2004-08-08 FONSI
KONA INN SHOPPING
VILLAGE
IMPROVEMENTS

AUG 0 2004
FILE COPY

RECEIVED JUL 1 4 2004
PLANNING DEPARTMENT
County Of Hawaii
75-5706 Kuakini Hwy. #109
Kailua-Kona, HI 96740

CARLSMITH BALL LLP
A LIMITED LIABILITY LAW PARTNERSHIP
75-1000 HENRY STREET, SUITE 209
P.O. BOX 1720
KAILUA-KONA, HAWAII 96745-1720
TELEPHONE 808.329.6464 FAX 808.329.9450
WWW.CARLSMITH.COM

RTRIANTOS@CARLSMITH.COM

JUL 15 AM 10 18

OUR REFERENCE NO.:
023295-00009

July 12, 2004

Mr. Christopher J. Yuen, Planning Director
County of Hawaii Planning Department
Aupuni Center
101 Pauahi Street, Suite 3
Hilo, HI 96720

KONA INN SHOPPING VILLAGE

Dear Mr. Yuen:

Re: Submission of Final Environmental Assessment for Anticipated FONSI Determination
Owner: Kailua Kona Village Development Group
Request: Outdoor Seating Lanai to Existing Restaurant & Filling of Existing Swimming Pool within the Shoreline Setback.
Kailua Village Special District
Special Management Area
Tax Map Key: 7-5-007: 021

Dear Mr. Yuen:

Pursuant to the requirements of Title 11, Chapter 200, Section 11-200-11.2, we have enclosed the Original and 4 copies of a Final Environmental Assessment and request your favorable consideration of a Finding of No Significant Impact (FONSI) for the above-referenced proposed actions.

Should you have any questions, please call me.

Very truly yours,

Robert D. Triantos

RDT/rhy
Enclosures
cc: OEQC
4850-7501-6704.1.023295-00009

FINAL ENVIRONMENTAL ASSESSMENT

KAILUA KONA VILLAGE DEVELOPMENT GROUP

Portion of Land Court App. 975, Portion of Land Court App. 1547 and L.C. Aw. No. 7630-1, being Lots 1 and 2-A and Parcel 21 at Keopu 3rd, Honuaula 1st and Hienaloli 1st, District of North Kona, Island of Hawaii, State of Hawaii.
TMK: (3) 7-5-007: 021

Prepared for:
Kailua Kona Village Development Group

Prepared by:
Robert D. Triantos, Esq.
Carlsmith Ball LLP
75-1000 Henry Street, Suite 209
Kailua-Kona, Hawaii 96740
Telephone: (808) 329-6464

July 2004

TABLE OF CONTENTS

Page

SUMMARY 1
1.0 INTRODUCTION 2
1.1 Identification of Applicant and Ownership 2
1.2 Identification of Approving Agency 2
1.3 Identification of Agencies Consulted in Making Assessment 2
1.4 Anticipated Determination 2
2.0 PROJECT DESCRIPTION 2
2.1 Location 2
2.2 Permits Issued for the Project 3
2.2.1 Special Management Area 3
2.2.2 Shoreline Survey Requirement 4
2.3 Surrounding Uses and Activities 5
2.4 Proposed New Improvements 5
2.5 Timetable for Development 6
2.6 Owner's Objectives for the Project 6
3.0 ENVIRONMENTAL SETTING, IMPACTS & MITIGATION MEASURES 7
3.1 Physical Characteristics 7
3.1.1 Physiography and Soils 7
3.1.2 Natural Hazards 7
3.1.3 Flora 7
3.1.4 Fauna 8
3.1.5 Historical/Cultural and Archaeological Resources 8
3.1.6 Air and Noise Quality 8
3.1.7 Scenic and Open Space Resources 9
3.1.8 Coastal Resources 9
3.2 Socioeconomic Considerations 10
3.3 Public Facilities and Services 10
3.3.1 Access 10
3.3.2 Water Resources 10
3.3.3 Utilities 10

TABLE OF CONTENTS
(continued)

Page

3.3.4 Police and Fire Protection 10

4.0 RELATIONSHIP OF THE PROPOSED ACTIONS TO LAND USE PLANS, POLICIES AND CONTROLS FOR THE AFFECTED AREA 11

4.1 Chapter 205, Hawaii Revised Statutes, State Land Use Law 11

4.2 Hawaii State Plan, Chapter 266, Hawaii Revised Statutes 11

4.3 Hawaii County General Plan 14

4.4 Hawaii County Zoning 16

4.5 Special Management Area 16

4.6 Coastal Zone Management Area (CZMA): Pursuant to Chapter 205-2, the Property is situated within the State's Coastal Management Area 16

4.7 Archaeological Resources: According to the information on file with the County Planning Department, the Property does not have any known or recorded historical sites 16

5.0 KA PA' AKAI O KA' AINA ISSUES: 17

5.1 Shoreline Setback 18

5.2 Environmental Impact Statement 18

6.0 IDENTIFICATION OF MAJOR IMPACTS AND ALTERNATIVES CONSIDERED 18

6.1 Major Impacts 18

6.2 Alternatives to the Proposed Actions 18

6.3 Alternative Site 19

6.4 Unavoidable Impacts and Mitigation Measures 19

6.5 Construction Related Impacts 19

6.6 Irreversible and Irretrievable Commitment of Resources 19

7.0 AGENCY ANTICIPATED DETERMINATION AND FINDINGS AND REASONS SUPPORTING ANTICIPATED DETERMINATION 19

Agency Consultation Letters and Responses by Exhibit Number

Maps, Plans, Documents by Exhibit Number

SUMMARY

Owner:	Kailua Kona Village Development Group
Property Location:	Coastal property located along Kailua Bay at Keopu 3rd, Honuaula 1st and Hienaloli 1st, District of North Kona, Hawaii
Tax Map Key and Parcel Size:	(3) 7-5-007: 021 (hereinafter referred to as "Property"). 4.077 acres
Approving Agency:	County of Hawaii Planning Department 25 Aupuni Street Hilo, Hawaii 96720
Consultant:	Robert D. Triantos, Esq. Carlsmith Ball 75-1000 Henry Street, Suite 209 Kailua-Kona, Hawaii 96740 Telephone: 329-6464
Proposed Actions:	The owners, Kailua-Kona Village Development Group proposes the following: hereinafter referred to as ("Proposed Actions"): 1. Construct an outdoor seating lanai addition on the makai (west) side of the former Drysdale Restaurant on the Property with a 20 foot shoreline setback in lieu of the minimum required 40 foot shoreline setback.; 2. Fill in existing swimming pool at the south end of the Property with concrete within the 40 foot Shoreline Setback Area.

The Owner is seeking approval to construct an Outdoor Seating Lanai addition to an existing restaurant building. The proposed addition will consist of approximately 1,992 square feet of improvements. The construction costs of this Outdoor Seating Lanai addition and the filling of the existing swimming pool will be approximately $116,000.00. The Outdoor Seating Lanai design will be two terraced seating areas approximately 84 feet-8 inches in width, extending 23 feet beyond the wall of the existing restaurant building 20 feet into the 40 foot Shoreline Setback Area. The existing swimming pool is in disrepair and is a hazard and the Owner proposes to fill the pool with concrete to level it with the existing pool deck. The Property consisting of approximately 4.077-acre coastal property ("Property") is located on the makai side of Alii Drive between Hulihe'e Palace and the County's Hale Halawai park in Keopu 3rd, Honuaula 1st, Hienaloli 1st, District of North Kona, Hawaii. The Proposed Action is within the County Special Management Area ("SMA"). The Property is situated within the State Land Use "Urban" District, and the County of Hawaii's Resort (V-.75) zone district. The Property is also situated within the Kailua Village Special District. The Property is accessed via Alii Drive, but the off-street parking for the Property is situated on off-site parking areas at the Kona Bay Hotel and off of Hualalai Road.

1.0 INTRODUCTION

1.1 Identification of Applicant and Ownership

The Owner is Kailua Village Development Group whose mailing address is 75-5744 Alii Drive, Kailua-Kona, Hawaii, 96740. The Owner is the fee owner of the Property involved in the Proposed Actions, being a portion of Land Court App. 795 and Portion of Land Court 1547 at Keopu 3rd, Honuaula 1st, Hienaloli 1st, District of North Kona, Hawaii, being Lot A-1 and Lot 1, more particularly identified as tax map key parcel: (3) 7-5-007: 021.

1.2 Identification of Approving Agency

The approving agency for this Final Environmental Assessment is the County of Hawaii Planning Department. The approving agency for Special Management Area permits are the Planning Department and the County of Hawaii Planning Commission. The approving agency for the Shoreline Setback Variance Application and Amendment to SMA No. 54 is the County of Hawaii Planning Commission.

1.3 *Identification of Agencies Consulted in Making Assessment*

County of Hawaii Planning Department
Kailua Village Design Commission
County of Hawaii, Department of Public Works, Engineering Division
County of Hawaii, Department of Public Works, Building Division
State Department of Land and Natural Resources, Historic Preservation Division
Office of Hawaiian Affairs
Hulihee Palace
Kona Hawaiian Civic Club
Royal Order Of Kamehameha I
None of the above agencies had any objections to the Proposed Actions with the exception of OHA who indicated from historical readings that subsurface testing be made as part of the groundbreaking process.

1.4 Anticipated Determination

Based on the following findings and evaluation of the findings that show the Proposed Actions will have no substantial or significant impact on the existing environment, the Owner anticipates that a "Finding of No Significant Impact" (FONSI) will be determined for the Proposed Actions.

2.0 PROJECT DESCRIPTION

2.1 Location

The 4.077-acre oceanfront property is situated along Kailua Bay at Keopu 3rd, Honuaula 1st, Hienaloli 1st, District of North Kona, Hawaii, Island, County and State of Hawaii, and is designated by TMK No.: (3) 7-5-007: 021 ("Property"). The Property is located

on the makai or westerly side of Alii Drive in Kailua Village. The Property is flanked along its northern boundary by Hulihe'e Palace on State of Hawaii land, on its southern boundary by the County of Hawaii, Hale Halawai Park owned by the County of Hawaii, on its eastern boundary by the Kona Bay Hotel and the Kona Market Place shopping center, and along its western boundary, the shoreline of the Pacific Ocean. (See Maps Exhibit 1)

The Property is classified "Urban" (See Maps Exhibit 2) by the State Land Use Commission, and zoned "Resort (V-.75)" under the Hawaii County Zoning Code (Chapter 25, Hawaii County Code) (See Maps Exhibit 3). The Hawaii County General Plan Land Use Pattern Allocation Guide Map (LUPAG) designates a narrow coastal strip of the Property along the shoreline as "Open," and the remaining portion of the Property as "Resort." (See Maps Exhibit 4) The Kona Regional Plan adopted by the County of Hawaii Planning Commission as Resolution 1-84, Land Use Concept map designates a narrow coastal strip of the Property along the shoreline as "Open" and the remaining portion of the Property as "Resort."(See Maps Exhibit 4) The Kailua Village Master Plan Land Use Master Plan Map adopted by the County of Hawaii County Council as Resolution 374-96 on September 6, 1996 designates the Property for "Resort/Commercial Mixed Use." (See Maps Exhibit 4) The Property is located within the County of Hawaii's Special Management Area ("SMA").

Existing Uses and Activities

The Property is developed with an existing Resort Shopping Center in Kailua Village with a row of 12 resort, commercial and office buildings running parallel with the Property's Alii Drive frontage.

2.2 Permits Issued for the Project

2.2.1 Special Management Area

March 8, 1978 - The County of Hawaii Planning Commission approved Special Management Area Major Use Permit No. 54 with 7 conditions of approval, to allow the conversion of hotel and support facilities to a shopping and office complex and the construction of a parking area in Keopu 3rd, Honuaula, and Hienaloli 1st, North Kona, Hawaii on TMK: 7-5-007: 021 and TMK: 7-5-008: 012 and 022.

Condition no. 5 of SMA Permit No. 54 stated "That improvements shall not be undertaken in the area makai of the existing structures on Tax Map Key: 7-5-007: 021 unless this Special Management Area Use permit is amended or another is granted."

December 14, 1978 - The County of Hawaii Planning Commission approved Special Management Area Major Use Permit No. 85 with 9 conditions of approval to allow the renovation of existing structures, construction of additional structures for commercial uses, and related improvements including additional parking in Kailua Village, in the land divisions of Keopu 3rd, Honuaula, and Hienaloli 1st, North Kona, Hawaii, TMK: 7-5-007: 003, 021, 025, 063 and 064 and TMK: 7-5-008: 012 and 022,

December 14, 1978 - The County of Hawaii Planning Commission approved Variance No. 599 with 9 conditions of approval for variances from the minimum front yard setback and parking requirements in the land divisions of Keopu 3rd, Honuaula, Hienaloli 1st, North Kona, Hawaii, TMK: 7-5-007: 003, 021, 025, 064, 064 and TMK: 7-5-008: 012 and 022.

December 14, 1978 - The County of Hawaii Planning Commission approved Shoreline Setback Variance No. 599-A with 9 conditions of approval to allow the construction of an earth mound stage and also to make repairs to an existing railing within the shoreline setback area in Kailua-Kona, North Kona, Hawaii, TMK: 7-5-007: 003, 025, 063, 064 and TMK: 7-5-008: 012 and 022.

The Owner will be applying for a Special Management Area Minor Use Permit for the Proposed Actions to comply with the requirements of Planning Commission Rules 9-4(10)A(iv)(v), wherein it is stated that the proposed Outdoor Seating Lanai addition to the existing restaurant building and the filling in of the existing swimming pool are considered to be "Development."

The Owner will be applying for a Special Management Area Minor Use Permit for the Proposed Actions to also comply with the requirements of Condition No. 5 of SMA Permit No. 54.

2.2.2 Shoreline Survey Requirement

The new Shoreline Survey will be requested for in the submittals to the County of Hawaii Planning Department. In lieu of the certified shoreline survey for the Final EA, a Grant of a 55-year Term for a Non-Exclusive Easement bearing General Lease No. S-5664 between the Owner and the State of Hawaii is enclosed is attached as (Exhibit 3) to show the location as to that the existing seawall will most likely be the certified shoreline request is submitted to the DLNR for certified. The Owner will submit the SMA and Shoreline Setback Variance applications to the County of Hawaii after the 30 days comment period in the OEQC bulletin when the Planning Department's determination is published and comment period. Because of the time period that will be consumed by the Planning Department's review of the Final EA and the preparation of documents to be make to the OEQC for this Final EA and the fact that the Applicant has attached the 55 year easement agreement with the State, and the requirement that a certified shoreline survey must be submitted with the Shoreline Setback Variance and Special Management Area Assessment Use Application for the proposed improvements. The Applicant will not be submitting or requesting a certified shoreline survey with the Final EA. We have been made aware by the DLNR that the existing seawall will be the certified shoreline survey as a result of the execution of the 55 year easement agreement between the State of Hawaii and the Applicant. Therefore based on the above circumstances, the certified shoreline survey will be requested at the time of the submittal of the Shoreline Setback Variance and the amendment to the Special Management Area No. 85.

2.3 Surrounding Uses and Activities

The surrounding land areas are the Hulihe'e Palace to the north, the County of Hawaii Hale Halawai Park to the south, the Kona Marketplace shopping Center and Kona Bay Hotel to the east and the coastal area to the west. The Hulihe'e Palace property is owned by the State and is in the State Land Use "Urban" district and County of Hawaii's "Open" zone district. The Kona Marketplace and Kona Bay Hotel properties are in the State Land Use "Urban" district and the County of Hawaii's Resort (V-.75) zone district.

2.4 Proposed New Improvements

For purposes of this assessment, the improvements being proposed by the Owner will be called either the "Project" or the "Proposed Actions."

The owner will also be seeking a Shoreline Setback Variance Approval to construct the Outdoor Seating Lanai addition to the existing restaurant building and to fill in the existing swimming pool at the south end of the Property. The Shoreline Setback Variance will be submitted to the County of Hawaii Planning Commission after processing of the Environmental Assessment in compliance with Chapter 343, HRS, Title 11, Chapter 200 requirements.

The Owner is seeking approval to construct an Outdoor Seating Lanai addition to an existing restaurant building. The proposed addition will consist of approximately 1,992 square feet of improvements and cost of construction of this addition will be approximately $116,000.00. The Outdoor Seating Lanai design will be two terraced seating areas approximately 84 feet-8 inches in width, extending 23 feet beyond the wall of the existing restaurant building 20 feet into the 40 foot Shoreline Setback Area. It should be noted that the proposed addition on the makai side of this building will not extend beyond the existing buildings to the south of this area. As such, the area to be expanded into will be in back of the existing development to the south side of the Property. The approximate height of the Outdoor Seating Lanai from the ground level for each terraced area will be 7 feet and 8 feet respectively. There will be no roof covering over this Outdoor Seating Lanai area. (See Map Exhibits 7)

Based on the proposed expansion, a total of 6.64 or 7 additional off-street parking stalls would be required. There are approximately 241 off-street parking stalls available for the existing resort shopping center development that would be available for the Proposed Actions.

The County of Hawaii Planning Commission approved Variance Permit No. 559 to allow 25% of the required off-street parking to be for compact stalls. Ordinance No. 96-160 (Chapter 25, Zoning Code), that was ratified by the County Council on April6, 1999, Section 25-4-52 (d)(Method of determining number of parking spaces) now allows a maximum of 33% of the minimum off-street parking to be for compact stalls. In addition, Section 25-4-53 (Minimum dimensions of parking spaces) now allow standard size stalls of 8 feet - 6 inches in width. The Zoning Code under Section 25-4-51 (Required number of parking spaces), now allow "Commercial Uses" in the Resort zone

district to have one (1) off-street parking stall for each three hundred (300) square feet of gross floor area.

The entire shopping center was originally imposed with a one (1) stall per two hundred (200) square feet of gross floor area requirement under the former Zoning Code. Being that the present Zoning Code permits a lower off-street parking requirement for the proposed Outdoor Seating Lanai, and with the changes in the allowance of compact size stalls and the minimum stall dimensions, there may not be a need to provide any additional off-street parking stalls. However, the owner intends to restripe the off-street parking lots attached to the resort shopping complex, should it be necessary to accommodate the minor proposed Outdoor Seating Lanai addition.

The proposed Outdoor Seating Lanai will be setback 20 feet from the front of the existing seawall.

The Proposed Actions will also comply with the requirements of the Americans Disability Act.

2.5 Timetable for Development

The owner proposes to begin work on the proposed improvements upon receipt of all required approvals and permits from the State and County of Hawaii.

2.6 Owner's Objectives for the Project

The Owner has the following objectives with this Project:

1. To enhance the existing restaurant's ability to provide a seashore ambience for the visitors and residents who would use the restaurant for their leisure and dining experiences;

2. To not extend the proposed improvements beyond the line of the existing buildings to the south.

3. To blend the architectural styles of the existing buildings with this Outdoor Seating Lanai addition.

4. The owner will in response to the concerns of the Kailua Village Design Commission concerning the landscaping retain the existing coconut trees within the design of the outdoor seating lanai area as depicted on the Perspective and Top View drawings. (See Maps Exhibit 7)

5. To provide a open stairway to the makai lawn area which will allow additional access to the existing seawall for pedestrian and public access.

3.0 ENVIRONMENTAL SETTING, IMPACTS & MITIGATION MEASURES

3.1 Physical Characteristics

3.1.1 Physiography and Soils

Setting. The elevation of the Property ranges from sea level to approximately 8 feet above mean sea level along the mauka boundary at Alii Drive.

The soils on the Property are not classified by the United States Department of Agriculture, Soil Conservation Services, Soil Survey Report. The Land Study Bureau Overall Master Productivity Rating and the State of Hawaii, Department of Agriculture's Land of Importance to the State of Hawaii ("ALISH") do not designate the property for any agricultural significance.

Impacts and Mitigation. The Property has been developed with 12 Resort, Commercial and office buildings. The Proposed Actions would not result in loss of any valuable agricultural lands, the Property has already been developed with a resort shopping center and related improvements.

3.1.2 Natural Hazards

Setting.

Flood and Coastal Hazards. The U. S. Corps of Engineers Flood Insurance Rate Map (FIRM) designates the Property in VE Zone. The shoreline portion of the Property is located within the County of Hawaii Civil Defense Agency's Tsunami Evacuation Zone.

Earthquake Hazards. The Building Code designates the entire island of Hawaii in Earthquake Zone 3 and contains certain structural requirements to address the relative seismic hazards.

Impacts and Mitigation. The Property is located within the coastal high hazard area, and thus there is a minimal degree of risk to human life. However, with the necessary Civil Defense Agencies measures for evacuation in conjunction with the National Weather Service's ability to forecast weather and surf conditions, the placement of the improvements at the proposed location will not add any further risk to human life. The owner will comply with the Department of Public Works requirements relative to Building Construction and the FEMA map requirements. No grading activities are expected to take place at the proposed location of this project.

3.1.3 Flora

Setting. No resident endemic or indigenous flora are present on the property. There are also no endangered plant species on the Property.

Impacts and Mitigation. No mitigation or impacts will be required for the proposed Project.

