
	Hoawa*	<i>Pittosporum hosmeri</i>	20 ht., 10 spr.	
	Indian Coral Tree	<i>Erythina variegata</i>		X**
	Jacaranda	<i>Jacaranda acutifolia</i>	45 ht., 30 spr.	
	Kalamona	<i>Cassia glauca</i>	20 ht, 15 spr.	
	Kamani*	<i>Calophyllum inophyllum</i>	35 ht., 35 spr.	
D	Kiawe	<i>Prosopis pallida</i>	40 ht., 40 spr.	X**
D	Koaia*	<i>Acacia koaia</i>	25 ht., 25 spr.	
	Kokio Keokeo*	<i>Hibiscus waimeae</i>	30 ht., 10 spr.	
D	Kou*	<i>Cordia subcordata</i>	35 ht., 20 spr.	X**
	Kukui Tree	<i>Aleurites moluccana</i>	40 ht., 30 spr.	X**
	Lama*	<i>Diospyros sandwicensis</i>	20 ht., 15 spr.	
	Lechoso	<i>Stemmadenia littoralis</i>	35 ht., 20 spr.	
	Macadamia Nut	<i>Macadamia ternifreia</i>	30 ht., 30 spr.	X**
	Mahogany	<i>Swietenia mahagoni</i>	40 ht., 30 spr.	
D	Manele / Soapberry*	<i>Sapindus saponaria</i>	30 ht., 20 spr.	
	Mao Hau Hele*	<i>Hibiscus brackenridgei</i>	20 ht., 10 spr.	
	Milo*	<i>Thespesia populnea</i>	30 ht., 30 spr.	X**
D	Monkeypod	<i>Samanea saman</i>	50 ht., 70 spr.	
D	Narra	<i>Pterocarpus indicus</i>	40 ht., 25 spr.	
D	Noni	<i>Morinda citrifolia</i>	30 ht., 30 spr.	X**

\* Indicates Native Plants or Polynesian Introduced Species

\*\* Source: Kaloko-Honokohau National Park. 15 Sept. 2006. *Plants of Kaloko-Honokohau National Historical Park*. 25 Mar. 2007. <<http://www.nps.gov/archive/kaho/kahockls/KAHOplnt/khplantlst.htm#top>>.

Drought Tolerant	Common Name	Botanical Name	Ultimate Size Height, Spread	Found At Kaloko- Honokohau Historical Park
D	Ohai Alii	<i>Caesalpinia pulcherrima</i>	15 ht., 15 spr.	
	Ohe Makai*	<i>Reynoldsia sandwicensis</i>	30 ht., 20 spr.	
D	Ohi‘a Lehua*	<i>Metrosideros polymorpha</i>	25 ht., 20 spr.	
D	Plumeria	<i>Plumeria spp.</i>	25 ht., 25 spr.	X**
D	Puakenikeni	<i>Fagraea berteriana</i>	25 ht., 20 spr.	
D	Royal Poinciana	<i>Delonix regia</i>	40 ht., 35 spr.	X**
D	Sea Grape	<i>Coccolobis uvifera</i>	20 ht., 15 spr.	X**
	Tahitian Screwpine	<i>Pandanus tectorius</i>	30 ht., 30 spr	X**
	Ulu*	<i>Artocarpus altilis</i>	50 ht., 40 spr.	
	Variegated Pandanus*	<i>Pandanus variegates</i>	30 ht., 30 spr.	
D	Weeping Bottlebrush	<i>Callistemon viminalis</i>	30 ht., 30 spr.	
D	Wiliwili*	<i>Erythrina sandwicensis</i>	30 ht., 20 spr.	
PALMS				
	Alexander Palm	<i>Archontophoenix alexandrae</i>	40 ht., 20 spr.	
	Areca Palm	<i>Chrysalidocarpus lutescens</i>	20 ht., 8 spr.	
D	Chinese Fan Palm	<i>Livistona chinensis</i>	25 ht., 20 spr.	
D	Coconut	<i>Cocos nucifera</i>	50 ht., 25 spr.	X**
	Fiji Fan Palm	<i>Pritchardia pacifica</i>	25 ht., 20 spr.	
	Joannis Palm	<i>Veitchia joannis</i>	50 ht.	
	Loulu Palm*	<i>Pritchardia spp.</i>	30 ht., 20 spr.	
	MacArthur Palm	<i>Ptychosperma macarthurii</i>	30 ht., 10 spr.	
	Manila Palm	<i>Veitchia merrillii</i>	15 ht., 12 spr.	
	Montgomery Palm	<i>Veitchia montgomeryana</i>	35 ht.	
	Princess Palm	<i>Dictosperma album</i>	25 ht., 15 spr.	
D	Pygmy Date Palm	<i>Phoenix robelinii</i>	10 ht., 8 spr.	X**
	Queen Palm	<i>Cocos plumose</i>	50 ht.	
	Queen Sago Palm	<i>Cycas circinalis</i>	50 ht.	
	Rhapis Palm	<i>Rhapis excelsa</i>	7 ht., 4 spr.	
	Royal Palm	<i>Roystonea regia</i>	65 ht., 25 spr.	
	Sago Palm	<i>Cycas revolute</i>	10 ht.	
	Sealing Wax Palm	<i>Cyrtostachys lakka</i>	15 ht.	
	Travellers Palm	<i>Ravenala madagascariensis</i>	60 ht.	
D	Triangle Palm	<i>Neodypsis decaryi</i>	20 ht.	