3.1.4 Fauna

Setting. No resident endemic and indigenous land birds, resident indigenous seabirds, resident endemic and indigenous water birds and migratory indigenous birds have been recorded on the Property. Mammal species which are expected to occur in the Property include mongoose, feral cat, mouse and rat. These are common species which are found throughout the island.

Impacts and Mitigation. The Proposed Actions will not disrupt any existing wildlife on the site. No rare or endangered species would be affected. In addition, there is no evidence of threatened or endangered birds or mammals within the Property or surrounding area.

3.1.5 Historical/Cultural and *Archaeological Resources*

Setting. There are no archaeological resources on the Property. The General Plan Historic Sites element does not list any sites on the Property. In addition, the Federal and State Register of Historic Sites does not list any sites on the Property. Hulihe'e Palace is situated adjacent and to the north of the subject property. Hulihe'e Palace is on the State and National Register of Historic Places as well as being identified in the Historic Sites element of the Hawaii County General Plan. The proposed improvements would be approximately 75 feet from the Hulihe'e Palace south side property line and approximately 125 feet from the Palace Structure. Mokuaikaua Church which is located on the mauka side of Alii Drive is also on the National and State Register of Historic Places. Mokuaikaua Church is situated approximately 170 feet northeast of the Project.

Impacts and Mitigation. There will be no impact or mitigative measures necessary to be taken as a result of the proposed Project on the Property.

3.1.6 Air and Noise Quality

Setting.

Air. The air quality in the area is largely affected by air pollutants from vehicular rather than natural sources. The most predominant source of pollutants is from vehicular exhaust along Alii Drive created by commuters from Palani Road to Keauhou.

Noise. The noise generated in the vicinity of the Proposed Actions is associated with existing vehicular and human activity sources along the Alii Drive. Other noises in the Proposed Actions comes from natural sources (ocean and wind).

Impacts and Mitigation. Minor short-term increase in noise level may be experienced during construction of the subject improvements, however, these noises will be confined to normal daylight hours. Since there are neighbors residing in the vicinity of the Proposed Actions, there will be a short term increase in noise level, it

should not create a substantial impact upon the noise quality anticipated by the Proposed Actions.

3.1.7 Scenic and Open Space Resources

Setting. The Property is located along a stretch of Alii Drive between Hulihe'e Palace and Hale Halawai Park. The present landscape of the Proposed Actions is characterized by resort-commercial buildings, historic places such as Hulihe'e Palace, Mokuaikaua Church and other related resort developments. The Property is not listed in the County of Hawaii General Plan Natural Beauty, Natural Resources and Shoreline elements.

Impacts and Mitigation. The Proposed Actions is anticipated to change the visual attributes of the lawn area to a low Outdoor Seating Lanai area addition for the existing restaurant building. However, the proposed Project is intended to enhance the architectural values of the existing buildings. The Owner believes that Outdoor Seating Lanai will enhance the aesthetic value of the area, as well as provide enhanced views through the area. Thus, the Proposed Actions will enhance the existing scenic and open space resources of the area.

3.1.8 Coastal Resources

Setting. The rocky shoreline is characterized by an accumulation of limestone on a volcanic basalt basement complex. The coastal resources between the low-tide mark and the upper reaches of the wave-splash zone consist of jagged, barren lava platforms dotted with tide pools. Kailua Bay to the north contains a small beach, while an existing seawall is in place between the pier along the ocean side of Hulihe'e Palace continuing along the ocean frontage of the Property.

The County of Hawaii Public Access to the Shoreline Inventory (1979) does not list the Proposed Actions as one which provides public access. However, the existing seawall is used for public access up to the south end of the subject property to Hale Halawai. The public access along the shoreline extends further south along the shoreline side of the WaterFront row resort development. The Owner's proposal to add an additional pedestrian walkway access to the existing seawall lateral shoreline access will create more opportunities for the public's access to this area and shoreline resource.

Impacts and Mitigation. The Project does not involve any direct or chemical modifications to the nearshore environment. Therefore, there should be no physical disruption of the existing habitat, and more importantly, no changes that would affect the amount of wave energy striking the shoreline. The Owner will employ standard construction precautions in conducting the proposed building improvements to the existing building. The Owner's proposal to install a open stairwell to the lawn area at the northern end of the Outdoor Seating Lanai will enhance the public's pedestrian access to the coastal shoreline. Therefore, the existing shoreline public accesses along the coastal area of the Property already provides the public access the coastal area. This will continue to be the public's

right to lateral shoreline access and be consistent with the General Plan objectives and policies.

3.2 Socioeconomic Considerations

The Project should generate minor improvements to the economy resulting from construction related jobs for the proposed improvements as well as new employment to be generated by the expansion of the existing restaurant facilities.

3.3 Public Facilities and Services

3.3.1 Access

Setting. Access to the Property is provided from the Alii Drive, a County owned and maintained road, which has a 24-foot wide paved roadway surface and landscaped sidewalks in a designated 50-foot wide right-of-way.

Impacts and Mitigation. The Proposed Actions is not anticipated to create any substantial adverse impact upon the Alii Drive access.

3.3.2 Water Resources

Setting. Water is presently available from Alii Drive through the County of Hawaii Department of Water Supply, 12 inch water line. However, the Proposed Actions will not require any additional water meters to be installed.

Impacts and Mitigation. There is County water available to the Property. There will be no adverse impact upon the municipal system by reason of the Proposed Actions. The anticipated water usage of is sufficient to meet the demands of the Proposed Actions.

3.3.3 Utilities

Setting. Electricity and telephone services are presently available in the vicinity of the Property. The Proposed Actions does not require these services, and the Owner does not anticipate additional connection to these services.

Impacts and Mitigation. Electrical and telephone services are not being required for the Project, there is no anticipated adverse impact upon electrical and telephone utility services by reason of the Proposed Actions.

3.3.4 Police and Fire Protection

Setting. Police protection services are provided from the Kealakehe police station located in Kealakehe, approximately 2 miles north of the Property. Fire protection services are provided from the Kailua-Kona fire station located, approximately 1 mile east of the Property.

Impacts and Mitigation. The Proposed Actions is not anticipated to increase the demand for police and fire services.

4.0 RELATIONSHIP OF THE PROPOSED ACTIONS TO LAND USE PLANS, POLICIES AND CONTROLS FOR THE AFFECTED AREA

4.1 Chapter 205, Hawaii Revised Statutes, State Land Use Law

All lands within the State have been classified into Four land use districts: Urban, Rural, Agricultural and Conservation, by the State Land Use Commission, pursuant to Chapter 205, HRS. The Property is within the State Land Use "Urban" District.

4.2 Hawaii State Plan, Chapter 266, Hawaii Revised Statutes

The Hawaii State Plan, Chapter 226, HRS, establishes a set of goals, objectives and policies to serve as long-range guidelines for the growth and development of the State. The following sections of the Hawaii State Plan contain guidelines that are relevant to the Proposed Actions.

Section 226-6. Objectives and policies for the economy - in general

(a) Planning for the State's economy in general shall be directed toward achievement of the following objectives:

Objectives — Increased and diversified employment opportunities to achieve full employment, increased income and job choice, and improved living standards for Hawaii's people.

A steadily growing and diversified economic base that is not overly dependent on a few industries.

Policies — Expand Hawaii's national and international marketing, communications and organizational ties, to increase the State's capacity to adjust to and capitalize upon economic changes and opportunities occurring outside the State.

Promote Hawaii as an attractive market for environmentally and socially sound investment activities that benefit Hawaii's people.

Seek broader outlets for new or expanded Hawaii business investments.

Expand existing markets and penetrate new markets for Hawaii's products and services.

Strive to achieve a level of construction activity responsive to, and consistent with, state growth objectives.

Encourage labor-intensive activities that are economically satisfying and which offer opportunities for upward mobility.

Foster greater cooperation and coordination between the government and private sectors in developing Hawaii's employment and economic growth opportunities.

Stimulate the development and expansion of economic activities which will benefit areas with substantial or expected employment problems.

Maintain acceptable working conditions and standards for Hawaii's workers.

Provide equal employment opportunities for all segments of Hawaii's population through affirmative action and non-discrimination measures.

Encourage businesses that have favorable financial multiplier effects within Hawaii's economy.

Promote and protect intangible resources in Hawaii, such as scenic beauty and the aloha spirit, which are vital to a healthy economy.

Foster a business climate in Hawaii - including attitudes, tax and regulatory policies, and financial and technical assistance programs - that is conducive to the expansion of existing enterprises and the creation and attraction of new business and industry.

Analysis: **The Proposed Actions will implement the above policies related to the economy of the County and the State of Hawaii as Kailua Village is a Major Resort destination area as stated in the Hawaii County General Plan. The Proposed Actions will assist to preserve the natural beauty and enhance the view and vistas of Kailua Bay for the visitors and residents, will preserve the aesthetic value of the area, and will improve upon the beauty with the addition of the Outdoor Seating Lanai which capitalizes on, rather than destroy, the cultural and scenic resources that are present.**

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

Objectives Planning for the State's economy with regard to the visitor industry shall be directed towards the achievement of the objective of a visitor industry that constitutes a major component of steady growth for Hawaii's economy.

Policies Support and assist in the promotion of Hawaii's visitor attraction and facilities.

Ensure that visitor industry activities are in keeping with the social, economic and physical needs and aspirations of Hawaii's people.

Improve the quality of existing visitor destination areas.

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

Develop the industry in a manner that will continue to provide new job opportunities and steady employment for Hawaii's people.

Foster a recognition of the contribution of the visitor industry to Hawaii's economy and the need to perpetuate the Aloha Spirit.

Foster an understanding by visitors of the Aloha Spirit and of the unique and sensitive character of Hawaii's cultures and values.

Analysis: **The Proposed Actions will implement the above policies related to the visitor industry as Kailua Village is a Major Resort destination area as stated in the Hawaii County General Plan. The Proposed Actions will assist to preserve the natural beauty and enhance the view and vistas of Kailua Bay for the visitors and residents, will preserve the aesthetic value of the area, and will improve upon the beauty with the addition of the Outdoor Seating Lanai which capitalizes on, rather than destroy, the cultural and scenic resources that are present.**

Section 226-11. Objective and policies for the physical environment - scenic, natural beauty, and historic resources.

Objectives: Prudent use of Hawaii's land-based, shoreline, and marine resources.

Effective protection of Hawaii's unique and fragile environmental resources.

Policies: Exercise an overall conservation ethic in the use of Hawaii's natural resources.

Take into account the physical attributes of areas when planning and designing activities and facilities.

Manage natural resources and environs to encourage their beneficial and multiple use without generating costly or irreparable environmental damages.

Pursue compatible relationships among actives, facilities and natural resources.

Promote increased accessibility and prudent use of inland and shoreline areas for public recreational, educational, and scientific purposes.

Analysis: **The Proposed Actions has been designed to harmonize with the existing resort physical environment. No changes in the shoreline or topography are envisioned. The Owner proposes to construct an Outdoor Seating Lanai addition to an existing restaurant building and open stairway that will continue to provide access to the shoreline, while protecting the unique and fragile environment.**

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

Objective: Planning for the State's physical environment shall be directed towards achievement of the objective of enhancement of Hawaii's scenic assets, natural beauty, and multiple-cultural/historic resources.

Policies: Promote the preservation of views and vistas to enhance the visual and aesthetic enjoyment of mountains, oceans, scenic landscapes and other natural features.

Encourage the design of development and activities that complement the natural beauty of the islands.

Analysis: **The Proposed Actions will preserve the natural beauty and enhance the view and vistas of Kailua Bay, will preserve the aesthetic value of the area, and will improve upon the beauty by the addition of the Outdoor Seating Lanai which capitalizes on, rather than destroys, the cultural and scenic resources that are present.**

Section 226-13. Objective and policies for the physical environment - land, air, and water quality.

Objective: Maintenance and pursuit of improved quality in Hawaii's land, air and water resources.

Policies: Promote the proper management of Hawaii's land and water resources.

Analysis: **The Proposed Actions will improve the physical resources of the land providing a building addition enhancement while maintaining the integrity of the development and its relationship to the coastal area.**

4.3 Hawaii County General Plan

The Hawaii County General Plan is a policy document for the long range comprehensive development of all land within the County of Hawaii. The plan contains goals, policies and standards, as well as, a set of land use maps, designated as the General Plan Land use Pattern Allocation Guide ("LUPAG") maps, showing the location of desired land uses.

The LUPAG map designates a narrow coastal strip of the Property along the shoreline as "Open," and the remaining portion of the Property as "Resort." The Open designation

includes parks and historic sites, and the Resort designation includes uses such as hotels, condominiums-hotels, (condominiums developed and/or operated as hotels), and supporting services. The Proposed Actions does not conflict with the Open and Resort designation of the General Plan. The following General Plan element's goal and objectives support the Proposed Actions.

ECONOMIC GOALS

- Provide residents with opportunities to improve their quality of life.
- Economic development and improvement shall be in balance with the physical and social environments of the island of Hawaii.
- The County of Hawaii shall strive for diversity and stability in its economic system.
- The County shall provide an economic environment which allows new, expanded, or improved economic opportunities that are compatible with the County's natural and social environment.

POLICIES

- The County of Hawaii shall strive for an economic climate which provides its residents an opportunity for choice of occupation.
- The County of Hawaii shall encourage the development of a visitor industry which is consistent with the social, physical, and economic goals of the residents of the County.
- The County of Hawaii shall strive for diversification of its economy by strengthening existing industries and attracting new endeavors.
- The County shall strive for full employment.
- The County shall identify and encourage primary industries that are consistent with the social, physical, and economic goals of the residents of the County.

LAND USE ELEMENT - RESORT

GOALS

- Maintain an orderly development of the visitor industry.
- Provide for resort development that maximizes conveniences to its users and optimizes the benefits derived by the residents of the County.
- Ensure that resort developments maintain the social, economic, and physical environments of Hawaii and its people.

POLICIES

- o Promote and encourage the rehabilitation and the optimum utilization of resort areas which are presently serviced by basic facilities and utilities.

- o Coastal resort developments shall provide public access to and parking for beach and shoreline areas.

Analysis: **The Proposed Actions will implement the above policies related to the economy of the County of Hawaii as Kailua Village is a Major Resort destination area as stated in the Hawaii County General Plan. The Proposed Actions will assist to preserve the natural beauty and enhance the view and vistas of Kailua Bay for the visitors and residents, will preserve the aesthetic value of the area, and will improve upon the beauty with the addition of the Outdoor Seating Lanai which capitalizes on, rather than destroy, the cultural and scenic resources that are present.**

4.4 Hawaii County Zoning

The Property is zoned under the Hawaii County Zoning Code (Chapter 25, Hawaii County Code) as Resort (V-.75),. The Proposed Actions are a permitted use under this zoning district.

4.5 Special Management Area

The Property is situated within the County's Special Management Area. The owner will be applying for a Special Management Area Use Assessment Application as soon as the recertified shoreline survey is completed and approved by the Chairman of the Board of Land and Natural Resources.

4.6 Coastal Zone Management Area (CZMA): Pursuant to Chapter 205-2, the Property is situated within the State's Coastal Management Area. The proposed Project is consistent with the objectives and policies of Chapter 205-2. The proposed Project is approximately 40 feet from the coastline in this area, and is situated off of Alii Drive, a county maintain roadway, which is the only major roadway system through this area in Kailua Village. Being at this particular location, there has been no known recreational resources, historic resources, scenic and open space preserves, coastal systems, coastal hazards and marine resources or other natural and environmental resources on the Property or within the surrounding areas relating to the objectives and polices of the CZM that would be adversely affected by the proposed Project. The Property is also not part of any ongoing County or State CZM programs for this particular area.

4.7 Archaeological Resources: According to the information on file with the County Planning Department, the Property does not have any known or recorded historical sites. The County of Hawaii General Plan Historic Sites Element, the Kailua Kona Master Plan does not list any archaeological sites on the Property. The State and

National Registers of Historic Places do not have any reference to any historical sites on the Property. Should there be any archaeological sites discovered during the course of developing the Property, consultation will be made with the Department of Land and Natural Resources, Historic Preservation Division and the County Planning Department and all construction will be halted until appropriate mitigative measures have been determined and clearance has been received from both agencies. A "No Effect" letter dated _____2004 from the Department of Land and Natural Resources, Historic Preservation Division is enclosed. (See Exhibit C).

5.0 KA PA' AKAI O KA' AINA ISSUES:

Based on the findings of the historical record of the Property, the Applicant presents the following statements in response with the requirements of the Hawaii State Supreme Court's criteria in the Ka Pa' Akai O Ka' Aina case.

1. The identity and scope of "valued cultural, historical, or natural resources" in the petition area, including the extent to which traditional and customary native Hawaiian rights are exercised in the petition area;

   Discussion: According to the information on file with the County Planning Department, the Property does not have any known or recorded historical sites. The County of Hawaii General Plan Historic Sites Element, the Kailua Kona Master Plan does not list any archaeological sites on the Property. The State and National Registers of Historic Places do not have any reference to any historical sites on the Property. Therefore, there is no existing evidence to indicate that any traditional and customary native Hawaiian rights are exercised in the petition area.

2. The extent to which those resources – including traditional and customary native Hawaiian rights – will be affected or impaired by the proposed action; and

   Discussion: There is no evidence to show that any valued cultural, historical, natural resources and traditional or customary native Hawaiian rights are on the or being practiced on the Property. Therefore, no resources or traditional and customary Hawaiian rights will be affected or impaired by the proposed Project.

3. The feasible action, if any, to be taken by the Planning Commission to reasonably protect native Hawaiian rights if they are found to exist.

   Discussion: There is no feasible action to be taken by the Planning Commission other than to require that, if in the future, any valued cultural, historical, natural resources and/or traditional and customary native Hawaiian rights are discovered on the Property, that the Applicant will report this matter to the State of Hawaii, Department of Land and Natural Resources, Historic Preservation Division for review and assessment.

5.1 Shoreline Setback

The Proposed Actions will take place within the Shoreline Setback, as such in accordance with Chapter 200, Subchapter 5, Section 11-200-6(C), an environmental assessment must be prepared. In addition, the Hawaii County Planning Commission Rule No. 8 (Shoreline Setback), Section 8-6 requires compliance with Chapter 200 prior to any submission of a Shoreline Setback Variance application. The Owner intends to submit a Shoreline Setback Variance Application for the Proposed Actions upon compliance with the above-referenced requirements.

5.2 Environmental Impact Statement.

Section 343-5(a)(3), HRS and Hawaii Administrative Rules, Title 11, Chapter 200, Subchapter 5, Section 11-200-6(1)(C), provides that any use within the shoreline area as defined in Section 205-41, HRS, is subject to the Environmental Impact Statement law, Chapter 343, HRS.

Section 343-5(c), HRS, provides that Owners proposing actions subject to Chapter 343, HRS,

> ". . . shall prepare an environmental assessment of such Proposed Actions at the earliest practicable time to determine whether an environmental impact statement shall be required."

An environmental assessment is also being prepared to fulfill these requirements prior to the submittal of the Shoreline Setback Variance Application to the Hawaii County Planning Commission.

6.0 IDENTIFICATION OF MAJOR IMPACTS AND ALTERNATIVES CONSIDERED

6.1 Major Impacts

Due to the limited scope of the Proposed Actions, it is not expected to contribute to any economic, social or environmental concerns, or cause adverse environmental impacts. In addition, no major long-term impacts are anticipated as a result of the implementation of Owner's proposal, since the Proposed Actions are a permitted use within the County's Resort (V-.75) zone district, pursuant to Chapter 25 (Zoning Code), Article 5, Division 9, Section 25-5-92(a)(30)(c).

6.2 Alternatives to the Proposed Actions

Under the "No Action" alternative, the Property would continue to remain unimproved and the Owner would have no alternative but to abandon the Proposed Actions, thereby depriving the Owner of the reasonable use of the Property. The Property is located within the State Land Use Urban District.

6.3 Alternative Site

The Property is situated within the County Resort (V-.75) zone district. Under this zoning district, retail, restaurants, and other resort related uses are permitted. The Property is an established resort-commercial shopping center. It is fully developed with structures and uses permitted within the Resort zone district. The Proposed Actions are an integral part of the Project as such alternative site would not be compatible nor feasible.

6.4 Unavoidable Impacts and Mitigation Measures

Mitigative measures to minimize the Proposed Actions will be taken as necessary. These measures would include preserving existing mature vegetation, where possible, and the inclusion of new landscaping to minimize erosion as well as enhancing the physical and visual environment. Other measures will include employing noise abatement means during construction. These would be temporary in nature and will not have any long term effects on the surrounding properties.

6.5 Construction Related Impacts

During construction, the Proposed Actions will be short term in nature, as such, mitigative measures would involve limiting construction to normal working hours and employing any noise reduction equipment when necessary.

6.6 Irreversible and Irretrievable Commitment of Resources

The Proposed Actions will commit the land to the long term Resort related uses on the Property that is already committed with a village shopping environment with assorted resort related uses. In the long term, the Proposed Actions will be a positive addition to the existing resort facilities as well as for the physical environment of Kailua Village.

7.0 AGENCY ANTICIPATED DETERMINATION AND FINDINGS AND REASONS SUPPORTING ANTICIPATED DETERMINATION

1. The Proposed Actions will not involve any Dredging, filling or otherwise altering any bay, estuary, salt marsh, river mouth, slough, or lagoon.

2. The Proposed Actions will not reduce the size of any beach or other area usable for public recreation.

3. The Proposed Actions will not reduce or impose restrictions upon public access to tidal and submerged lands, beaches, portions of rivers and streams within the Special Management Area and the mean high tide line where there is no beach.

4. The Proposed Actions will not interfere with or detract from the line of sight toward the sea from the State highway nearest the coast or from other scenic areas identified in the General Plan.

5. The Proposed Actions will not adversely affect water quality, existing areas of open water free of visible structures, existing and potential fisheries and fishing grounds, wildlife habitats, estuarine sanctuaries, potential or existing agricultural uses of land.

In considering the significance of potential environmental effects, the Owner has considered the sum of effects on the quality of the environment and evaluated the overall cumulative effects of the Proposed Actions. The Owner has considered the expected consequences, both primary and secondary, and the cumulative, as well as, the short- and long-term effects of the Proposed Actions. As a result of these considerations, the Owner has determined that the approval of the Proposed Actions will have no significant effect on the environment since:

1. There are no known archaeological/cultural resources in the area that would involve an irrevocable commitment to loss or destruction of any natural or cultural resources.

2. *The beneficial uses of the environment for recreational and access purposes will* not be curtailed since pedestrian public shoreline access to the shoreline will be improved with the installation of stairway to the lawn area at the northern of the Proposed Actions.

3. The preparation of this environmental assessment is also in compliance with Chapter 344, HRS, and the Proposed Actions does not conflict with the short or long term policies, goals and guidelines of Chapter 343, HRS.

4. The economic or social welfare of the community will be positively affected from the creation of construction related jobs and use of the addition to the existing restaurant building in the complex.

5. Public health will not be affected since improvements for the Proposed Actions involve primarily an accessory use to the existing restaurant building.

6. The Proposed Actions will not cause substantial secondary impacts, nor adversely affect population changes on public facilities. Access s provided off of Alii Drive, a County owned and maintained roadway. Electrical and telephone services are available to the Proposed Actions and are not anticipated to be added. There are no additional burdens on public facilities anticipated from the Proposed Actions.

7. The Proposed Actions does not involve a substantial degradation of environmental quality as the proposed improvements do not compromise the character of the Property and surrounding area, but will improve the resources of the land by enhancing the use of the existing restaurant building for the visitors and residents for their leisure and dining experience to enjoy the view of the ocean and the coast line of the immediate area.

8. The Property will remain consistent in character and size with other developed property in the surrounding area, will neither conflict with or intensify existing land uses, nor burden existing area resources and available public services, and therefore does not have a cumulative effect upon the environment or involve a commitment for larger action.

9. There are no known rare, threatened, or endangered plant or animal species or habitats on the Property or immediate vicinity.

10. The Proposed Actions will not detrimentally affect air or water quality or ambient noise levels since the air quality in the area is largely affected by air pollutants from vehicular rather than natural sources, does not involve any direct or chemical modifications to the nearshore environment nor change the amount of wave energy striking the shoreline, and any minor short-term increase in noise level during development will be confined to normal daylight hours.

11. The Property is located within the VE Zone and the owner will comply with all requirements of the Department of Public Works, Engineering Division relative to the Proposed Actions. Although the shoreline of the Property is located within the Hawaii County Civil Defense Agency's tsunami evacuation area, there is no tsunami data for the Proposed Actions, and the shoreline along the Property has remained stable during seasonal coastal storms.

12. The Proposed Actions are consistent with the character and size of other developed parcels in the area, does not substantially impact upon the scenic vistas and viewplanes of surrounding properties, and will enhance the scenic and open space resources of the Project Area.

13. No energy consumption will be required for the Proposed Actions.

Based on the information described herein, the Proposed Actions will not result in significant social, economic, cultural or environmental impacts.

1. The Proposed Actions will not have any significant adverse environmental or ecological effect, except as such adverse effect is minimized to the extent practicable and clearly outweighed by public health, safety, or compelling public interest. Such adverse effect shall include, but not be limited to, the potential cumulative impact of individual developments, each one of which taken in itself might not have a substantial adverse effect and the elimination of planning options;

2. The Proposed Actions are consistent with the objectives and policies as provided by Chapter 205A, HRS, and the Special Management Area guidelines as contained herein; and

3. The Proposed Actions are consistent with the County General Plan and zoning.

Based on the above findings, we respectfully request that a determination for a "Finding of No Significant Impact (FONSI) be declared for this Final Environmental Assessment for the Project.

Final Environmental Assessment

Tax Map Key: 7-5-007: 021

Agency Consultation Letters & Responses By Exhibit No.

CONSULTATIONS WITH AGENCIES, ORGANIZATIONS AND EXHIBITS
EARLY AND FINAL EA CONSULTATION LETTERS AND RESPONSES:

Exhibit 1.	May 31, 2000 - Pre-Assessment Consultation Letter to State of Hawaii, DLNR, Historic Preservation Office requesting comments - No Response
Exhibit 2.	May 31, 2000 - Pre-Assessment Consultation Letter to Hulihee Palace requesting comments - No Response
Exhibit 3	May 31, 2000 - Pre-Assessment Consultation Letter to Office of Hawaiian Affairs (OHA) requesting comments.
Exhibit 4	June 14, 2000 - Pre-Assessment Consultation Response Letter from Office of Hawaiian Affairs (OHA) - Response to request for comments.
Exhibit 5	May 31, 2000 - Pre-Assessment Consultation Letter to Department of Public Works, Building Division requesting comments.
Exhibit 6	May 31, 2000 - Pre-Assessment Consultation Letter to Department of Public Works, Engineering Division requesting comments.
Exhibit 7	May 31, 2000 - Letter to Planning Department requesting comments.
Exhibit 8	June 27, 2000 - Response to Pre-Assessment Consultation Letter from Department of Public Works, Building Division.
Exhibit 9	July 20, 2000 - Response to Pre-Assessment Consultation Letter from Department of Public Works, Building Division.
Exhibit 10	July 28, 2000 - Letter from Department of Public Works, Engineering Division - Response to request for comments.
Exhibit 11	July 31, 2000 - Letter from Department of Public Works, Building Division - Response to request for comments.
Exhibit 12	August 24, 2000 - Letter from Planning Department - Meeting minutes of the August 1, 2000 Kailua Village Design Commission meeting.
Exhibit 13	September 21, 2000 - Letter to Planning Director, transmittal of Draft Environmental Assessment for proposed improvements.
Exhibit 14	December 8, 2000 - OEQC, The Environmental Notice, Draft EA published.
Exhibit 15	December 12, 2000 - Transmittal of Draft EA to Office of Environmental Quality Control, State of Hawaii, Kailua-Kona Public Library, DPW, Engineering Division, Kailua Village Design Commission, Hulihee Palace, Office of Hawaiian Affairs, DLNR Historic Preservation Division, Office of Hawaii Affairs Honolulu

Office, DLNR Land Management Division Hilo Office for public review and comments pursuant to Title 11, Chapter 200, Subchapter 6.

Exhibit 16 December 12, 2000 - Response from DLNR, Land Division, no comments.

Exhibit 17 December 18, 2000 - Fax from Brian McCourt comments on proposed improvements.

Exhibit 18 December 19, 2000 - Letter to Brian McCourt responding to comments.

Exhibit 19 December 20, 2000 - Fax from Brian McCourt to DISREGARD IN ITS ENTIRETY all comments of December 18, 2000 fax.

Exhibit 20 December 21, 2000 - Letter from OEQC to Planning Director requesting additional information prior to submittal of Final EA.

Exhibit 21 December 22, 2000 - Letter to Brian McCourt acknowledging receipt of fax and his request to disregard his comments of December 18, 2000.

Exhibit 22 January 5, 2001 - Article of proposed improvements in the West Hawaii Today.

Exhibit 23 January 9, 2001 - Response from University of Hawaii at Manoa, Environmental Center on proposed improvements.

Exhibit 24 January 10, 2001 - Response to OEQC letter to Planning Director.

Exhibit 25 January 11, 2001 - Response to University of Hawaii at Manoa Environmental Center.

Exhibit 26 March 29, 2001 - Letter with exhibits to Mr. Gabriel Makuakane, Royal Order of Kamehameha regarding Act 50, Cultural Impacts Assessment consultation.

Exhibit 27 March 29, 2001 - Letter with exhibits to Mr. Gene Leslie, Kona Hawaiian Civic Club regarding Act 50, Cultural Impacts Assessment consultation.

Exhibit 28 March 29, 2001 - Letter to Mrs. Ruby McDonald, OHA, regarding Act 50, Cultural Impacts Assessment consultation.

Exhibit 29 March 29, 2001 - Letter to Ms. Nina Lincoln, Hulihee Palace, regarding Act 50, Cultural Impacts Assessment consultation.

Exhibit 30 April 25, 2001 - Letter from OHA, regarding Act 50 requirements, stating that historical writings and surveys by John Papa I'i, Samuel M. Kamakau, John F.G. Stokes, and others provide a basis for possible cultural and archaeological resources on the property and requests subsurface testing prior to groundbreaking.

Exhibit 31 May 11, 2001 - Letter from Carlsmith Ball LLP to DLNR representing Applicant to Coastal Lands Program requesting approval of easements for minor encroachments of seawall.

Exhibit 32	May 16, 2001 - Letter from Fanny Collins AuHoy, Palace Administrator, Hulihee Palace, regarding no input regarding Act 50 requirements and no objections to proposed improvements.
Exhibit 33	May 25, 2001 - Letter from DLNR, Land Division, Coastal Lands Program citing no objections to approval of easements for minor seawall encroachments.
Exhibit 34	May 29, 2001 - Letter to Mark Smith, DLNR, Historic Preservation requesting comments on OHA's letter statements of April 25, 2001.
Exhibit 35	January 14, 2002 - Letter from DLNR, Land Division, stating Board of Land and Natural Resources approval on January 11, 2002 of a 55-year easement for the minor seawall encroachments.
Exhibit 36	April 8, 2004 - Approved Grant of Non-Exclusive Easement S-5664 between the State of Hawaii Board of Land and Natural Resources and the Applicant for seawall encroachments.

EXHIBIT 1

CARLSMITH BALL
ATTORNEYS AT LAW
A PARTNERSHIP INCLUDING LAW CORPORATIONS

75-1000 HENRY STREET, SUITE 209
P.O. BOX 1720
KAILUA-KONA, HAWAII 96745-1720
TELEPHONE (808) 329-6464 FAX (808) 329-9450
WWW.CARLSMITH.COM
DIRECT DIAL NO. (808) 935-6644

FILE COPY

'00 MAY 31 P2:56

May 31, 2000

Mr. Mark Smith
DLNR, State Historic Preservation Office
P.O. Box 936
Hilo, HI 96720

Re: Pre-Assessment Consultation
Request for Agency Comments - Draft Environmental Assessment
Compliance with Chapter 343, Chapter 200 Requirements
Owner: Kailua Kona Village Development Group - Outdoor Seating Lanai Addition and Filling of existing Swimming Pool at south end of Property.
Tax Map Key: 7-5-007: 021

Dear Mr. Smith:

In accordance with the requirements of Chapter 343 HRS, Chapter 200, Subchapter 5, Section 11-200-6(b)(1)(C), we are in the process of preparing a Draft Environmental Assessment for the proposed project as it will be within the Shoreline Setback.

We would appreciate your cooperation in having DLNR, Historic Preservation Division's review and comments on the proposed project. We have enclosed a short narrative summary, photographs and architectural plans of the proposed project.

Once we receive your comments it will be included as part of the Draft Environmental Assessment report that will be submitted to the Planning Department and to the Office of Environmental Quality Control for publication and public review.

We would appreciate your earliest response on this matter.

Should you have any questions, please call me.

Very truly yours,

Robert D. Triantos

RDT:rhy

Enclosures
4066424.1.RDT-1

EXHIBIT 2

FILE COPY

CARLSMITH BALL
ATTORNEYS AT LAW
A PARTNERSHIP INCLUDING LAW CORPORATIONS

'00 MAY 31 P2:56

75-1000 HENRY STREET, SUITE 209
P.O. BOX 1720
KAILUA-KONA, HAWAII 96745-1720
TELEPHONE (808) 329-6464 FAX (808) 329-9450
WWW.CARLSMITH.COM
DIRECT DIAL NO. (808) 935-6644

May 31, 2000

Ms. Nina Lincoln, Interim Curator
Hulihee Palace
75-5718 Alii Drive
Kailua-Kona, HI 96740

Re: Pre-Assessment Consultation
Request for Community Comments - Draft Environmental Assessment
Compliance with Chapter 343, Chapter 200 Requirements
Owner: Kailua Kona Village Development Group - Outdoor Seating Lanai Addition and Filling of existing Swimming Pool at south end of Property.
Tax Map Key: 7-5-007: 021

Dear Ms. Lincoln:

In accordance with the requirements of Chapter 343 HRS, Chapter 200, Subchapter 5, Section 11-200-6(b)(1)(C), we are in the process of preparing a Draft Environmental Assessment for the proposed project as it will be within the Shoreline Setback.

We would appreciate your cooperation in having your review and comments on the proposed project. We have enclosed a short narrative summary, photographs and architectural plans of the proposed project.

Once we receive your comments it will be included as part of the Draft Environmental Assessment report that will be submitted to the Planning Department and to the Office of Environmental Quality Control for publication and public review.

We would appreciate your earliest response on this matter.

Should you have any questions, please call me.

Very truly yours,

Robert D. Triantos

RDT:rhy
4068132.1.RDT-1
Enclosures

EXHIBIT 3

CARLSMITH BALL

ATTORNEYS AT LAW

A PARTNERSHIP INCLUDING LAW CORPORATIONS

75-1000 HENRY STREET, SUITE 209

P.O. BOX 1720

KAILUA-KONA, HAWAII 96745-1720

TELEPHONE (808) 329-6464 FAX (808) 329-9450

WWW.CARLSMITH.COM

DIRECT DIAL NO. (808) 935-6644

FILE COPY

'00 MAY 31 P2:56

May 31, 2000

Mr. Collin Kippen, Deputy Administrator
Office of Hawaiian Affairs
711 Kapiolani Boulevard, 5th Floor
Honolulu, HI 96813

Re: Pre-Assessment Consultation
Request for Agency Comments - Draft Environmental Assessment
Compliance with Chapter 343, Chapter 200 Requirements
Owner: Kailua Kona Village Development Group - Outdoor Seating Lanai Addition and Filling of existing Swimming Pool at south end of Property.
Tax Map Key: 7-5-007: 021

Dear Mr. Kippen:

In accordance with the requirements of Chapter 343 HRS, Chapter 200, Subchapter 5, Section 11-200-6(b)(1)(C), we are in the process of preparing a Draft Environmental Assessment for the proposed project as it will be within the Shoreline Setback.

We would appreciate your cooperation in having OHA's review and comments on the proposed project. We have enclosed a short narrative summary, photographs and architectural plans of the proposed project.

Once we receive your comments it will be included as part of the Draft Environmental Assessment report that will be submitted to the Planning Department and to the Office of Environmental Quality Control for publication and public review.

We would appreciate your earliest response on this matter.

Should you have any questions, please call me.

Very truly yours,

Robert D. Triantos

RDT:rhy
4068129.1.RDT-1
Enclosures

EXHIBIT 4

PHONE (808) 594-1888

FAX (808) 594-1865

STATE OF HAWAI'I
OFFICE OF HAWAIIAN AFFAIRS
711 KAPI'OLANI BOULEVARD, SUITE 500
HONOLULU, HAWAI'I 96813

'00 JUN 26 P2:21

✓	RDT	
	SHE	
	KEM	
	EWH	
	RHY	
	DK	
	JA	
	CW	
✓	LA	
	IY	
	Client	
	CAI	
	To Do	
	File	
	See Me	

June 14, 2000

Robert D. Triantos, Esq.
Carlsmith Ball
75-1000 Henry Street, Suite 209
Kailua-Kona, Hawai'i 96740

PC# 123

Subject: Pre-Assessment Consultation for Draft Environmental Assessment for Kailua Kona Village Development Group – Outdoor Seating Lanai Addition and Filling of Existing Swimming Pool at South End of Property; TMK: 7-5-007:021

Dear Mr. Triantos,

Thank you for the opportunity to respond to the above-referenced document. As with any project, the Office of Hawaiian Affairs is concerned that subsurface archaeological, historical and cultural remains may be impacted; as well as access for traditional gathering rights and the use of ceded lands.

At this time, the Office of Hawaiian Affairs has no comments or immediate concerns with this proposed project. If you have any questions, please contact Ken R. Salva Cruz, Policy Analyst, at 594-1847.

Sincerely,

Colin C. Kippen, Jr.
Deputy Administrator

cc: Board of Trustees
Kona CRS
OEQC
File

EXHIBIT 5

CARLSMITH BALL
ATTORNEYS AT LAW
A PARTNERSHIP INCLUDING LAW CORPORATIONS

FILE COPY

'00 MAY 31 P2:56

75-1000 HENRY STREET, SUITE 209
P.O. BOX 1720
KAILUA-KONA, HAWAII 96745-1720
TELEPHONE (808) 329-6464 FAX (808) 329-9450
WWW.CARLSMITH.COM
DIRECT DIAL NO. (808) 935-6644

May 31, 2000

Mr. Jai Ho Cheng
County of Hawaii
Department of Public Works, Building Division
75-5706 Kuakini Highway, Suite 109
Kailua-Kona, Hawaii 96740

Re: Pre-Assessment Consultation
Request for Agency Comments - Draft Environmental Assessment
Compliance with Chapter 343, Chapter 200 Requirements
Owner: Kailua Kona Village Development Group - Outdoor Seating Lanai Addition; and Filling of existing Swimming Pool at south end of Property.
Tax Map Key: 7-5-007: 021

Dear Mr. Cheng:

In accordance with the requirements of Chapter 343 HRS, Chapter 200, Subchapter 5, Section 11-200-6(b)(1)(C), we are in the process of preparing a Draft Environmental Assessment for the proposed project as it will be within the Shoreline Setback.

We would appreciate your cooperation in having your departmental review and comments on the proposed project. We have enclosed a short narrative summary, photographs and architectural plans of the proposed project.

Once we receive your comments it will be included as part of the Draft Environmental Assessment report that will be submitted to the Planning Department and to the Office of Environmental Quality Control for publication and public review.

We would appreciate your earliest response on this matter.

Should you have any questions, please call me.

Very truly yours,

Robert D. Triantos

RHY:rhy
4066764.1.RDT-1
Enclosures

EXHIBIT 6

CARLSMITH BALL
ATTORNEYS AT LAW
A PARTNERSHIP INCLUDING LAW CORPORATIONS

75-1000 HENRY STREET, SUITE 209
P.O. BOX 1720
KAILUA-KONA, HAWAII 96745-1720
TELEPHONE (808) 329-6464 FAX (808) 329-9450
WWW.CARLSMITH.COM
DIRECT DIAL NO. (808) 935-6644

FILE COPY

'00 MAY 31 P2:56

May 31, 2000

Mr. Kiran Emler
County of Hawaii
Department of Public Works, Engineering Division
75-5706 Kuakini Highway, Suite 109
Kailua-Kona, Hawaii 96740

Re: Pre-Assessment Consultation
Request for Agency Comments - Draft Environmental Assessment
Compliance with Chapter 343, Chapter 200 Requirements
Owner: Kailua Kona Village Development Group - Outdoor Seating Lanai Addition and Filling of existing Swimming Pool at south end of Property.
Tax Map Key: 7-5-007: 021

Dear Mr. Emler:

In accordance with the requirements of Chapter 343 HRS, Chapter 200, Subchapter 5, Section 11-200-6(b)(1)(C), we are in the process of preparing a Draft Environmental Assessment for the proposed project as it will be within the Shoreline Setback.

We would appreciate your cooperation in having your departmental review and comments on the proposed project. We have enclosed a short narrative summary, photographs and architectural plans of the proposed project.

Once we receive your comments it will be included as part of the Draft Environmental Assessment report that will be submitted to the Planning Department and to the Office of Environmental Quality Control for publication and public review.

We would appreciate your earliest response on this matter.

Should you have any questions, please call me.