\* Indicates Native Plants or Polynesian Introduced Species  
\*\* Source: Kaloko-Honokohau National Park. 15 Sept. 2006. *Plants of Kaloko-Honokohau National Historical Park*. 25 Mar. 2007. <<http://www.nps.gov/archive/kaho/kahockls/KAHOplnt/khplantlst.htm#top>>.

Drought Tolerant	Common Name	Botanical Name	Ultimate Size Height, Spread	Found At Kaloko- Honokohau Historical Park
SHRUBS				
D	Aalii*	<i>Dodonaea viscosa</i>	6 ht., 8 spr.	X**
	African Iris	<i>Moraea iridiodes</i>		
	Akiohala*	<i>Hibiscus furcellatus</i>		
	Alahe'e*	<i>Canthium odoratum</i>	4 ht., 4 spr.	X**
	Alena*	<i>Boerhavia spp.</i>		X**
	Alena*	<i>Boerhavia repens</i>		X**
	Amau*	<i>Sadleria cyatheoides</i>		X**
	Ape	<i>Alocasia microrrhiza</i>	6 ht., 6 spr.	
	Azalea	<i>Azalea spp.</i>		
D	Bird of Paradise	<i>Strelitzia regina</i>	4 ht., 4 spr.	
	Bougainvillea	<i>Bougainvillea spp.</i>		X**
	Bougainvillea	<i>Bougainvillea glabra</i>		X**
	Bougainvillea	<i>Bougainvillea Spetabilisx</i>		X**
	California Privet	<i>Ligustrum ovalifolium</i>		X**
	Canna Lily	<i>Canna indica</i>		
	Croton	<i>Codiaeum variegatum</i>	6 ht., 4 spr.	
D	Dwarf Carrissa	<i>Carissa g. 'prostrata'</i>		
	Ekaha	<i>Asplenium nidus</i>		
	Fimbristylis hawaiiensis*	<i>Fimbristylis hawaiiensis</i>		X**
D	Firecracker Plant	<i>Russelia equisetifolia</i>		
	Gardenia	<i>Gardenia jasminoides</i>		
	Giant Bird of Paradise	<i>Strelitzia nicolai</i>		
	Ginger	<i>Alpinia spp.</i>		
	Golden Eranthemum	<i>Pseuderanthemum reticulatum</i>		
	Hapuu Pulu*	<i>Cibotium glaucum</i>		
	Heavenly Bamboo	<i>Nandina domestica</i>	10 ht., 5 spr.	
	Heliconia	<i>Heliconia spp.</i>		
D	Hibiscus*	<i>Hibiscus spp.</i>		
	Iliahi*	<i>Santalum ellipticum</i>		
	Ixora	<i>Ixora spp.</i>		
	Kalo*	<i>Colocasia esculenta</i>		

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Drought Tolerant	Common Name	Botanical Name	Ultimate Size Height, Spread	Found At Kaloko- Honokohau Historical Park
D	Kulu'i*	<i>Nototrichium sandwicense</i>	5 ht., 7 spr.	
	Maiapilo*	<i>Capparis sandwichiana</i>		X**
	Mamaki*	<i>Pipturus albidus</i>		
D	Mao*	<i>Gossypium tomentosa</i>	6 ht., 6 spr.	
	Mock Orange	<i>Murraya paniculata</i>	6 ht., 4 spr.	
	Monstera	<i>Monstera deliciosa</i>	8 ht., 4 spr.	X**
	Naio*	<i>Myoporum sandwicense</i>	8 ht., 8 spr.	X**
D	Naupaka*	<i>Scaevola sericea</i>	10 ht., 6 spr.	X**
	Na'u	<i>Gardenia brighamii</i>	4 ht., 4 spr.	
D	Ohai	<i>Sebania tomentosa</i>		
	Panax	<i>Polyscias guilfoylei</i>	15 ht., 6 spr.	
	Philodendron	<i>Philodendron selloum</i>	3 ht., 5 spr.	
	Pittosporum	<i>Pittosporum tobira</i>		
	Plumbago	<i>Plumbago capensis</i>		
	'Queen Emma' Spider Lily	<i>Crinum augustum</i>	6 ht., 5 spr.	
	Red Ginger*	<i>Alpinia purpurata</i>	6 ht., 2 spr.	
	Shell Ginger	<i>Alpinia zerumbet</i>	6 ht., 2 spr.	
	Spathiphyllum	<i>Spathiphyllum spp.</i>	3 ht., 3 spr.	
D	Spider Lily	<i>Crinum asiaticum</i>	4 ht., 4 spr.	
	Sword Fern	<i>Nephrolepis multiflora</i>		X**
	Ti Plants*	<i>Cordyline terminalis</i>	6 ht., 2 spr.	X**
D	Tiare	<i>Gardenia taitensis</i>	12 ht., 10 spr.	
	Uhaloa*	<i>Waltheria indica</i>		X**
D	Ulei*	<i>Osteomeles anthyllidifolia</i>		
	White Ginger	<i>Hedychium coronatium</i>	6 ht., 3 spr.	
GROUNDCOVER				
	Ae'ae*	<i>Bacopa monnieri</i>		X**
	Aglaonea	<i>Aglaonema spp.</i>		
	'Ahu'awa*	<i>Cyperus javanicus</i>	3 ht., 2 spr.	X**
D	Akia	<i>Wikstroemia uva-ursi</i>	3 ht., 3 spr.	
	Akulikuli*	<i>Sesuvium portulacastrum</i>		X**