Very truly yours,

Robert D. Triantos

RHY:rhy
4066345.1.RDT-1
Enclosures

EXHIBIT 7

CARLSMITH BALL
ATTORNEYS AT LAW
A PARTNERSHIP INCLUDING LAW CORPORATIONS

75-1000 HENRY STREET, SUITE 209
P.O. BOX 1720
KAILUA-KONA, HAWAII 96745-1720
TELEPHONE (808) 329-6464 FAX (808) 329-9450
WWW.CARLSMITH.COM
DIRECT DIAL NO. (808) 935-6644

FILE COPY

'00 MAY 31 P2:55

May 31, 2000

Ms. Virginia Goldstein, Planning Director
County of Hawaii
Planning Department
25 Aupuni Street
Hilo, Hawaii 96720

Re: Pre-Assessment Consultation
Request for Agency Comments - Draft Environmental Assessment
Compliance with Chapter 343, Chapter 200 Requirements
Owner: Kailua Kona Village Development Group - Outdoor Seating Lanai Addition and Filling of existing Swimming Pool at south end of Property.
Tax Map Key: 7-5-007: 021

Dear Ms. Goldstein:

In accordance with the requirements of Chapter 343 HRS, Chapter 200, Subchapter 5, Section 11-200-6(b)(1)(C), we are in the process of preparing a Draft Environmental Assessment for the proposed project as it will be within the Shoreline Setback.

We would appreciate your cooperation in having your departmental review and comments on the proposed project. We have enclosed a short narrative summary, photographs and architectural plans of the proposed project for your use.

We would also request that this matter be placed on the agenda for the next Kailua Village Design Commission so that their input can be included. Please notify us at to when this matter can be placed on their agenda. We have enclosed a total of ten (10)

copies of the narrative summary, photographs and architectural plans, one (1) copy for the department and nine (9) copies for the Kailua Village Design Commission.

Once we receive your comments it will be included as part of the Draft Environmental Assessment report that will be re-submitted to your office for a determination prior to filing with the Office of Environmental Quality Control for publication and public review.

We would appreciate your earliest response on this matter.

Should you have any questions, please call me.

Very truly yours,

Robert D. Triantos

RDT:rhy
4066346.1.RDT-1
Enclosures

EXHIBIT 8

Stephen K. Yamashiro
Mayor

Jiro A. Sumada
Deputy Chief Engineer

County of Hawaii

'00 JUN 28 P12:07

DEPARTMENT OF PUBLIC WORKS
25 Aupuni Street, Room 202 • Hilo, Hawaii 96720-4252
(808) 961-8321 • Fax (808) 961-8630

✓	RDT	
	SHE	
	KEM	
	EWH	
	RHY	
	DK	
	JA	
	CW	
	LA	
	TY	
	Client	
	CAI	
	To Do	
	File	
	See Me	

June 27, 2000

Robert D. Triantos, Esq.
Carlsmith Ball
75-1000 Henry Street, Suite 209
Kailua-Kona, HI 96740

Subject: Draft Environmental Assessment Comments
Kailua Kona Village Development Group
Outdoor Seating Lanai Addition and Fill Swimming Pool
Kona Inn Shopping Village
TMK: 7-5-7:021

We reviewed the subject proposals and have the following comments:

Swimming Pool
The project is within the Flood Hazard Zone VE on the Federal Insurance Rate Map which means the site is subject to coastal flooding and high velocity wave action.
The pool is elevated and not generally exempt from requirements of Hawaii County Code Chapter 27, Flood Control. Section 27-18 prohibits filling in a VE zone. A variance may be applied for under Article 5. A grading permit is required if the fill exceeds 100 cubic yards in volume or 5 feet in depth.

Deck
The project is within the Flood Hazard Zone VE on the Federal Insurance Rate Map which means the site is subject to coastal flooding and high velocity wave action. The deck shall be constructed as required under HCC Chapter 5, Building, and related construction codes and HCC Chapter 27, Flood Control. Documentation may be submitted to support exemption of the deck from Chapter 27 as an addition to a nonconforming structure for which improvements over the previous 3 years and the deck addition together do not constitute "substantial improvement"(See Definitions Section 27-12).

The U.S. Army Corps of Engineers and State Department of Land and Natural Resources should be consulted if the projects are makai of the certified shoreline.
If you have any questions regarding the above comments, please feel free to contact Kiran Emler of our Kona office at 327-3530.

Galen Kuba, Divison Chief
Engineeering Division

KE
xc: Eng.- Hilo

EXHIBIT 9

CARLSMITH BALL
ATTORNEYS AT LAW
A PARTNERSHIP INCLUDING LAW CORPORATIONS

75-1000 HENRY STREET, SUITE 209
P.O. BOX 1720
KAILUA-KONA, HAWAII 96745-1720
TELEPHONE (808) 329-6464 FAX (808) 329-9450
WWW.CARLSMITH.COM

FILE COPY

July 20, 2000

Mr. Stanley Takemura, Division Chief
Department of Public Works, Building Division
25 Aupuni Street
Hilo, Hawaii 96720

Re: Request for Unsafe and Safety Hazard Determination of Existing Swimming Pool
Kona Inn Shopping Village
Tax Map Key: 7-5-007: 021

Dear Mr. Takemura:

We have contacted your West Hawaii office and they kindly requested that we notify you of our request.

We would appreciate your cooperation and assistance for the above referenced request. The owners of the Kona Inn Shopping Village want to fill the existing swimming pool fronting the Former Fisherman's Landing Restaurant (map enclosed), as it is not fit for use and in bad disrepair. However, in order to fill the pool, the Department of Public Works, Engineering Division has informed us that your office must give us a written determination that the existing swimming pool is "Unsafe" and a "Safety Hazard" to the general public. With this written determination from your office, they would consider granting the owners a variance from the Flood Control Code, to fill the existing pool with concrete.

We kindly ask for your assistance on this matter.

Should you have any questions, please call me.

Very truly yours,

Robert D. Triantos

RDT:rhy
4069843.1.023295-9
Enclosure

EXHIBIT 10

Stephen K. Yamashiro
Mayor

Jiro A. Sumada
Deputy Chief Engineer

County of Hawaii

'00 AUG -1 P12:35

DEPARTMENT OF PUBLIC WORKS
25 Aupuni Street, Room 202 • Hilo, Hawaii 96720-4252
(808) 961-8321 • Fax (808) 961-8630

July 28, 2000

Robert D. Triantos, Esq.
Carlsmith Ball
75-1000 Henry Street, Suite 209
Kailua-Kona, HI 96740

Subject: Draft Environmental Assessment Comments
Kailua Kona Village Development Group
Outdoor Seating Lanai Addition and Fill Swimming Pool
Kona Inn Shopping Village
TMK: 7-5-7:021

We reviewed the subject proposals and have the following revised comments:

Swimming Pool
We have no comments.

Deck
The project is within the Flood Hazard Zone VE on the Federal Insurance Rate Map which means the site is subject to coastal flooding and high velocity wave action. The deck shall be constructed as required under HCC Chapter 5, Building, and related construction codes and HCC Chapter 27, Flood Control. Documentation may be submitted to support exemption of the deck from Chapter 27 as an addition to a nonconforming structure for which improvements over the previous 3 years and the deck addition together do not constitute "substantial improvement"(See Definitions Section 27-12).

The U.S. Army Corps of Engineers and State Department of Land and Natural Resources should be consulted if the projects are makai of the certified shoreline.
If you have any questions regarding the above comments, please feel free to contact Kiran Emler of our Kona office at 327-3530.

Galen Kuba, Division Chief
Engineering Division

KE
xc: Eng.- Hilo

EXHIBIT 11

BUILDING DIVISION - DPW
COUNTY OF HAWAII - 25 AUPUNI STREET - HILO, HAWAII 96720
HILO OFFICE (808) 961-8331
KONA OFFICE (808) 327-3520

July 31, 2000

'00 AUG -1 P3:05

Mr. Robert D. Triantos
Carlsmith Ball Attorneys at Law
75-1000 Henry Street, Suite 209
Post Office Box 1720
Kailua-Kona, Hawaii 96745-1720

Subject: Request for Unsafe and Safety Hazard Determination of Existing Swimming Pool
Kona Inn Shopping Village
Tax Map Key: 7-5-007:021

The following is in response to your letter dated, July 20, 2000, concerning the above referenced request. Based on our walk though and inspection of the subject facility on July 28, 2000 we concur with your opinion and hereby declare to be public nuisances and shall be abated.

Shall you have any questions, please call Jai Ho Cheng at 961-8331. Thank you.

J. Cheng
for Stanley Takemura
Division Chief

JHC

EXHIBIT 12

Stephen K. Yamashiro
Mayor

Virginia Goldstein
Director

Norman Olesen
Deputy Director

August 24, 2000

County of Hawaii

'00 AUG 29 P3:22

PLANNING DEPARTMENT

25 Aupuni Street, Room 109 • Hilo, Hawaii 96720-4252
(808) 961-8288 • Fax (808) 961-9615

Mr. Robert D. Triantos
Carlsmith Ball
P.O. Box 1720
Kailua-Kona, Hawaii 96745

Dear Mr. Triantos:

Pre-Assessment Review for Draft Environmental Assessment for Proposed Improvements within the Kona Inn Shopping Center
TMK: 7-5-007: 021; North Kona, Hawaii

We apologize for the delay in responding to your submittal. We have completed our preliminary review of information regarding the preparation of a draft environmental assessment for certain improvements within the Kona Inn Shopping Village. The land use information cited within your letter dated May 31, 2000 and the accompanying narrative summary of the proposed project is accurate.

As requested in your letter, this proposal was also brought before the Kailua Village Design Commission at their August 1, 2000 hearing in order to solicit their comments for incorporation within the draft environmental assessment. We enclose the minutes for this hearing that details the comments expressed by the Commission regarding this project. In summary, the Commission expressed concerns regarding public access along the existing seawall, how the lanai addition will impact the area within the 40-foot shoreline setback area, and architectural and landscaping details for the project. Please ensure that these concerns are adequately addressed and responded to within the draft environmental assessment.

We will reserve further comment pending receipt of the draft environmental assessment. In the meantime, please do not hesitate to contact Daryn Arai of our Kona office at 327-3510 should you have any questions.

Sincerely,

VIRGINIA GOLDSTEIN
Planning Director

DSA:rld
LkonaInnEA.doc
Enclosure
xc: West Hawaii Office

MINUTES OF THE MEETING OF THE

KAILUA VILLAGE DESIGN COMMISSION

MEETING DATE: Tuesday, August 1, 2000

TIME: 5:00 PM

LOCATION: THE MAYOR'S OFFICE CONFERENCE ROOM, SUITE 103, HANAMA PLACE OFFICE BUILDING IN KAILUA VILLAGE

I. ADMINISTRATIVE MATTERS

A. ROLL CALL

1. Members present: Ron Aronson, Fanny AuHoy, Paul Bleck, Kevin Seiter, Robert Triantos, Robert Vander Veer.
2. Members excused: Kimi Cook-McKie, James Dumaguin, Garrett Webb.
3. Others present: William Kimi, Jr., William Kimi, III, Royden Yamasato
4. Staff present: Daryn Arai, Eleanor Mirikitani, Pamela Harlow.

Chairman Triantos declared there was a quorum and called the meeting to order at 5:00PM. Chairman Triantos described the advisory role of the KVDC and meeting procedures.

B. MINUTES

The minutes of July 11, 2000, were reviewed and approved as circulated.

Chairman Triantos then asked that the remaining administrative matters be deferred until the end of the meeting.

II. OLD BUSINESS

None.

III. NEW BUSINESS

1. Pre-Assessment review for draft environmental assessment for the Kona Inn Shopping Center regarding the construction an outdoor seating lanai addition on the makai side of the former Drysdale Restaurant and the filling of an existing swimming pool located at the southern end of the project site with concrete, all of which will be located within the 40-foot shoreline setback area.

STAFF'S PRESENTATION

Staff gave a brief presentation on the request for the review and comments regarding the preparation of a draft environmental assessment for the proposed project. Staff highlighted the location of the subject property as well as the specific areas within the Kona Inn Shopping Village Center that will be affected by the proposed request, which includes the filling of an existing swimming pool with concrete to level the site as well as the construction of a new lanai, both of which will extend within the County's 40-foot shoreline setback area. Staff noted that the proposed improvements have triggered the need to prepare an environmental assessment in accordance with the State's Environmental Impact Statement laws and rules and the purpose of the meeting is to solicit any comments the Commissioners may have regarding the project. Any comments offered will be considered as the applicant prepares the environmental assessment.

APPLICANT'S PRESENTATION

Mr. Royden Yamasato, representing the applicant, shared with the Commissioners additional details regarding the proposed improvements. Swimming pool will be filled with concrete to level with existing deck and the construction of a lanai addition for outdoor seating. Also described shoreline public access through project site.

COMMISSIONERS' DISCUSSIONS/QUESTIONS

In response to various questions from the Commissioners, Mr. Yamasato responded that the pool will be filled with concrete to create an additional seating area. He also elaborated on the availability of shoreline public access fronting the project site in response to concerns expressed about the difficulty of traversing over sections of the seawall fronting property. An existing wall that blocked access has been removed and the project itself will enhance access to the shoreline area with the addition of a stairway from the proposed lanai addition to the shoreline area.

Mr. Yamasato noted that the grass area makai of the Kona Inn Shopping Center was the site of a former heiau. A condition of approval of an SMA Use Permit previously issued required the maintenance of the grass area as open space. Commissioner Vander Veer noted that SMA Use Permit wanted to preserve the existing open space makai of the existing development. Concerned about the development of what is now a public area. Mr. Yamasato noted that improvements will not occur within 20 feet of what they expect to be the certified shoreline along the makai side of seawall.

In response to Commissioner Seiter, Mr. Yamasato stated that no beach nourishment is being considered as part of this project. The Kailua Village Master Plan discusses beach nourishment as an option, but is not a part of this project.

Mr. Yamasato confirmed that the Commission will be presented with additional details regarding architectural and landscaping details of the project as the applicant prepares its environmental assessment as well as the application for a Shoreline Setback Variance application and Special Management Area Minor Use Permit.

Commissioner Bleck expressed concerns regarding how the proposed lanai addition will create a crowded feeling in that portion of the project site. Mr. Yamasato responded that the project will actually open the area up by enhancing the use of an area that is currently not utilized.

PUBLIC COMMENTS ON THE APPLICATION

None.

ACTION

Staff noted that the applicant will be served with letter from the Planning Department summarizing the comments expressed by the Commission to be incorporated within their development of the environmental assessment of the proposed project.

I. ADMINISTRATIVE MATTERS (Continued)

C. CORRESPONDENCE AND REPORTS

None.

D. ANNOUNCEMENTS

1. Staff planner Daryn Arai announced to the Commission of the Planning Director's effort for greater efficiencies in the processing of applications being considered by the Kailua Village Design Commission. For projects that require the issuance of multiple permits or review approvals for the same project, the Planning Director will use her discretion to bring select application(s) to the Commission for its review and recommendation in lieu of scheduling each and every application for review. These selective reviews will reduce redundancies in the review processes that create hardship on the Planning Department when such application reviews contain processing deadlines. The Commissioners were assured that the best opportunity for review of such multiple-application projects will be preserved.

   Commissioners expressed concerns about this effort for greater processing efficiencies and cited instances where these multiple reviews for the same project has resulted in a favorable outcome. Concerns were expressed that such efforts appear to be "short-

circuiting" the efforts of the Commission to provide their input into the development of projects.

Concerns were also expressed about the need for increased public awareness of the Kailua Village Design Commission hearings since attendance by the public has appeared to fall off. Staff noted that all publications are now accomplished through a mail bulletin and not the newspapers. Commissioner Seiter expressed that the newspapers should be used for public hearing notices. Commissioner Seiter also noted that the Commission should be given greater authorities to review various projects than just a design review commission.
Staff expressed that the concerns and comments of the Commission regarding selective application reviews and the need for greater public awareness of its hearings will be brought to the attention of the Planning Director.

IV. ADJOURNMENT

The meeting was adjourned at approximately 5:50 PM.

Respectfully submitted,

ROBERT D. TRIANTOS, CHAIRMAN

EXHIBIT 13

CARLSMITH BALL LLP

ATTORNEYS AT LAW
A LIMITED LIABILITY LAW PARTNERSHIP

75-1000 HENRY STREET, SUITE 202
P.O. BOX 1720
KAILUA-KONA, HAWAII 96745-1720
TELEPHONE (808) 329-6464 FAX (808) 329-9450
WWW.CARLSMITH.COM

OUR REFERENCE NO. 023295-9

FILE COPY

00 SEP 22 A8:07

September 21, 2000

Ms. Virginia Goldstein, Planning Director
County of Hawaii, Planning Department
25 Aupuni Street
Hilo, Hawaii 96720

Re: Submission of Draft Environmental Assessment for Anticipated FONSI Determination
Owner: Kailua Kona Village Development Group
Request: Outdoor Seating Lanai to Existing Restaurant & Filling of Existing Swimming Pool within the Shoreline Setback.
Kailua Village Special District
Special Management Area
Tax Map Key: 7-5-007: 021

Dear Ms. Goldstein:

Pursuant to the requirements of Title 11, Chapter 200, Section 11-200-11.1, we have enclosed the Original and 4 copies of a Draft Environmental Assessment and request your favorable consideration of the Finding of No Significant Impact (FONSI) for the above-referenced proposed actions.

Should you have any questions, please call me.

Very truly yours,

Robert D. Triantos

RDT:rhy
4072229.1.023295-9
cc: William J. Kimi Jr.
Enclosures

EXHIBIT 14

DECEMBER 8, 2000

Draft Environmental Assessments

(1) Kona Inn Shopping Village Improvements

District: North Kona
TMK: 7-5-07: 21; Keopu 3rd, Honuaula 1st and Hienaloli 1st
Applicant: Kailua Kona Village Development Group
c/o Robert D. Triantos, Esq., Carlsmith Ball
75-1000 Henry Street, Suite 209
Kailua-Kona, Hawai'i 96740
Contact: Robert D. Triantos (329-6464)
Approving Agency/Accepting Authority: County of Hawai'i Planning Department
25 Aupuni Street, Room 109
Hilo, Hawai'i 96720
Contact: Daryn Arai (327-3510)
Public Comment Deadline: January 8, 2001
Status: DEA First Notice pending public comment. Address comments to the applicant with copies to the approving agency or accepting authority, the consultant and OEQC.
Permits Required: SSV, SMA

The applicant is requesting various improvements within portions of the existing Kona Inn Shopping Village, situated along the makai side of Ali'i Drive between Hulihe'e Palace to the North and Hale Halawai Park to the south. The applicant is requesting a Shoreline Setback Variance from the Planning Commission to allow the following improvements to be situated within the County's minimum 40-foot shoreline setback area:

1. construction of an outdoor seating lanai addition to an existing restaurant building that will project 20 feet into the 40-foot shoreline setback area. The 1,992 sf addition will cost approximately $100,000 and be of a split-level (terraced) design. The terraced lanai seating area will elevated approximately 7 and 8 feet above existing grade. No roof covering over this lanai will be constructed. The applicant has noted that the proposed lanai addition will not extend makai of the line of other improvements situated to the south of the affected area.

2. filling of an abandoned swimming pool with concrete. The existing swimming pool has fallen into disrepair and is considered a hazard. The pool will be filled with concrete to level it with the existing concrete pool deck.

All of the proposed improvements will be situated makai of the existing buildings that make up the Kona Inn Shopping Village.

Final Environmental Assessments/Findings of No Significant Impacts (FONSI)

(2) Happy Homes Subdivision Pipeline Replacement

District: Puna
TMK: 1-7-17: 14, 15, 18

EXHIBIT 15

CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

75-1000 HENRY STREET, SUITE 209
P.O. BOX 1720
KAILUA-KONA, HAWAII 96745-1720
TELEPHONE (808) 329-6464 FAX (808) 329-9450
WWW.CARLSMITH.COM

FACSIMILE TRANSMISSION

UNLESS OTHERWISE INDICATED OR OBVIOUS FROM THE NATURE OF THE TRANSMITTAL, THE INFORMATION CONTAINED IN THIS FACSIMILE MESSAGE IS ATTORNEY PRIVILEGED AND CONFIDENTIAL INFORMATION INTENDED FOR THE USE OF THE INDIVIDUAL OR ENTITY NAMED BELOW. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT, OR THE EMPLOYEE OR AGENT RESPONSIBLE FOR DELIVERING IT TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR OR ARE NOT SURE WHETHER IT IS PRIVILEGED, PLEASE IMMEDIATELY NOTIFY US BY COLLECT TELEPHONE AND RETURN THE ORIGINAL MESSAGE TO US AT THE ABOVE ADDRESS VIA THE U.S. POSTAL SERVICE AT OUR EXPENSE. THANK YOU.

DATE: December 12, 2000

TO: Name	Fax No.	Phone No.
Ms. Nancy Heinrich Office of Environmental Quality Control	(808) 586-4186	(808) 586-4185

FROM: Robert D. Triantos R. Triantos

NUMBER OF PAGES INCLUDING THIS COVER SHEET: 9

CASE NAME: Kailua Kona Village Development Group Draft EA
CASE NUMBER:

☐ ORIGINAL/COPY WILL BE MAILED ☒ ORIGINAL/COPY WILL NOT BE MAILED

MESSAGE: We have enclosed copies of the letters of transmittal to the agencies and community groups that have been sent a copy of the Draft Environmental Assessment.

Thank you for your assistance on this matter.

Please inform us of the next step in this process.

Should you have any questions, please call Royden at 329-6464.

If problems occur, please call Royden at (808) 329-6464.

CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

75-1000 HENRY STREET, SUITE 209
P.O. BOX 1720
KAILUA-KONA, HAWAII 96745-1720
TELEPHONE (808) 329-6464 FAX (808) 329-9450
WWW.CARLSMITH.COM

'00 DEC 12 A11 :53

LETTER OF TRANSMITTAL

TO: State of Hawaii
Kailua-Kona Public Library

DATE: December 12, 2000

RE: Kailua Kona Village Development Group - Draft Environmental Assessment

[x] Mailed [X] Hand Delivered [ ]

THE FOLLOWING IS (ARE) TRANSMITTED HEREWITH:

COPIES	DATE	DESCRIPTION
1	December 12, 2000	Draft Environmental Assessment Applicant: Kailua Kona Village Development Group

[ ] For Your Information	[ ] For Review and Comment
[X] For Your Files	[ ] For Necessary Action
[ ] Per Your Request	[ ] For Signature and Return **(Black Ink)**
[ ] Per Our Conversation	[ ] See Remarks below

REMARKS: Pursuant to the Requirements of Title 11, Chapter 200, Subchapter 6, Section 11-200-9, we are transmitting the above-referenced matter for public review and comments. Any person who has any comments or questions on this matter may contact our office at 329-6464 or the Office of Environmental Quality Control at this toll free number 974-400, ext. 64185 or 586-4185. We would appreciate that this document be placed on the reserve list.

By _____
Robert D. Triantos

cc: Office of Environmental Quality Control

CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

75-1000 HENRY STREET, SUITE 209
P.O. BOX 1720
KAILUA-KONA, HAWAII 96745-1720
TELEPHONE (808) 329-6464 FAX (808) 329-9450
WWW.CARLSMITH.COM

'00 DEC 12 A11:53

LETTER OF TRANSMITTAL

TO: Mr. Kiran Emler,
DPW, Engineering Division
75-5706 Kuakini Highway, Suite 109
Kailua-Kona, HI 96740

DATE: December 12, 2000

RE: Kailua Kona Village Development Group - Draft Environmental Assessment

☐ Mailed ☒ Hand Delivered ☐

THE FOLLOWING IS (ARE) TRANSMITTED HEREWITH:

COPIES	DATE	DESCRIPTION
1	December 12, 2000	Draft Environmental Assessment Applicant: Kailua Kona Village Development Group

☐ For Your Information
☐ For Your Files
☐ Per Your Request
☐ Per Our Conversation
☒ For Review and Comment
☐ For Necessary Action
☐ For Signature and Return **(Black Ink)**
☐ See Remarks below

REMARKS: Pursuant to the Requirements of Title 11, Chapter 200, Subchapter 6, Section 11-200-9, we are transmitting the above-referenced matter for public review and comments. Please send or call us if you have any comments or questions on this matter. You may contact our office at 329-6464 or the Office of Environmental Quality Control at this toll free number 974-400, ext. 64185 or 586-4185.

By Robert D. Triantos

Robert D. Triantos

cc: Office of Environmental Quality Control

CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

75-1000 HENRY STREET, SUITE 209
P.O. BOX 1720
KAILUA-KONA, HAWAII 96745-1720
TELEPHONE (808) 329-6464 FAX (808) 329-9450
WWW.CARLSMITH.COM

'00 DEC 12 A11 :53

LETTER OF TRANSMITTAL

TO: Kailua Village Design Commission
c/o Planning Department
75-5706 Kuakini Highway, Suite 109
Kailua-Kona, Hawaii 96740

DATE: December 12, 2000

RE: Kailua Kona Village Development Group - Draft Environmental Assessment

☐ Mailed ☒ Hand Delivered ☐

THE FOLLOWING IS (ARE) TRANSMITTED HEREWITH:

COPIES	DATE	DESCRIPTION
1	December 12, 2000	Draft Environmental Assessment Applicant: Kailua Kona Village Development Group

☐ For Your Information	☒ For Review and Comment
☐ For Your Files	☐ For Necessary Action
☐ Per Your Request	☐ For Signature and Return **(Black Ink)**
☐ Per Our Conversation	☐ See Remarks below

REMARKS: Pursuant to the Requirements of Title 11, Chapter 200, Subchapter 6, Section 11-200-9, we are transmitting the above-referenced matter for public review and comments. Please send or call us if you have any comments or questions on this matter. You may contact our office at 329-6464 or the Office of Environmental Quality Control at this toll free number 974-400, ext. 64185 or 586-4185.

By

Robert D. Triantos

cc: Office of Environmental Quality Control

CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

75-1000 HENRY STREET, SUITE 209
P.O. BOX 1720
KAILUA-KONA, HAWAII 96745-1720
TELEPHONE (808) 329-6464 FAX (808) 329-9450
WWW.CARLSMITH.COM

'00 DEC 12 A11:53

LETTER OF TRANSMITTAL

TO: Ms. Nina Lincoln, Interim Curator
Hulihee Palace
75-5718 Alii Drive
Kailua-Kona, HI 96740

DATE: December 12, 2000

RE: Kailua Kona Village Development Group - Draft Environmental Assessment

☐ Mailed ☒ Hand Delivered ☐

THE FOLLOWING IS (ARE) TRANSMITTED HEREWITH:

COPIES	DATE	DESCRIPTION
1	December 12, 2000	Draft Environmental Assessment Applicant: Kailua Kona Village Development Group

☐ For Your Information	☒ For Review and Comment
☐ For Your Files	☐ For Necessary Action
☐ Per Your Request	☐ For Signature and Return **(Black Ink)**
☐ Per Our Conversation	☐ See Remarks below

REMARKS: Pursuant to the Requirements of Title 11, Chapter 200, Subchapter 6, Section 11-200-9, we are transmitting the above-referenced matter for public review and comments. Please send or call us if you have any comments or questions on this matter. You may contact our office at 329-6464 or the Office of Environmental Quality Control at this toll free number 974-400, ext. 64185 or 586-4185.

By

Robert D. Triantos

cc: Office of Environmental Quality Control

CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

75-1000 HENRY STREET, SUITE 209
P.O. BOX 1720
KAILUA-KONA, HAWAII 96745-1720
TELEPHONE (808) 329-6464 FAX (808) 329-9450
WWW.CARLSMITH.COM

'00 DEC 12 A11 :53

LETTER OF TRANSMITTAL

TO: Mrs. Ruby McDonald
Office of Hawaiian Affairs
75-5706 Hanama Place, Suite 107
Kailua-Kona, Hawaii 96740

DATE: December 12, 2000

RE: Kailua Kona Village Development Group - Draft Environmental Assessment

☐ Mailed ☒ Hand Delivered ☐

THE FOLLOWING IS (ARE) TRANSMITTED HEREWITH:

COPIES	DATE	DESCRIPTION
1	December 12, 2000	Draft Environmental Assessment Applicant: Kailua Kona Village Development Group

☐ For Your Information
☐ For Your Files
☐ Per Your Request
☐ Per Our Conversation
☒ For Review and Comment
☐ For Necessary Action
☐ For Signature and Return **(Black Ink)**
☐ See Remarks below

REMARKS: Pursuant to the Requirements of Title 11, Chapter 200, Subchapter 6, Section 11-200-9, we are transmitting the above-referenced matter for public review and comments. Please send or call us if you have any comments or questions on this matter. You may contact our office at 329-6464 or the Office of Environmental Quality Control at this toll free number 974-400, ext. 64185 or 586-4185.

By

Robert D. Triantos

cc: Office of Environmental Quality Control

CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

75-1000 HENRY STREET, SUITE 209
P.O. BOX 1720
KAILUA-KONA, HAWAII 96745-1720
TELEPHONE (808) 329-6464 FAX (808) 329-9450
WWW.CARLSMITH.COM

'00 DEC 12 A11:53

LETTER OF TRANSMITTAL

TO: Mr. Mark Smith
DLNR, State Historic Preservation Division
P.O. Box 936
Hilo, HI 96720

DATE: December 12, 2000

RE: Kailua Kona Village Development Group - Draft Environmental Assessment

[X] Mailed [ ] Hand Delivered [ ]

THE FOLLOWING IS (ARE) TRANSMITTED HEREWITH:

COPIES	DATE	DESCRIPTION
1	December 12, 2000	Draft Environmental Assessment Applicant: Kailua Kona Village Development Group

[ ] For Your Information	[X] For Review and Comment
[ ] For Your Files	[ ] For Necessary Action
[ ] Per Your Request	[ ] For Signature and Return **(Black Ink)**
[ ] Per Our Conversation	[ ] See Remarks below

REMARKS: Pursuant to the Requirements of Title 11, Chapter 200, Subchapter 6, Section 11-200-9, we are transmitting the above-referenced matter for public review and comments. Please send or call us if you have any comments or questions on this matter. You may contact our office at 329-6464 or the Office of Environmental Quality Control at this toll free number 974-400, ext. 64185 or 586-4185.

By

Robert D. Triantos

cc: Office of Environmental Quality Control

CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

75-1000 HENRY STREET, SUITE 209
P.O. BOX 1720
KAILUA-KONA, HAWAII 96745-1720
TELEPHONE (808) 329-6464 FAX (808) 329-9450
WWW.CARLSMITH.COM

'00 DEC 12 A11:53

LETTER OF TRANSMITTAL

TO: Mr. Collin Kippen, Deputy Administrator
Office of Hawaiian Affairs
711 Kapiolani Boulevard, 5th Floor
Honolulu, HI 96813

DATE: December 12, 2000

RE: Kailua Kona Village Development Group - Draft Environmental Assessment

[X] Mailed [ ] Hand Delivered [ ]

THE FOLLOWING IS (ARE) TRANSMITTED HEREWITH:

COPIES	DATE	DESCRIPTION
1	December 12, 2000	Draft Environmental Assessment Applicant: Kailua Kona Village Development Group

[ ] For Your Information	[X] For Review and Comment
[ ] For Your Files	[ ] For Necessary Action
[ ] Per Your Request	[ ] For Signature and Return **(Black Ink)**
[ ] Per Our Conversation	[ ] See Remarks below

REMARKS: Pursuant to the Requirements of Title 11, Chapter 200, Subchapter 6, Section 11-200-9, we are transmitting the above-referenced matter for public review and comments. Please send or call us if you have any comments or questions on this matter. You may contact our office at 329-6464 or the Office of Environmental Quality Control at this toll free number 974-400, ext. 64185 or 586-4185.

By

Robert D. Triantos

cc: Office of Environmental Quality Control

CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

75-1000 HENRY STREET, SUITE 209
P.O. BOX 1720
KAILUA-KONA, HAWAII 96745-1720
TELEPHONE (808) 329-6464 FAX (808) 329-9450
WWW.CARLSMITH.COM

'00 DEC 12 A11:53

LETTER OF TRANSMITTAL

TO: Mr. Harry Yada
DLNR, Land Management Division
75 Aupuni Street
Hilo, Hawaii 96720

DATE: December 12, 2000

RE: Kailua Kona Village Development Group - Draft Environmental Assessment

[X] Mailed [ ] Hand Delivered [ ]

THE FOLLOWING IS (ARE) TRANSMITTED HEREWITH:

COPIES	DATE	DESCRIPTION
1	December 12, 2000	Draft Environmental Assessment Applicant: Kailua Kona Village Development Group

[ ] For Your Information	[X] For Review and Comment
[ ] For Your Files	[ ] For Necessary Action
[ ] Per Your Request	[ ] For Signature and Return **(Black Ink)**
[ ] Per Our Conversation	[ ] See Remarks below

REMARKS: Pursuant to the Requirements of Title 11, Chapter 200, Subchapter 6, Section 11-200-9, we are transmitting the above-referenced matter for public review and comments. Please send or call us if you have any comments or questions on this matter. You may contact our office at 329-6464 or the Office of Environmental Quality Control at this toll free number 974-400, ext. 64185 or 586-4185.

By

Robert D. Triantos

cc: Office of Environmental Quality Control

EXHIBIT 16

CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

75-1000 HENRY STREET, SUITE 209
P.O. BOX 1720
KAILUA-KONA, HAWAII 96745-1720
TELEPHONE (808) 329-6464 FAX (808) 329-9450
WWW.CARLSMITH.COM

DEC 13 11 14 AM '00

LETTER OF TRANSMITTAL

TO: Mr. Harry Yada
DLNR, Land Management Division
75 Aupuni Street
Hilo, Hawaii 96720

DATE: December 12, 2000

RE: Kailua Kona Village Development Group - Draft Environmental Assessment

[X] Mailed [ ] Hand Delivered [ ]

THE FOLLOWING IS (ARE) TRANSMITTED HEREWITH:

COPIES	DATE	DESCRIPTION
1	December 12, 2000	Draft Environmental Assessment Applicant: Kailua Kona Village Development Group

[ ] For Your Information	[X] For Review and Comment
[ ] For Your Files	[ ] For Necessary Action
[ ] Per Your Request	[ ] For Signature and Return **(Black Ink)**
[ ] Per Our Conversation	[ ] See Remarks below

REMARKS: Pursuant to the Requirements of Title 11, Chapter 200, Subchapter 6, Section 11-200-9, we are transmitting the above-referenced matter for public review and comments. Please send or call us if you have any comments or questions on this matter. You may contact our office at 329-6464 or the Office of Environmental Quality Control at this toll free number 974-400, ext. 64185 or 586-4185.

By

Robert D. Triantos

cc: Office of Environmental Quality Control

The DLNR Land Division (HI District Branch) has no comments regarding this request.

EXHIBIT 17

KKUDG c/o ROBERT TRIBONITOS FAX 329-9450
CC VIA FAX TO 327-3563

TO DARYN ARAI: PLANNING DEPT

FROM BRIAN MCCOURT, KONA RESIDENT
P O BOX 2200 KAILUA-KONA HI 96745-2200 TEL 325-6497 FAX 325-7902

REGARDING (3) 7-5-7:21 DEA PUBLIC COMMENT
KAILUA KONA VILLAGE DEVELOPMENT GROUP

TO WHOM IT MAY CONCERN:

PLEASE ENSURE THAT NO EXTENSIONS AND/OR ADDITIONAL LEGAL/ILLEGAL ENCROACHMENTS INTO THE SHORELINE SET BACK AREA ARE ALLOWED UNLESS A CLEARLY MARKED AND EASILY PASSABLE PEDESTRIAN FOOTPATH IS CONSTRUCTED ALLOWING UNRESTRICTED ACCESS ALONG THE SHORELINE. OVER THE YEARS, VARIOUS LEGAL &/OR ILLEGAL WALLS AND OTHER BARRIERS HAVE BEEN CONSTRUCTED WHICH EFFECTIVELY PREVENT LATERAL ACCESS ALONG THE SHORELINE FRONTING THIS PROPER-ENCES & RESTAURANTS APPEAR TO HAVE BEEN SPECIFICALLY AND CAREFULLY DESIGNED TO MAXIMIZE SUCH OBSTRUCTION.

Brian McCourt 12/18/00

EXHIBIT 18

CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

75-1000 HENRY STREET, SUITE 209
P.O. BOX 1720
KAILUA-KONA, HAWAII 96745-1720
TELEPHONE (808) 329-6464 FAX (808) 329-9450
WWW.CARLSMITH.COM

December 19, 2000

Mr. Brian McCourt
P.O. Box 2200
Kailua-Kona, HI 96745-2200

Re: Draft Environmental Assessment
Kailua Kona Village Development Group
Tax Map Key: 7-5-007: 021

Dear Mr. McCourt:

Thank you for your comments on the above-referenced matter. The applicant is well aware of the "Public Access" requirements. For your information, the existing seawall along the coastal frontage of the above-referenced property is a Public Shoreline Access that has been approved by the Planning Commission and Planning Department. We have also enclosed a summary of the project and architectural plans of the proposed improvements. As you will note on the plans, a stairway to the ground level is also being proposed with the new lanai addition. Therefore, the applicant will be providing additional access for the general public to the coastal area of the above-referenced property. A copy of the full Draft Environmental Assessment is also available at the Kailua-Kona Library reference section. However, should you have any further questions on the project, please do not hesitate to call me.

Very truly yours,

Robert D. Triantos

RDT:rhy
4075101.1.023295-9
cc: Planning Department

EXHIBIT 19

✓	RDT	
	SHE	
	KEM	
	EWH	
✓	RHY	✓
	DK	
	JA	
	CW	
✓	LA	
	IY	
	Client	
	CAI	
	To Do	
	File	
	See Me	

Fax Transmittal Cover Sheet

'00 DEC 20 P4:51

via fax to: KKVDG c/o Robert Triantos, 329-9450

cc via fax to: Daryn Arai, Planning Department, 327-3563

From: Brian McCourt (Home tel: (808) 325-6497
(from 6:45 a.m.
e-mail: mccourt@kona.net (Home fax: (808) 325-7902

Date: December 20, 2000

1 Page Cover Sheet
\+ 1 Page 12/18/00 fax to KKVDG
---
2 Pages total, including cover

Message

Re: DEA Public Comment

(3) 7-5-7: 21, Kailua Kona Village Development Group

To whom it may concern:

Please DISREGARD IN ITS ENTIRETY my 12/18/00 fax (a copy of which is attached for reference) and all comments made by me therein.

If you have any questions, please call me at 325-6497 (home office). I can always be reached there between 6:45 and 7:45 a.m., or you may leave a voice message at any time thereafter and I will return your call as soon as possible.

I can also be reached by e-mail to: mccourt@kona.net

Sincerely,

Brian McCourt, Kona Resident

kkvdgf1.doc

KKVDG c/o ROBERT TRIONTOS. FAX 329-4450
CC VIA FAX TO 327-3563

TO DARYN ARAI: PLANNING DEPT

FROM BRIAN MCCOURT, KONA RESIDENT
P O BOX 2200 KAILUA-KONA HI 96745-2200 TEL 325-6497 FAX 325-7902

REGARDING (3) 7-5-7:21 DEA PUBLIC COMMENT
KAILUA KONA VILLAGE DEVELOPMENT GROUP

TO WHOM IT MAY CONCERN:

PLEASE ENSURE THAT NO EXTENSIONS AND/OR ADDITIONAL LEGAL/ILLEGAL ENCROACHMENTS INTO THE SHORELINE SET BACK AREA ARE ALLOWED UNLESS A CLEARLY MARKED AND EASILY PASSABLE PEDESTRIAN FOOTPATH IS CONSTRUCTED ALLOWING UNRESTRICTED ACCESS ALONG THE SHORELINE. OVER THE YEARS, VARIOUS LEGAL &/OR ILLEGAL WALLS AND OTHER BARRIERS HAVE BEEN CONSTRUCTED WHICH EFFECTIVELY PREVENT LATERAL ACCESS ALONG THE SHORELINE FRONTING THIS PROPERTY. FENCES & RESTAURANTS APPEAR TO HAVE BEEN SPECIFICALLY AND CAREFULLY DESIGNED TO MAXIMIZE SUCH OBSTRUCTION.

Brian McCourt 12/18/00

EXHIBIT 20

BENJAMIN J. CAYETANO
GOVERNOR

GENEVIEVE SALMONSON
DIRECTOR

STATE OF HAWAII
OFFICE OF ENVIRONMENTAL QUALITY CONTROL
235 SOUTH BERETANIA STREET
SUITE 702
HONOLULU, HAWAII 96813
TELEPHONE (808) 586-4185
FACSIMILE (808) 586-4186

December 21, 2000

Christopher Yuen
County Planning Department
25 Aupuni Street #109
Hilo, HI 96720

Attention: Daryn Arai

Dear Mr. Yuen:

Subject: Draft Environmental Assessment (EA) for **Kona Inn Shopping Village Improvements**

We have the following comments:

1. Contacts: In the final EA document all community contacts or presentations you've made and include copies of any correspondence.

2. Cultural impacts assessment: Act 50 was passed by the Legislature in April of 2000. This mandates an assessment of impacts to local cultural practices by the proposed project. In the final EA include such an assessment. For assistance in the preparation refer to our *Guidelines for Assessing Cultural Impacts*. Contact our office for a paper copy or go to our homepage at *http://www.state.hi.us/health/oeqc/index.html*. The Office of Hawaiian Affairs may also be able to assist you. You will find the text of Act 50 linked to this section of our homepage.

3. District boundaries: In the final EA enclose a Land Use Commission map which clearly shows the makai boundary of the Urban District. Will the lanai intrude into the Conservation District? Will a Conservation District Use permit be required?

4. Location of lanai: In the final EA enclose a photo of the lawn area with a superimposed rendering of the proposed lanai and proposed stairway that shows the final appearance of the project.

5. Mitigation measures: How will construction runoff be prevented from entering nearshore waters or the adjacent coastal area?

6. Shoreline access: The draft EA states that a new stairway to the lawn area will be constructed from the proposed lanai. How will pedestrians access the new stairway? Will they have to cut through the restaurant? If so, what will be the pedestrian route when the restaurant is closed? In the final EA enclose a drawing or diagram that shows the route (or routes) from the Alii Drive to the lanai.

If you have any questions, please call Nancy Heinrich at 586-4185.

Sincerely,

GENEVIEVE SALMONSON
Director

c: Robert Triantos, Carlsmith Ball

EXHIBIT 21

CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

75-1000 HENRY STREET, SUITE 209
P.O. BOX 1720
KAILUA-KONA, HAWAII 96745-1720
TELEPHONE (808) 329-6464 FAX (808) 329-9450
WWW.CARLSMITH.COM

FILE COPY

'00 DEC 22 AM 10:08

December 22, 2000

Mr. Brian McCourt
P.O. Box 2200
Kailua-Kona, HI 96745-2200

Re: Draft Environmental Assessment
Kailua Kona Village Development Group
Tax Map Key: 7-5-007: 021

Dear Mr. McCourt:

This is to acknowledge receipt of your fax dated December 20, 2000, requesting that your comments dated December 18, 2000 on the above-referenced matter be disregarded in their entirety.

However, should you have any further questions on the project, please do not hesitate to call me.

Very truly yours,

Robert D. Triantos

RDT:rhy
4075240.1.023295-9
cc: Planning Department

EXHIBIT 22

Onizuka Science Day set at UH-Hilo

By DONALD ALLISON
West Hawaii Today

Students from Big Island public and private schools will be treated to a free day of interactive science education during this month's Astronaut Ellison Onizuka Science Day at University of Hawaii — Hilo.

The 300 fifth through 12th grade students will participate in scientific workshops, hands-on exhibits and learning sessions during the Jan. 27 event.

Registration forms for Astronaut Ellison Onizuka Science Day are available at principal's offices at public and private schools across the island.

Transportation will be provided for students from West Hawaii schools.

NASA astronaut Dr. Steve Hawley, veteran of four space shuttle flights, is scheduled as the keynote speaker. He will speak from 1:30 p.m. to 2:30 p.m. in the University Theater and his presentation is open to the public.

Raised in West Hawaii and a graduate of Konawaena High School, Onizuka was killed Jan. 28, 1986 when the space shuttle Challenger exploded 73 seconds after liftoff.

UH Hilo Chancellor Rose Tseng said many schools across the country help keep Onizuka's memory alive with science education days in his honor.

"Because astronaut Ellison Onizuka was born and raised here on the Island of Hawaii, his life achievements serve as an excellent role model for our island's children," Tseng said.

"With astronaut Ellison Onizuka Science Day," she said "we honor his commitment to sharing knowledge about science with the community."

The event is a collaborative effort between members of the Big Island scientific community, the State Department of Education, NASA and UH Hilo faculty.

For further information on the event, call the Office of University Relations at 808-974-7642 or 808-974-7501.

...Kona vacancies on several panels

From Page 1A

(the administration), the council and the people volunteering, the numbers will be there," he said. "It's a matter of screening out (to find) the actual commissioners."

Council members already must confirm most of the nominations to boards and commissions. However, Kim has said he wants to get the council more involved in the entire process. He said council members are more familiar with potential candidates from their own districts.

Kona Councilman Curtis Tyler said he has received the request from the administration. He said community members also have approached him about serving the various commissions.

"These are major volunteer appointments. They carry a lot of authority and respect," Tyler said. "It's important that (Kim) talk to the people who are closest to the potential appointees."

Besides the new fire and environmental management commissions, Tyler's district also has openings on the Police Commission and Planning Commission.

Hatada said the administration has put a high priority on filling the fire, environmental management and planning commissions, as well as the five-member Board of Ethics, which has one vacancy.

The Reapportionment Commission must be in place by March 1, according to the County Charter. The Cost of Government Commission is to meet every two years and doesn't to be in place until next year, Hatada said.

Those interested in serving on a board or commission are urged to call the Information and Complaint Office at 961-8223.

...Anonymous callers help solve crimes

From Page 1A

formed West Hawaii Crime Stoppers. The Pratts also donated program start-up funds.

Pratt said West Hawaii Crime Stoppers is a non-profit corporation based on the principal that "someone other than the criminal has information that would solve the crime."

ber and do not give their names. If the information leads to an arrest, the caller is entitled to a reward of up to $1,000.

Police ask that tipsters provide as many details available as possible in order to assist the detectives.

West Hawaii Crime Stoppers also helps the long arm of the law [illegible]

case, Pratt said.

"The informant called West Hawaii Crime Stoppers and the person was extradited back to Montana," he said. "They solve cases for us, too."

Contacts:

Residents with information [illegible]

Owner seeks OK for Kona Inn improvements

By BOBBY COMMAND
West Hawaii Today

The owner of Kona Inn Shopping Village wants to fill the former hotel's abandoned saltwater pool and build an outdoor seating lanai to an existing restaurant.

Uncle Billy Kimi of the Kailua-Kona Village Development Group is asking the county Planning Department for a Shoreline Management Area permit, as well as a shoreline setback variance to make the improvements at the historic structure.

Proposed improvements, estimated at $116,000, would take place within the shoreline area, so the plans have triggered the state's environmental impact statement process.

The terraced lanai will be on the makai side of Kona Inn, near the location of the old Drysdale's restaurant.

The pool is on the south side of the property in front of the old Fisherman's Landing restaurant. It was once an activity center for locals and tourists but has fallen into disrepair and is now considered a hazard.

Kona Inn was built in 1928 by the Interisland Steamship Co., after the company unsuccessfully proposed to tear down Hulihee Palace. The old hotel section of the Kona Inn was designed by Hawaii's foremost architect, C.W. Dickey.

The county has already determined that more parking will not be needed for the improvements. The Kona Inn Shopping Village already has 241 existing parking stalls, and that exceeds the county's minimum requirements of one stall per 200 feet of gross floor space.

Kimi was not available to comment on this story.

The county will accept comments on the project through Monday.

Those wishing to comment on the proposal may call the county Planning Department at 327-3510, or submit written comment to the department at 25 Aupuni St. Room 209, Hilo, HI 96720.

Big Island Briefs

Marriott not buying Kona Surf

Reports circulating in the community that Marriott Hotels is buying the Kona Surf are not true. A Marriott spokesman said Thursday the company is aware the property is for sale, but is "not involved."

Generator tripped off-line

More than 7,000 customers were without power for 12 minutes Thursday evening after Hamakua Energy Partner's generator tripped off-line, according to a written statement from Hawaii Electric Light Co. (HELCO).

Power to 7,171 customers in Kealia, Kailua-Kona, South Hilo along Railroad Avenue, Kanoelehua Avenues, and in Waiakea along Kawailani Street was knocked out at 9:27 p.m. and restored when an additional generator was started.

The cause of the outage [illegible]

EXHIBIT 23

University of Hawai'i at Mānoa

Environmental Center
A Unit of Water Resources Research Center
2550 Campus Road • Crawford 317 • Honolulu, Hawai'i 96822
Telephone: (808) 956-7361 • Facsimile: (808) 956-3980

January 9, 2001
EA: 0251

Kailua Kona Village Development Group
C/o Mr. Robert D. Triantos Esq.
Carlsmith Ball
75-1000 Henry Street, Suite 209
Kailua-Kona, Hawaii 96740

Dear Mr. Triantos:

Kona Inn Shopping Village Improvements
Draft Environmental Assessment
North Kona, Hawaii

The Kailua Kona Village Development Group proposes to construct an outdoor seating lanai and fill an existing swimming pool with concrete. The site is located at the Kona Inn Shopping Village, in north Kona. The applicant is requesting a Shoreline Setback Variance from the Planning Commission for the improvements. The proposed project would take place within the 40 foot Shoreline Setback Area. The project is estimated to cost $116,000.00, and will consist of approximately 1,992 square feet of additional improvements. The purpose of this project is to provide patrons of the existing restaurant increased seashore ambience, and add a stairway that will allow additional access to the existing seawall.

This review was conducted with the assistance of Sara Peck, West Hawaii Sea Grant Extension Service, Robert Mullane, Maui Sea Grant Extension Service, and Renee Thompson, Environmental Center.

General Comments

Our concern is with the proposed construction of an Outdoor Seating Lanai within the shoreline setback area. Setbacks are required to protect people and property from damage caused by flooding, storm waves, and shoreline erosion. The proposed building would cut in half the minimum setback.

The applicant recognizes that there is some risk in developing in the VE Flood zone, but downplays this risk without submitting any data on wave runup magnitude and frequency, or storm frequency, etc. The EA briefly discusses the flood hazard on page seven and eight, but incredibly concludes that though the property is located within the coastal high hazard area

"there is a minimal degree of risk to human life." To say that Civil Defense and the National Weather Service will provide adequate warning for safe evacuation, as the author contends, may be overly optimistic. A better--i.e., safer--option would be to refrain from constructing in the VE zone altogether.

Another concern with the proposed outdoor lanai is the method of construction. It appears that post and pier construction of the lanai may not be substantial enough to withstand high storm surge, which is the cause of the majority of coastal damage to property that occurs in Hawaii. Although the lanai will not be an inhabitable dwelling, the breakup of the decking in the event of a major storm, will cause damage to surrounding structures.

The building is also in the Tsunami Evacuation Zone, yet no wave runup data is presented for this area. According to a 1976 report, *Tsunami Wave Runup Heights in Hawaii* (Harold Loomis, Hawaii Institute of Geophysics, HIG-76-5), Kahaluu Bay recorded a wave run up of 10 feet in 1960 and nearby Halualoa Bay recorded a wave runup of 8 feet for the same tsunami.

Conclusion

We believe that a more robust discussion of the coastal hazards is required to make this EA minimally acceptable.

Thank you for the opportunity to comment on this Draft Environmental Assessment.

Sincerely,

Peter Rappa
Environmental Review Coordinator

cc: Ms. Virginia Goldstein, County of Hawaii Planning Department
OEQC
James Moncur, WRRC
Renee Thompson
Sara Peck
Rob Mullane

EXHIBIT 24

CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

75-1000 HENRY STREET, SUITE 209
P.O. BOX 1720
KAILUA-KONA, HAWAII 96745-1720
TELEPHONE (808) 329-6464 FAX (808) 329-9450
www.carlsmith.com

January 10, 2001

Ms. Genevieve Salmonson, Director
Office of Environmental Quality Commission
236 South Beretania Street, Suite 702
Honolulu, Hawaii 96813

ATTENTION: NANCY HEINRICH

Re: Applicant's Response to OEQC Comments
Draft Environmental Assessment (EA) for Kona Inn Shopping Village
Tax Map Key: (3) 7-5-007: 021

Dear Ms. Salmonson:

Thank you for your comments on the above-referenced Draft EA. We have reviewed your comments and would like to share our response on the issues raised in your letter of December 21, 2000.

1. **Contacts:** We shall include all community contacts or presentations made with regard to the above-referenced EA either by exhibit or report in the Final EA.

2. **Cultural Impacts Assessment:** We shall include a Cultural Impacts Assessment report as part of the Final EA document.

3. **District Boundaries:** We shall include a copy of a certified map from the State Land Use Commission showing the "Urban" boundaries of the above-referenced property. As was discussed with your staff, we are in the process of having the shoreline certified by the State Department of Land and Natural Resources. Once this has been completed, we must send a copy of the certified shoreline survey map to the Land Use Commission for verification of the district boundaries. We have contacted the Land Use Commission and they have indicated that it would take approximately 4 to 5 weeks for a district boundary determination to be made upon submittal of a request.

4. **Location of Lanai:** We will have a perspective drawing that shows the final appearance of the project that includes the proposed lanai, stairway, existing buildings, proposed landscaping, lawn area, seawall and the coastal area of the project included as an exhibit in the Final EA document.

5. **Mitigation Measures:** As mentioned in the Draft EA, the applicant does not intend to grade any portion of the property to construct the proposed lanai addition. Post and Pier construction will be utilized to build the lanai addition. In addition, the Applicant must comply with the requirements of the Department of Public Works, Chapter 27 (Flood Control) of the Hawaii County Code, prior to securing a building permit and during the construction phase of the project. The area between the proposed lanai addition is a lawn area and the makai boundary of the property is the existing seawall. The existing seawall is intact and in sound condition. But more importantly, the applicant's construction activities will not be permitted beyond the 20 foot shoreline setback which is to be requested from the County of Hawaii Planning Commission in a separate Shoreline Setback Variance Application. Should the County of Hawaii Planning Commission approve the Shoreline Setback Variance application, a standard condition that is imposed on the Applicant is no work, storing of material, or any other activity shall be allowed within the 20 foot shoreline setback. In addition, the shoreline setback must be clearly delineated and flagged to be inspected by the Planning Department staff before any land alteration activities would be permitted to proceed. As such, the method of construction, the location and condition of the existing seawall and preventive measures as required by the County of Hawaii's Department of Public Works, Planning Commission and Planning Department will assure that there will be no construction runoff from entering the nearshore waters or adjacent coastal area.

6. **Shoreline Access:** As presently designed, access will be via the existing restaurant. When the restaurant is closed, this access will not be available. However, within the complex, there are two other public access points to the shoreline which are open and available 24 hours a day. We shall enclose a drawing which show the public access routes available from Alii Drive to the coastal shoreline area in the Final EA document.

Again, thank you for your comments and should you have any questions regarding our response, please call me.

Very truly yours,

Robert D. Triantos

RDT:rhy
4075645.1.023295-00009

cc: Mr. Christopher J. Yuen, Planning Director

EXHIBIT 25

CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

75-1000 HENRY STREET, SUITE 209
P.O. BOX 1720
KAILUA-KONA, HAWAII 96745-1720
TELEPHONE (808) 329-6464 FAX (808) 329-9450
WWW.CARLSMITH.COM

January 11, 2001

Mr. Peter Rappa
University of Hawaii at Manoa
Environmental Center
2550 Campus Road, Crawford 317
Honolulu, Hawaii 96822

Re: Applicant's Response to UH Manoa Environmental Center Comments
Draft Environmental Assessment (EA) for Kona Inn Shopping Village
Tax Map Key: (3) 7-5-007: 021

Dear Mr. Rappa:

Thank you for your comments on the above-referenced Draft EA. We have reviewed your comments and would like to share our response on the issues raised in your letter of January 9, 2001.

1. The Hawaii County General Plan designates Kailua-Kona as a Major Resort Destination Area and Urban Center. The above-referenced property is also situated within the County of Hawaii's Resort (V-.75) zone district the State Land Use "Urban" District and the Kailua Village Special District. The proposed lanai addition is a permitted use in accordance with the requirements of Chapter 25 (Zoning Code), Article 5, Division 9, Section 25-5-92(a)(30).

2. The Kona Inn Shopping Village development has been in place for over 20 years. Prior to the Kona Inn Shopping Village, the Kona Inn hotel complex resided on the premises for the previous 30 years. The present Kona Inn Shopping Village is in an urbanized part of Kailua Village along this portion of Alii Drive that includes the historical Hulihee Palace to the north, the County of Hawaii's Hale Halawai Pavilion, Waterfront Row resort shops, the Bubba Gump restaurant and Kona's famous Huggo's restaurant. This stretch of resort related development to the south is typical of the coastal development along Alii Drive in Kailua Village. The existing seawall that has been in place for approximately 40 years in still intact and provides a protective device against large storm surges along this coastal area of the above-referenced property. The existing seawall along the shoreline frontage of the above-referenced property also connects with the existing seawall fronting Hulihee Palace that is on the State and Federal Register of Historic Places. The existing seawall of approximately 700 feet which connects to the Kailua-Kona pier was constructed in the early 1970's also provides as a protective device from the strong storm surges or wave runups.

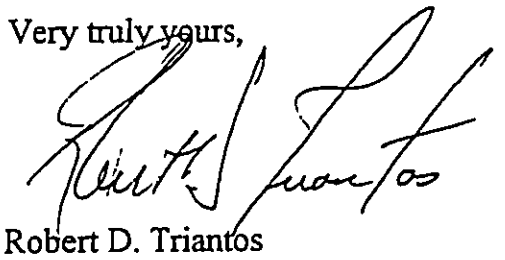
3. We also recognize the concerns of the property to be within the VE Flood Zone. However, the Department of Public Works, Engineering Division under Chapter 27 (Flood Control) and the (FEMA) mapping system, permits construction with this zone with certain restrictions. The Applicant in this particular case will have to comply with these construction requirements. In addition, the Applicant must apply for a Shoreline Setback Variance as well as a Special Management Area permit from the County of Hawaii Planning Commission and the County of Hawaii Planning Department respectively. The Shoreline Setback Variance application cannot be applied for until the Final Environmental Assessment has been reviewed by the County of Hawaii, Planning Department, and a Finding of No Significant Impact (FONSI) is determined, and the Final EA notice is published in the OEQC bulletin and available for public challenges.

4. Finally, the lack of wave runup data for this area is not relevant as it is to the Kahaluu Bay and Holualoa Bay. The Kona Inn Shopping Village property has an existing seawall along the entire coastline frontage of the property. This structural element exists for protective reasons. The land and ocean relationship at Kahaluu and Holualoa Bay is where land and the ocean converge directly. As such, at Kahaluu and Holualoa Bay high wave runups, strong storms surges are usually

higher and causes a greater impact to the lands adjacent to it. These two areas are also open ocean recreational areas along this West Hawaii coastline.

Again, thank you for your comments and should you have any questions regarding our response, please call me.

Very truly yours,



Robert D. Triantos

RDT:rhy
4075647.1.023295-00009

cc: Mr. Christopher J. Yuen, Planning Director
Ms. Genevieve Salmonson, Director, OEQC

EXHIBIT 26

CARLSMITH BALL LLP
ATTORNEYS AT LAW
A PARTNERSHIP INCLUDING LAW CORPORATIONS

'01 MAR 29 A11:55

75-1000 HENRY STREET, SUITE 209
P.O. BOX 1720
KAILUA-KONA, HAWAII 96745-1720
TELEPHONE (808) 329-6464 FAX (808) 329-9450
WWW.CARLSMITH.COM
DIRECT DIAL NO. (808) 935-6644

March 29, 2001

Mr. Gabriel Makuakane
Royal Order of Kamehameha I
74-5072 Kai'opua Road
Kailua-Kona, HI 96740

Re: Act 50 - Cultural Impacts Assessment Consultation
Request for Comments - Draft Environmental Assessment
Compliance with Chapter 343, Chapter 200 Requirements
Owner: Kailua Kona Village Development Group - Outdoor Seating Lanai Addition and Filling of existing Swimming Pool at south end of Property.
Tax Map Key: 7-5-007: 021

Dear Mr. Makuakane:

Aloha, for your information, in accordance with the requirements of Chapter 343 HRS, Chapter 200, Subchapter 5, Section 11-200-6(b)(1)(C), we are in the process of preparing a Draft Environmental Assessment for the proposed project as it will be within the Shoreline Setback.

We would appreciate your cooperation in having your organization assist us in our preparation of the Cultural Impacts Assessment Report as required by Act 50 relating to an assessment of impacts to local cultural and traditional practices that your organization has knowledge of that relates to the proposed project.

We have enclosed a short narrative summary, photographs and architectural plans of the proposed project.

We would appreciate having your input relative to any person or organization that may have any information regarding "traditional cultural practices or beliefs" with regard to the proposed project. We would appreciate your assistance in letting us know who in the local community we should be interviewing to gather information to be included in the assessment report.

Thank you for your cooperation on this matter.

Should you have any questions, please call me.

Very truly yours,

Robert D. Triantos

RDT:rhy
4078066.1.023295-00009
Enclosures

EXHIBIT 27

CARLSMITH BALL LLP
ATTORNEYS AT LAW
A PARTNERSHIP INCLUDING LAW CORPORATIONS

75-1000 HENRY STREET, SUITE 209
P.O. BOX 1720
KAILUA-KONA, HAWAII 96745-1720
TELEPHONE (808) 329-6464 FAX (808) 329-9450
WWW.CARLSMITH.COM
DIRECT DIAL NO. (808) 935-6644

'01 MAR 29 A11:55

March 29, 2001

Mr. Gene Leslie, President
Kona Hawaiian Civic Club
75-5815 Mamalahoa Highway
Holualoa, HI 96725

Re: Act 50 - Cultural Impacts Assessment Consultation
Request for Comments - Draft Environmental Assessment
Compliance with Chapter 343, Chapter 200 Requirements
Owner: Kailua Kona Village Development Group - Outdoor Seating Lanai Addition and Filling of existing Swimming Pool at south end of Property.
Tax Map Key: 7-5-007: 021

Dear Mr. Leslie:

Aloha, in accordance with the requirements of Chapter 343 HRS, Chapter 200, Subchapter 5, Section 11-200-6(b)(1)(C), we are in the process of preparing a Draft Environmental Assessment for the proposed project as it will be within the Shoreline Setback.

We would appreciate your cooperation in having your organization assist us in our preparation of the Cultural Impacts Assessment Report as required by Act 50 relating to an assessment of impacts to local cultural and traditional practices that your organization has knowledge of that relates to the proposed project.