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	Ala Ala Wai Nui*	<i>Peperomia leptostachya</i>		
D	Aloe Vera	<i>Aloe spp.</i>		
	Amaryllis	<i>Hippeastrum puniceum</i>		
	Bacopa	<i>Bacopa mannieri</i>		
	Confederate Jasmine	<i>Trachelospermum jasminoides</i>		
	Daylily	<i>Hemerocallis spp.</i>		
	Dwarf Mondo Grass	<i>Ophiopogon japonicus</i> 'Nanus'	4 ht.	
	Fishtail Fern	<i>Nephrolepis biserrata</i> 'furcans'		
	Hearts and Flowers	<i>Aptenia cordifolia</i>		
D	Hinahina*	<i>Heliotropium anomalum</i>		X**
	Ihi*	<i>Portulaca molokiniensis</i>		
D	Iliee*	<i>Plumbago zeylanica</i>		X**
D	Ilima Papa*	<i>Sida fallax</i>		X**
	Koali Awa*	<i>Ipomoea indica</i>		X**
	Kupukupu Fern*	<i>Nephrolepis cordifolia</i>		X**
	Lauae Fern	<i>Microsorium scolopendria</i>	3 ht, 2 spr.	X**
	Liriope	<i>Liriope spp.</i>		
	Metallic Plant	<i>Hemigraphis alternata</i>		
	Mondo Grass	<i>Ophiopogon japonicus</i>	10 height	
	Musk Fern	<i>Phymatosaurus grossus</i>		X**
D	Naio Papa*	<i>Myoporum sandwicense</i>		X**
D	Nehe*	<i>Lipochaeta lavarum</i>		
D	Nehe*	<i>Lipochaeta rockii</i>		
	Night Blooming Cerus	<i>Hylocereus undatus</i>		
	Palapalai Fern*	<i>Microlepia strigosa</i>		
D	Pauohiiaka*	<i>Jaquemontia ovalifolia</i>		
	Pittosporum	<i>Pittosporum spp.</i>		
D	Pohinahina*	<i>Vitex rotundifolia</i>	3 ht., 4 spr.	
	Pohuehue*	<i>Ipomea pes-caprae</i>		
	Portulaca	<i>Portulaca lutea</i>		
	Pothos	<i>Pothos aureus</i>		
	Rhoeo	<i>Rhoeo discolor</i>		
	Spathiphyllum	<i>Spathiphyllum spp.</i>		

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Drought Tolerant	Common Name	Botanical Name	Ultimate Size Height, Spread	Found At Kaloko- Honokohau Historical Park
D	Star Jasmine	<i>Jasminum multiflorum</i>		
D	Ulei*	<i>Osteomeles anthyllidifolia</i>	2 ht., 2 spr.	
GRASSES				
	Centipede Grass	<i>Eremochloa ophiuroides</i>		
	Common Bermuda	<i>Cynodon dactylon</i>		X**
	Makaloa*	<i>Cyperus laevigatus</i>		X**
	Pili Grass*	<i>Heteropogon contortus</i>		X**
	Seashore Paspalum	<i>Paspalum vaginatum</i>		X**
	St. Augustine Grass	<i>Stenotaphrum secundatum</i>		
	Sunturf	<i>Cynodon magennisii</i>		
	Zoysia Grass	<i>Zoysia spp.</i>		
VINES				
D	Allamanda	<i>Allamanda cartharica</i>	4 ht., 6 spr.	
D	Awikiwiki*	<i>Canavalia galeata</i>		
	Bleeding Heart Vine	<i>Clerodendron thomsonae</i>		
	Cape Honeysuckle	<i>Tecomaria capensis</i>		
	Hawaiian Wood Rose	<i>Merremia tuberosa</i>		
	Huapala	<i>Pyrostegia ignea</i>		
	Jade Vine	<i>Strongylodon macrobotrys</i>		
	Pink Sandpaper Vine	<i>Congea tomentosa</i>		
	Prince Kuhio Vine	<i>Ipomoea horsfalliae</i>		
D	Stephanotis	<i>Stephanotis floribunda</i>		
	Sweet Potato / Uala*	<i>Ipomoea batatas</i>		X**

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