RECEIVED AS FOLLOWS

PHOTOGRAPH NUMBER 5

PHOTOGRAPH NUMBER 6

EXHIBIT D

RECEIVED AS FOLLOWS

PHOTOGRAPH NUMBER 7

PHOTOGRAPH NUMBER 8

EXHIBIT D

RECEIVED AS FOLLOWS

PHOTOGRAPH NUMBER 1

RECEIVED AS FOLLOWS

Photo Catalog Record

05/10/2001 09:30

Objectid: 79.001.0004 KHS Photograph Collection

Accession#:	79.001 Pierce, Howard	**Catdate:**	/ / by: FF
Objname:	Print, Photographic B&W	**Status:**	
Category:	Documentary Artifact	**Neg#:**	G 00166
Title:		**Frame#:**	
Place:	Keopu/North Kona/Hawaii Is.	**Print size:**	3 1/4' x 4 1/4'
Phtgrapher:	Pierce, Howard	**Film size:**	
Storage Loc:		**Slide#:**	
Date:	1956	**Other#:**	28890

Description: 10-15-1956 Looking toward Hulihee Palace from Pa o Umi

People:

Copyright:

Notes:

Class: GEOGRAPHY/HAWAII IS./KONA/TOWNS/KAILUA/SEAWALL

Content:

Condition: Good

Cond Notes:

Image file: \\server\d\pps\images\004\790010004.JPG

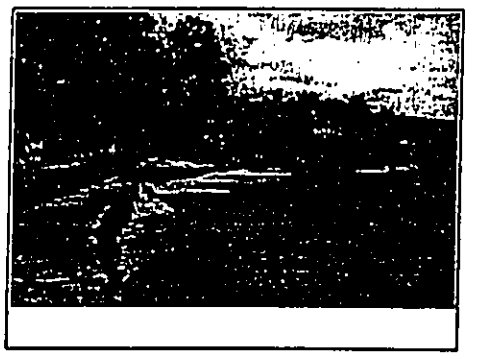


EXHIBIT E

RECEIVED AS FOLLOWS

EXHIBIT F

RECEIVED AS FOLLOWS

Photo Catalog Record

05/10/2001 09:37

Objectid: 83.004.1055 KHS Photograph Collection

Accession#: 83.004 Saxe, Dorothy (Mrs. Adrian)
Objname: Print, Photographic B&W
Category: Documentary Artifact
Title:
Place: Kailua/North Kona/Hawaii Is.
Phtgrapher: Saxe, Adrian Harvey
Storage Loc:
Date: 1961

Catdate: / / **by:** FF
Status:
Neg#: H 04406
Frame#: 06
Print size: 8' x 10'
Film size:
Slide#:
Other#: 3582

Description: 9-15-1961 Ocean side lawn as seen from the pool area
People:
Copyright:
Notes: Courtesy: The Adrian Saxe Collection. See 83.004.0001, record #2416, also, 83.004.0999, record #3521. Client: Honolulu Gas Co.
Class: BUSINESS & COMMERCE/HOTELS/KONA INN
Content:
Condition: Good
Cond Notes:
Image file: \\server\d\pps\images\007\830041055.JPG

EXHIBIT E

RECEIVED AS FOLLOWS

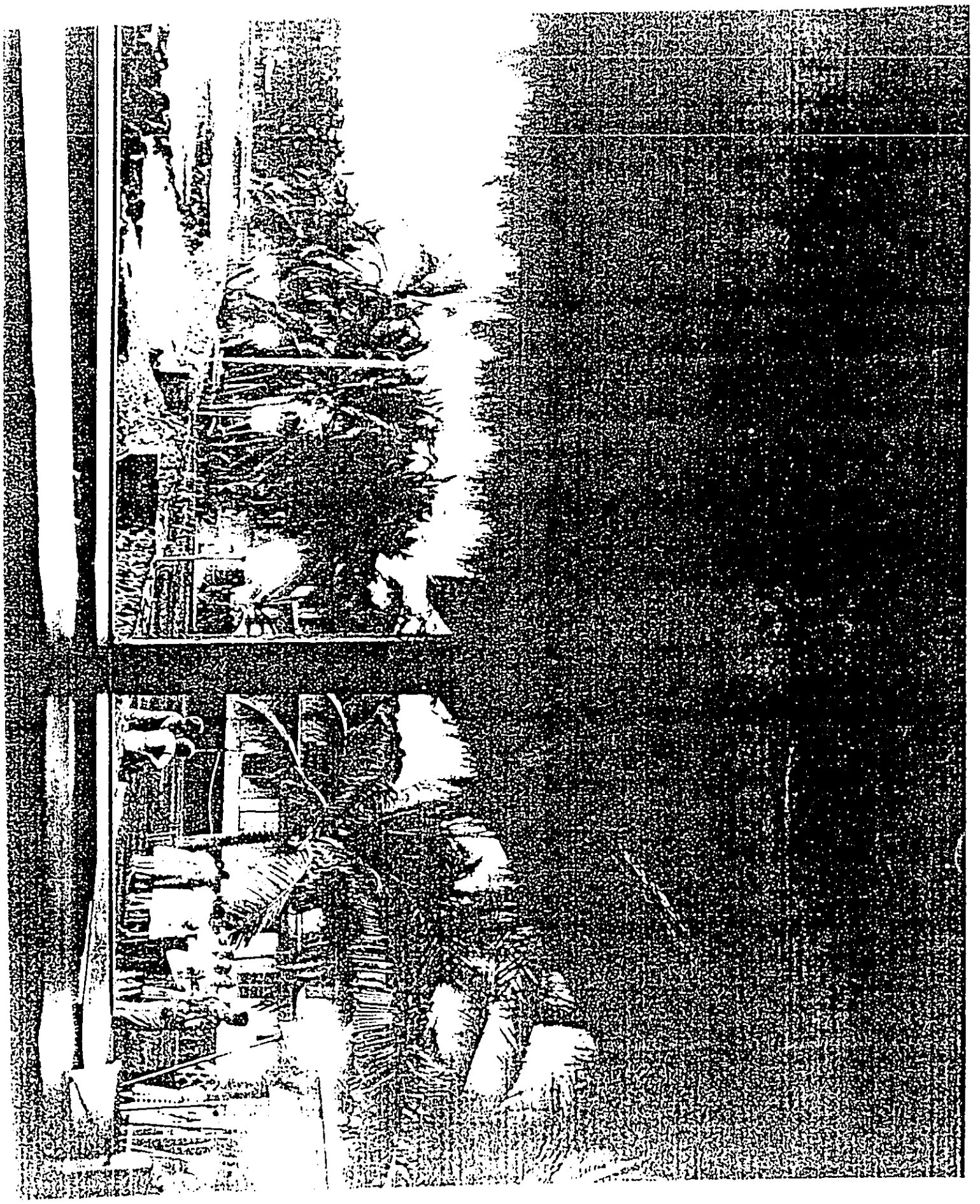


EXHIBIT 32

QUEEN EMMA SUMMER PALACE
2913 PALI HIGHWAY
HONOLULU, HAWAI'I 96817
TELEPHONE (808) 595-6291
FAX (808) 595-4395

Daughters of Hawaii

HULIHE'E PALACE
75-5718 ALI'I DRIVE
KAILUA-KONA, HAWAI'I 96740
TELEPHONE (808) 329-1877
FAX (808) 329-1321

'01 MAY 18 P12:20

✓	RDT	✓
	SHE	
	KEM	
	EWH	
✓	RHY	
	DK	
	JA	
	CW	
	LA	
	IY	
	Client	
	CAI	
	To Do	
	File	
	See Me	

May 16, 2001

Robert Triantos
Carlsmith Ball LLP
75-1000 Henry St. Suite 209
Kailua-Kona, HI 96740

RE: Act 50-Cultural Impacts Assessment
Kailua-Kona Village Development Group
Tax Map Key: 7-5-007: 021

Dear Bob,

The Hulihee Palace has no input relating to an assessment of impacts to local Cultural and traditional practices to the proposed project.

We have no objections to your proposal.

If we may be of further assistance, please feel to contact the undersigned at (808) 329-1877or (808) 329-9555.

Aloha,

Fanny Au Hoy

Fanny Collins Au Hoy, Palace Administrator
DOH ~ Hulihee Palace

EXHIBIT 33

REF:PB:MA

'01 MAY 29 A9:57

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION
P.O. BOX 621
HONOLULU, HAWAII 96809

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

File Number Encroachment: HA-01-36

MAY 25 2001

Robert D. Triantos
Carlsmith Ball LLP
75-1000 Henry St. Suite 209
PO Box 1720
Kailua-Kona, HI 96745-1720

Dear Mr. Triantos:

Subject: Shoreline Encroachments (Portion of Seawall) at the Kona Inn Shopping Village [TMK: 3-7-5-007:021]

Coastal Lands Program staff has reviewed this case, which involves portions of the seawall fronting Lot 1 of Land Commission Award 7630, Apana 1 at Honuaula and Hienaloli 1St, North Kona, Hawaii. The applicant has provided information identifying four portions of the seawall encroaching upon State land. The size of these encroachments, moving from the north to the south are: 97 square feet, 133 square feet, 133 square feet and 77 square feet. The total encroaching area is thus 440 square feet.

In the completed Shoreline Encroachment Application Sheet it is stated that the existing seawall was built at approximately the same time that the Kona Inn was constructed, in 1928. Photographic evidence is provided by the applicant. The first photograph (Exhibit E) was taken in 1956 and shows at that time seawalls extended along this portion of the coastline, fronting the Kona Inn. The second photo is of the ocean area directly in front of the Kona Inn in 1961. This photo shows the foundations for the walkway that now exists in front of the Kona Inn.

The Board of Land and Natural Resource (BLNR) recently established a policy to allow the disposition of shoreline encroachments by either removal or issuance of an easement. In carrying-out this policy, the Department established criteria to guide decision-making over specific cases. The criteria are as follows:

1. Protect/preserve/enhance public shoreline access;
2. Protect/preserve/enhance public beach areas;
3. Protect adjacent properties;
4. Protect property and important facilities/structures from erosion damages; and
5. Apply "no tolerance" policy for recent or new unauthorized shoreline structures

In addition, the Department developed a "Shoreline Encroachment Information Sheet" that is intended to provide the State with additional information to guide the Department's

decisions on the disposition of shoreline encroachments. This form has been completed and submitted.

Staff reviewed your submitted documentation. Of primary importance are the Department's objectives to protect and preserve shoreline resources and shoreline access.

Surrounding Land Uses:
The Kona Inn Shopping Village lies within Kailua Village. The surrounding uses are urban resort and commercial.

Beach Resources:
According to submitted photo evidence and documentation that there is no beach adjacent to the property and the area has historically been rocky. The closest beach area is on the north side of Hulihee Place property and the Kailua Pier area.

Public Access:
The County of Hawaii has approved an access plan that utilizes the existing seawall as public shoreline access to the area. There are four points of entry in the Kona Inn Shopping Village complex.

Effect of Removing the Encroachment on:

Beach Resources:
Removal of the part of the wall encroaching on State land would mean removing a portion of the wall. This may weaken the structure of the overall wall. This would not be in the best interest of the owner nor the general public as the seawall is the public shoreline access in the area.

Public Access
CLP staff has determined that public access would not be enhanced by removal of the encroachment and in fact could possibly be diminished.

Affect on Adjacent Properties
Removal of the encroachment may have a potential nesgative effect on surrounding properties as the seawall provides tourist access to the shoreline of this resort area. Thus removal of the encroaching portion of the seawall would provide no benefit to other members of the resort community.

Upon review and consideration of the information gathered on this case, planning staff has no objections to an easement request being processed for the encroaching portions of the wall. The applicant has provided evidence that the wall was not intentionally built on State Conservation District land. Furthermore the applicant has provided information that establish the age of the encroachments as more than 40 years old and quite possibly over 70 years old.

However the submitted survey has established that portions of the seawall structure are on State land. Thus an easement needs to be issued to dispose of this ongoing use of State land. The Hawaii District Land Agent calculates the monetary amount required to dispose of the

encroachment through an easement. The landowner should also note that they may be subject to a $500 penalty through the administrative penalty system for the unauthorized building and use of State land.

Thank you for your cooperation in this matter. Please feel free to contact Masa Alkire, of the Planning Branch, at 587-0385, should you have any questions on this matter.

Sincerely,

Dean Y. Uchida, Administrator

Cc: Hawaii Board Member
Hawaii Land Agent
Chairperson's Office

EXHIBIT 34

CARLSMITH BALL LLP
ATTORNEYS AT LAW
A PARTNERSHIP INCLUDING LAW CORPORATIONS

'01 MAY 29 P2:38

75-1000 HENRY STREET, SUITE 209
P.O. BOX 1720
KAILUA-KONA, HAWAII 96745-1720
TELEPHONE (808) 329-6464 FAX (808) 329-9450
WWW.CARLSMITH.COM
DIRECT DIAL NO. (808) 935-6644

May 29, 2001

Mr. Mark Smith
DLNR, State Historic Preservation Office
P.O. Box 936
Hilo, HI 96720

Re: Request for review of OHA Comments relating to Historical sites
Request for Agency Comments - Draft Environmental Assessment
Compliance with Chapter 343, Chapter 200 Requirements
Owner: Kailua Kona Village Development Group - Outdoor Seating Lanai Addition and Filling of existing Swimming Pool at south end of Property.
Tax Map Key: 7-5-007: 021

Dear Mr. Smith:

We have not received any comments from your office concerning the above-referenced matter. However, we have enclosed a copy of a letter dated April 25, 2001 from the Office of Hawaiian Affairs. We would appreciate your comments on their assessment of the archaeological resources at the above-referenced property in the location of the proposed outdoor seating lanai addition. These archaeological resources are not listed in the County of Hawaii General Plan nor are they listed in the State of Hawaii Register or National Register of Historic Places. We would appreciate your agency's review of this matter so that we may proceed in finalizing our Final EA .

Upon receipt of your comments, it will be included as part of the Final Environmental Assessment report that will be submitted to the Planning Department and to the Office of Environmental Quality Control for publication and public review.

We would appreciate your earliest response on this matter. As always, thank you for your cooperation.

Should you have any questions, please call me.

Very ~~truly~~ yours,

Robert D. Triantos

RDT:rhy
4080132.1.023295-00009
Enclosures
cc: William Kimi Jr.

EXHIBIT 35

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION
P.O. BOX 936
HILO, HAWAII 96721-0936
PHONE: (808) 974-6203
FAX: (808) 974-6222

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

January 14, 2002

Mr. Royden Yamasato, Esq.
Carlsmith Ball, LLC
75-1000 Henry Street, Suite 209
Kailua-Kona, Hawai'i 96745

Dear Mr. Yamasato:

Subject: **Grant of a 55-Year Term, Non-Exclusive Easement to Kona Inn Shopping Village for Seawall Encroachment Purposes at Honuaula and Hienaloli 1st, North Kona, Hawaii. Tax Map Key: 3rd/ 7-5-07: 21 seaward.**

We are pleased to inform you that, at its meeting of January 11, 2002, under Agenda Item D-4, the Board of Land and Natural Resources, approved your request for a 55-year term easement for seawall encroachment purposes, as detailed in the attached copy of the approved board submittal.

We will be requesting the services of our Appraisal Section in determining the consideration amount. Please note that the consideration amount will be determined by an independent appraisal and based on a one-time payment. The Appraisal Section will be in contact with you shortly to request remittance of monies to conduct the independent appraisal once the staff has obtained bids for the appraisal.

In the meantime, please provide us with a CAD map, together with metes and bounds description, of the easement area in accordance with the enclosed DAGS Survey Division CAD Mapping Standards. Please note that this map and description must be prepared by a licensed surveyor.

If you have questions regarding the appraisal, please contact the Appraisal Section at (808) 587-0446. If you have any questions regarding the survey map, please contact DAGS

Survey Division at (808) 586-0393. Or, if you have other questions, please feel free to contact me at (808) 974-6203. Thank you.

Sincerely,

Wesley T. Matsunaga
Acting District Land Agent

Enclosure

xc: Hawai'i Land Board Member
Central File
Kona Inn Shopping Village

EXHIBIT 36

LAND COURT SYSTEM | REGULAR SYSTEM

Return by Mail ( ) Pickup ( ) To:

Total Number of Pages:

Tax Map Key Nos. (3)7-5-07:seaward of 21
& Por. 67; 7-5-08:seaward of 10

GRANT OF NON-EXCLUSIVE EASEMENT S-5664

THIS INDENTURE, made and entered into this 8th day of April, 2004, by and between the STATE OF HAWAII, by its Board of Land and Natural Resources, hereinafter referred to as the "Grantor," and KAILUA KONA VILLAGE DEVELOPMENT GROUP, a Hawaii limited partnership, whose address is 75-5744 Alii Drive, Suite 286, Kailua-Kona, Hawaii 96740, hereinafter referred to as the "Grantee."

WITNESSETH THAT:

The Grantor, for and in consideration of the rent to be paid and of the terms, conditions, and covenants herein contained, all on the part of the Grantee to be kept, observed, and performed, does hereby grant unto the Grantee, the following non-exclusive and term easement rights:

Right, privilege, and authority to use, maintain, and repair the seawall,

78653_1

in, over, under and across that certain parcel of land ("area") situate at Honuaula 1st, Hienaloli 1st and Hienaloli 2nd, Kailua, North Kona, Island of Hawaii, Hawaii, being identified as "Non-Exclusive Wall Easement, Easements 1, 2, 3, 4, 5 and 6," consisting of:

Easement 1, containing an area of 97 square feet, more or less,

Easement 2, containing an area of 133 square feet, more or less,

Easement 3, containing an area of 9 square feet, more or less,

Easement 4, containing an area of 5 square feet, more or less,

Easement 5, containing an area of 64 square feet, more or less, and

Easement 6, containing an area of 12 square feet,

all more particularly described in Exhibit "A" and delineated on Exhibit "B," both of which are attached hereto and made parts hereof, said exhibits being respectively, a survey description and survey map prepared by the Survey Division, Department of Accounting and General Services, State of Hawaii, respectively designated C.S.F. No. 23,335 dated August 9, 2002, and H.S.S. Plat 322 dated August 7, 2002, TOGETHER WITH the rights of ingress and egress to and from the easement area for all purposes in connection with the rights hereby granted.

TO HAVE AND TO HOLD the easement rights unto the Grantee, its successors and assigns, SUBJECT, HOWEVER, to the following terms, conditions and covenants:

1. The term of this easement shall be fifty-five (55) years, commencing on the 11 th day of January, 2002, up to and including the 10 th day of January, 2057, unless sooner terminated as hereinafter provided, the Grantor reserving and the Grantee yielding and paying to the Grantor at the Office of the Department of Land and Natural Resources, Honolulu, Oahu, State of Hawaii, a one time payment, payable in advance, without notice or demand of SIX THOUSAND SEVEN HUNDRED AND NO/100 DOLLARS ($6,700.00).

PRELIM. APPR'D.
Department of the
Attorney General

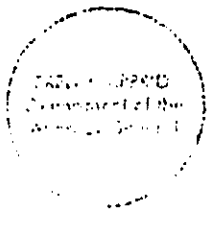
THE GRANTEE COVENANTS AND AGREES WITH THE GRANTOR AS FOLLOWS:

1. The Grantee shall at all times with respect to the easement area use due care for public safety and agrees to indemnify, defend, and hold the Grantor harmless from and against any claim or demand for loss, liability, or damage, including claims for bodily injury, wrongful death, or property damage, arising out of or resulting from: 1) any act or omission on the part of the Grantee relating to the Grantee's use, occupancy, maintenance, or enjoyment of the easement area; 2) any failure on the part of the Grantee to maintain the easement area and sidewalks, roadways, and parking areas adjacent thereto in the Grantee's use and control, and including any accident, fire or nuisance, growing out of or caused by any failure on the part of the Grantee to maintain the easement area in a safe condition; and 3) from and against all actions, suits, damages, and claims by whomsoever brought or made by reason of the Grantee's non-observance or non-performance of any of the terms, covenants, and conditions of this grant of non-exclusive easement or the rules, regulations, ordinances, and laws of the federal, state, municipal or county governments.

2. The Grantor reserves unto itself, its successors and assigns, the full use and enjoyment of the easement area and the right to grant to others rights and privileges for any and all purposes affecting the easement area, provided, however, that the rights herein reserved shall not be exercised by the Grantor and similar grantee(s) in any manner which interferes unreasonably with the Grantee in the use of the easement area for the purposes for which this easement is granted.

3. The placement of all improvements in or upon the easement area by the Grantee shall be done without cost or expense to the Grantor and shall remain the property of the Grantee and subject to the terms of paragraphs 10 and 14 may be removed or otherwise disposed of by the Grantee at any time; provided, that the removal shall be accomplished with minimum disturbance to the easement area which shall be restored to its original condition, or as close thereto as possible, within a reasonable time after removal.

4. Upon completion of any work performed in or upon the easement area, the Grantee shall remove therefrom all equipment and unused or surplus materials, if any, and shall leave the easement area in a clean and sanitary condition satisfactory to the Grantor.



DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION

5. This easement or any rights granted herein shall not be sold, assigned, conveyed, granted, mortgaged, or otherwise transferred or disposed of, directly or by operation of law, except with the prior written consent of the Grantor.

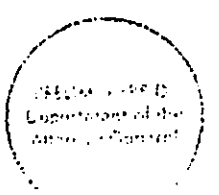
6. The Grantee shall keep the easement area and the improvements thereon in a safe, clean, sanitary, and orderly condition, and shall not make, permit or suffer, any waste, strip, spoil, nuisance or unlawful, improper, or offensive use of the easement area.

7. The Grantee covenants, for itself, its successors and assigns, that the use and enjoyment of the land herein granted shall not be in support of any policy which discriminates against anyone based upon race, creed, sex, color, national origin, religion, marital status, familial status, ancestry, physical handicap, disability, age or HIV (human immunodeficiency virus) infection.

8. The Grantee, in the exercise of the rights granted herein, shall comply with all of the requirements of the federal, state, and county authorities and shall observe all county ordinances and state and federal laws, rules and regulations, now in force or which may hereinafter be in force.

9. These easement rights shall cease and terminate, and the easement area shall automatically be forfeited to the Grantor, without any action on the part of the Grantor, in the event of non-use or abandonment by the Grantee of the easement area, or any portion thereof, for a consecutive period of one (1) year.

10. The Grantee shall, at the end of the term or other sooner termination of this easement, peaceably deliver unto the Grantor possession of the premises, together with all improvements existing or constructed thereon or Grantee shall remove such improvements and shall restore the premises to their original state, or as close thereto as possible, within a reasonable time and at the expense of the Grantee. If the Grantee does not remove the improvements or restore the premises to the satisfaction of the Grantor, the Grantor may effect such action and the Grantee agrees to pay all costs and expenses for such action. Furthermore, upon the expiration, termination, or revocation of this easement, should the Grantee fail to remove any and all of Grantee's personal property from the premises, after notice thereof, the Grantor may remove any and all of Grantee's personal property from the premises, and either deem the property abandoned and dispose of the property or place the



DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION

property in storage at the cost and expense of Grantee and the Grantee does agree to pay all costs and expenses for disposal, removal, or storage of the personal property. This provision shall survive the termination of the easement.

11. The Grantee shall procure and maintain, at its own cost and expense, in full force and effect throughout the term of this easement, commercial general liability insurance, or its equivalent, in an amount of at least $300,000.00 for each occurrence and $500,000.00 aggregate, with an insurance company or companies licensed to do business in the State of Hawaii. The policy or policies of insurance shall name the State of Hawaii as an additional insured. The insurance shall cover the entire easement area, including all grounds and all roadways or sidewalks on or adjacent to the easement in the use or control of the Grantee.

The Grantee, prior to entry and use of the easement area or within fifteen (15) days after the effective date of this easement, whichever is sooner, shall furnish the Grantor with a certificate(s) showing the policy(s) to be initially in force, keep the certificate(s) on deposit during the entire easement term, and furnish a like certificate(s) upon each renewal of the policy(s). This insurance shall not be cancelled, limited in scope of coverage, or nonrenewed until after thirty (30) days written notice has been given to the Grantor.

The Grantor shall retain the right at any time to review the coverage, form, and amount of the insurance required by this easement. If, in the opinion of the Grantor, the insurance provisions in this easement do not provide adequate protection for the Grantor, the Grantor may require Grantee to obtain insurance sufficient in coverage, form, and amount to provide adequate protection. The Grantor's requirements shall be reasonable but shall be designed to assure protection for and against the kind and extent of the risks which exist at the time a change in insurance is required. The Grantor shall notify Grantee in writing of changes in the insurance requirements and Grantee shall deposit copies of acceptable insurance policy(s) or certificate(s) thereof, with the Grantor incorporating the changes within thirty (30) days after receipt of the notice.

The procuring of the required policy(s) of insurance shall not be construed to limit Grantee's liability under this easement nor to release or relieve the Grantee of the indemnification provisions and requirements of this easement. Notwithstanding the policy(s) of insurance, Grantee shall be obligated for the full and total amount of any damage, injury, or

DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION

loss caused by Grantee's negligence or neglect connected with this easement.

It is agreed that any insurance maintained by the Grantor will apply in excess of, and not contribute with, insurance provided by Grantee's policy.

12. Grantor reserves the right to withdraw the easement for public use or purposes, at any time during the term of this easement upon the giving of reasonable notice to Grantee. Upon withdrawal of the easement, Grantor shall return to Grantee a portion of the one-time payment described in paragraph 1. For purposes of determining the amount to be returned to the Grantee, the term "net payment" shall mean the one-time payment described in paragraph 1 reduced by any non-refundable portion of the one-time payment, if any, that Grantor was required by statute to pay to any other entity or body. The amount returned to Grantee shall be the net payment prorated for the unused term of the easement.

13. The Grantee shall not mortgage, hypothecate, or pledge the premises, any portion, or any interest in this easement without the prior written approval of the Chairperson of the Board of Land and Natural Resources and any mortgage, hypothecation, or pledge without the approval shall be null and void.

14. Time is of the essence in this agreement and if the Grantee shall fail to pay the rent, or any part, at the times and in the manner provided within thirty (30) calendar days after delivery by the Grantor of a written notice of breach or default, or if the Grantee shall become bankrupt, or shall abandon the premises, or if this easement and premises shall be attached or taken by operation of law, or if any assignment is made of the Grantee's property for the benefit of creditors, or if Grantee shall fail to observe and perform any of the covenants, terms, and conditions contained in this easement and on its part to be observed and performed, and this failure shall continue for a period of more than sixty (60) calendar days after delivery by the Grantor of a written notice of breach or default, by personal service, registered mail or certified mail to the Grantee at its last known address and to each mortgagee or holder of record having a security interest in the premises, the Grantor may, subject to the provisions of Section 171-21, Hawaii Revised Statutes, at once re-enter the premises, or any part, and upon or without the entry, at its option, terminate this easement without prejudice to any other remedy or right of action for arrears of rent or for any preceding or other breach of contract; and in the

event of termination, all improvements shall at the option of the Grantor remain and become the property of the Grantor at the option of the Grantor or shall be removed by Grantee; furthermore, the Grantor shall retain all rent paid in advance to be applied to any damages.

15. In the event the Grantor seeks to forfeit the privilege, interest, or estate created by this easement, each recorded holder of a security interest may, at its option, cure or remedy the default or breach of rent payment within thirty (30) calendar days or any other default or breach within sixty (60) calendar days, from the date of receipt of the Grantor's notice, or within an additional period allowed by Grantor for good cause, and add the cost to the mortgage debt and the lien of the mortgage. Upon failure of the holder to exercise its option, the Grantor may: (a) pay to the holder from any moneys at its disposal, including the special land and development fund, the amount of the mortgage debt, together with interest and penalties, and secure an assignment of the debt and mortgage from the holder or if ownership of the privilege, interest, or estate shall have vested in the holder by way of foreclosure, or action in lieu thereof, the Grantor shall be entitled to the conveyance of the privilege, interest, or estate upon payment to the holder of the amount of the mortgage debt, including interest and penalties, and all reasonable expenses incurred by the holder in connection with the foreclosure and preservation of its security interest, less appropriate credits, including income received from the privilege, interest, or estate subsequent to the foreclosure; or (b) if the property cannot be reasonably reassigned without loss to the State, then terminate the outstanding privilege, interest, or estate without prejudice to any other right or remedy for arrears of rent or for any preceding or other breach or default and use its best efforts to redispose of the affected land to a qualified and responsible person free and clear of the mortgage and the debt secured; provided that a reasonable delay by the Grantor in instituting or prosecuting its rights or remedies shall not operate as a waiver of these rights or to deprive it of a remedy when it may still otherwise hope to resolve the problems created by the breach or default. The proceeds of any redisposition shall be applied, first, to reimburse the Grantor for costs and expenses in connection with the redisposition; second, to discharge in full any unpaid purchase price or other indebtedness owing the Grantor in connection with the privilege, interest, or estate terminated; third, to the mortgagee to the extent of the value received by the State upon redisposition which exceeds the fair market grant value of the land as previously determined by the State's

appraiser; and fourth, to the owner of the privilege, interest, or estate.

16. In case the Grantor shall, without any fault on its part, be made a party to any litigation commenced by or against the Grantee as a result of this grant of non-exclusive easement (other than condemnation proceedings), the Grantee shall pay all costs, including reasonable attorney's fees and expenses incurred by or imposed on the Grantor; furthermore, the Grantee shall pay all costs, including reasonable attorney's fees and expenses, which may be incurred by or paid by the Grantor in enforcing the covenants and conditions of this grant of non-exclusive easement, or in the collection of delinquent rental, fees, taxes, and any and all other applicable charges attributed to said easement area.

17. The Grantee shall not cause or permit the escape, disposal or release of any hazardous materials except as permitted by law. Grantee shall not allow the storage or use of such materials in any manner not sanctioned by law or by the highest standards prevailing in the industry for the storage and use of such materials, nor allow to be brought onto the easement area any such materials except to use in the ordinary course of Grantee's business, and then only after written notice is given to Grantor of the identity of such materials and upon Grantor's consent which consent may be withheld at Grantor's sole and absolute discretion. If any lender or governmental agency shall ever require testing to ascertain whether or not there has been any release of hazardous materials by Grantee, then the Grantee shall be responsible for the reasonable costs thereof. In addition, Grantee shall execute affidavits, representations and the like from time to time at Grantor's request concerning Grantee's best knowledge and belief regarding the presence of hazardous materials on the easement area placed or released by Grantee.

The Grantee agrees to indemnify, defend, and hold Grantor harmless, from any damages and claims resulting from the release of hazardous materials on the easement area occurring while Grantee is in possession, or elsewhere if caused by Grantee or persons acting under Grantee. These covenants shall survive the expiration or earlier termination of this easement.

For the purpose of this easement "hazardous material" shall mean any pollutant, toxic substance, hazardous waste, hazardous material, hazardous substance, or oil as defined in or pursuant to the Resource Conservation and Recovery Act, as amended, the Comprehensive Environmental Response, Compensation,

DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION

and Liability Act, as amended, the Federal Clean Water Act, or any other federal, state, or local environmental law, regulation, ordinance, rule, or bylaw, whether existing as of the date hereof, previously enforced, or subsequently enacted.

18. No building, structure or improvements other than the existing seawall shall be placed or constructed within the easement area.

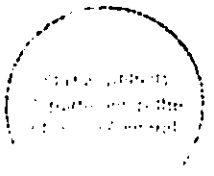
19. The Grantee acknowledges and agrees that the existing seawall described in Exhibit "A" and delineated on Exhibit "B" herein is nonconforming and, further, that the Grantee is prohibited from rebuilding said seawall or altering or extending the seawall seaward of its present location. Furthermore, the Grantee shall keep the seawall in good condition and repair; provided, however, if the seawall is substantially or completely destroyed as determined by this Grantor, this easement and all rights granted herein shall cease and terminate automatically without any further action on the part of the Grantor.

20. The public shall have access across the easement area at all times.

21. The Grantee recognizes and acknowledges that the seawall which is the subject of this easement exists for the sole purpose of benefiting the property upland of the seawall and that the benefits of the seawall are secured by interrupting and altering the normal accretion and erosion of the shoreline. Accordingly, the Grantee shall hold harmless, defend, and indemnify the State of Hawaii, its boards, departments, agencies, and public and appointed officials from any and all claims for harm, taking, damages, loss of land, or specific performance that may arise out of or result from the existence and effect of the seawall on the flow of ocean water that, in turn, may affect or cause lateral erosion of shoreline land in either direction along the shore from the seawall.

22. The Grantee shall comply with all applicable federal and state environmental impact regulations.

23. The Grantee shall maintain and employ debris, pollution and contamination control measures, safeguards and techniques to prevent debris, pollution or contamination to the ocean waters, streams or waterways resulting from the Grantee's, its invitee's, or its agent's use, maintenance, repair and operation of the easement area, and shall take immediate corrective action in the event of such pollution or contamination



DEPARTMENT OF LAND AND NATURAL RESOURCES

to immediately remove the cause of such pollution or contamination, and shall immediately clean the easement area and its surrounding waters of such pollutant or contaminant and restore to the Grantor's satisfaction the areas affected by such pollution or contamination, all at the Grantee's own cost and expense.

24. The Grantee shall maintain, repair and upkeep the existing seawall in a condition satisfactory to the Grantor, and in a manner that will enhance the public shoreline and access thereto. Any improvements to the existing seawall shall be subject to the prior written approval of the Board of Land and Natural Resources. Upon abandonment, expiration or termination of this easement, if desired by the Grantor, the Grantee, its successors and assigns, at its sole cost and expense, shall remove the seawall and restore the area to a condition satisfactory to the Grantor.

25. Should future development necessitate a relocation of the easement granted herein, or any portion thereof, the relocation shall be accomplished at the Grantee's own cost and expense.

26. The easement area is encumbered by Governor's Executive Order No. 1949 to the County of Hawaii, and therefore this easement is subject to the County of Hawaii's approval. Said approval was obtained on letter dated December 16, 2002.

27. The easement area is encumbered by Governor's Executive Order No. 1949 to the County of Hawaii, and therefore this easement is subject to the State of Hawaii Governor's approval. Said approval was obtained on February 16, 2004.

IN WITNESS WHEREOF, the STATE OF HAWAII, by its Board of Land and Natural Resources, has caused the seal of the Department of Land and Natural Resources to be hereunto affixed and the parties hereto have caused this Indenture to be executed as of the day, month, and year first above written.

STATE OF HAWAII

Approved by the Board of Land and Natural Resources at its meetings held on January 11, 2002 and April 25, 2003.

By _____
Chairperson and Member
Board of Land and
Natural Resources

GRANTOR

KAILUA KONA VILLAGE DEVELOPMENT GROUP, a Hawaii limited partnership

By _____
WILLIAM J. KIMI JR. PRES RESORTS HI, INC
Its GENERAL PARTNER

And By _____

_____

Its _____

GRANTEE

APPROVED AS TO FORM:

_____
Deputy Attorney General

Dated: 2/24/04

78653_1

STATE OF HAWAII)
) SS.
COUNTY OF HAWAII)

On this 16th day of March, 2004, before me personally appeared William J. Kimi, Jr. ~~and~~ //, to me personally known, who, being by me duly sworn or affirmed, did say that such person(s) executed the foregoing instrument as the free act and deed of such person(s), and if applicable in the capacity shown, having been duly authorized to execute such instrument in such capacity.

Willetha T. Archer C.S.

Notary Public, State of Hawaii
Willetha T. Archer

My commission expires: 05-19-07

APPROVED
Department of the
Attorney General

78653_1

STATE OF HAWAII
SURVEY DIVISION
DEPT. OF ACCOUNTING AND GENERAL SERVICES
HONOLULU

C.S.F. No. 23,335
See H.S.S. Plat 322

August 9, 2002

NON-EXCLUSIVE WALL EASEMENT

EASEMENTS 1, 2, 3, 4, 5 AND 6

Honuaula 1st, Hienaloli 1st and Hienaloli 2nd
Kailua, North Kona, Island of Hawaii, Hawaii

EASEMENT 1: Fronting Lot 1 of Land Court Application 975, Land Court Application 1547 and Lot 2-A of Land Court Application 975.

Being a portion of the Reclaimed (Filled) Land of Kailua Bay.

Beginning at the seaward face of CRM wall at the northeast corner of this easement and on the westerly boundary of Lot 1 as shown on Map 2 of Land Court Application 975, the coordinates of said point of beginning referred to Government Survey Triangulation Station "KAILUA" (NORTH MERIDIAN) being 1460.33 feet South and 37.86 feet East, thence running by azimuths measured clockwise from True South:-

1. 353° 36' 10.74 feet along Lot 1 as shown on Map 2 of Land Court Application 975;

2. 335° 28' 38.07 feet along Land Court Application 1547;

FORM APPR'D
Department of the
Attorney General

EXHIBIT "A"

3. 25° 44' 44.36 feet along Lot 2-A as shown on Map 3 of Land Court Application 975 to the seaward face of CRM wall;

Thence along the seaward face of CRM wall for the next three (3) courses, the direct azimuths and distances between points along said seaward face of CRM wall being:

4. 204° 27' 43.03 feet;

5. 156° 30' 48.57 feet;

6. 247° 47' 4.11 feet to the point of beginning and containing an AREA OF 97 SQUARE FEET, MORE OR LESS.

EASEMENT 2: Fronting Lot 2-A as shown on Map 3 of Land Court Application 975.

Being a portion of the Reclaimed (Filled) Land of Kailua Bay.

Beginning at the seaward face of CRM wall at the southwest corner of this easement and on the westerly boundary of Lot 2-A as shown on Map 3 of Land Court Application 975, the coordinates of said point of beginning referred to Government Survey Triangulation Station "KAILUA" (NORTH MERIDIAN) being 1922.37 feet South and 163.61 feet East, thence running by azimuths measured clockwise from True South:-

PRELIM. APPR'D
Department of the
Attorney General

Along the seaward face of CRM wall for the next three (3) courses, the direct azimuths and distances between points along said seaward face of CRM wall being:

1. 238° 47'	3.78	feet;
2. 159° 01'	385.46	feet;
3. 204° 27'	0.20	of a foot;

4. 338° 57' 30" 386.85 feet along Lot 2-A as shown on Map 3 of Land Court Application 975;

5. 76° 47' 4.30 feet along Lot 2-A as shown on Map 3 of Land Court Application 975 to the point of beginning and containing an AREA OF 133 SQUARE FEET, MORE OR LESS.

EASEMENT 3: Fronting Lot 2-A as shown on Map 3 of Land Court Application 975.

Being a portion of the Reclaimed (Filled) Land of Kailua Bay.

Beginning at the east corner of this easement and on the southwest boundary of Lot 2-A as shown on Map 3 of Land Court Application 975, the coordinates of said point of beginning referred to Government Survey Triangulation Station "KAILUA" (NORTH MERIDIAN) being 1997.74 feet South and 158.19 feet East, thence running by azimuths measured clockwise from True South:-

1. 64° 37' 0.30 of a foot along Pump House to the seaward face of CRM wall;

Thence along the seaward face of CRM wall for the next two (2) courses, the direct azimuths and distances between points along said seaward face of CRM wall being:

2.	153° 00'	16.60 feet;
3.	242° 30'	0.76 of a foot;
4.	333° 42'	0.25 of a foot along Lot 2-A as shown on Map 3 of Land Court Application 975;
5.	334° 37'	16.50 feet along Lot 2-A as shown on Map 3 of Land Court Application 975 to the point of beginning and containing an AREA OF 9 SQUARE FEET, MORE OR LESS.

EASEMENT 4:

Being a portion of the Reclaimed (Filled) Land of Kailua Bay.

Being also a portion of Pump House.

Beginning at the north corner of this easement and on the southwest boundary of Lot 2-A as shown on Map 3 of Land Court Application 975, the coordinates of said point of beginning referred to Government Survey Triangulation Station "KAILUA" (NORTH MERIDIAN) being 1997.74 feet South and 158.19 feet East, thence running by azimuths measured clockwise from True South:-

1.	334° 37'	10.50 feet along Lot 2-A as shown on Map 3 of Land Court Application 975;

2.	64°	37'	0.68 of a foot along the remainder of the Reclaimed (Filled) Land of Kailua Bay;
3.	156°	41'	10.51 feet along the remainder of Pump House;
4.	244°	37'	0.30 of a foot along the remainder of the Reclaimed (Filled) Land of Kailua Bay to the point of beginning and containing an AREA OF 5 SQUARE FEET.

EASEMENT 5: Fronting Lot 2-A as shown on Map 3 of Land Court Application 975.

Being a portion of the Reclaimed (Filled) Land of Kailua Bay.

Beginning at the seaward face of CRM wall at the east corner of this easement and on the southwest boundary of Lot 2-A as shown on Map 3 of Land Court Application 975, the coordinates of said point of beginning referred to Government Survey Triangulation Station "KAILUA" (NORTH MERIDIAN) being 2044.78 feet South and 194.57 feet East, thence running by azimuths measured clockwise from True South:-

Along the seaward face of CRM wall for the next three (3) courses, the direct azimuths and distances between points along said seaward face of CRM wall being:

1.	126°	24'	29.55 feet;
2.	154°	54'	6.00 feet;
3.	156°	41'	15.56 feet;

4. 244° 37'	0.68	of a foot along Pump House;
5. 334° 37'	17.70	feet along Lot 2-A as shown on Map 3 of Land Court Application 975;
6. 311° 36'	32.48	feet along Lot 2-A as shown on Map 3 of Land Court Application 975 to the point of beginning and containing an AREA OF 64 SQUARE FEET, MORE OR LESS.

EASEMENT 6:

Being a portion of Land Commission Award 7716, Apana 5 to R. Keelikani conveyed to the Minister of Interior by George McDougall by deed dated September 4, 1889 and recorded in Liber 116, Page 391 (Land Office Deed 278).

Being also a portion of Civic Center Site, Governor's Executive Order 1949.

Beginning at the west corner of this easement and on the southeast boundary of Lot 2-A as shown on Map 3 of Land Court Application 975, the coordinates of said point of beginning referred to Government Survey Triangulation Station "KAILUA" (NORTH MERIDIAN) being 2033.09 feet South and 229.91 feet East, thence running by azimuths measured clockwise from True South:-

C.S.F. No. 23,335

August 9, 2002

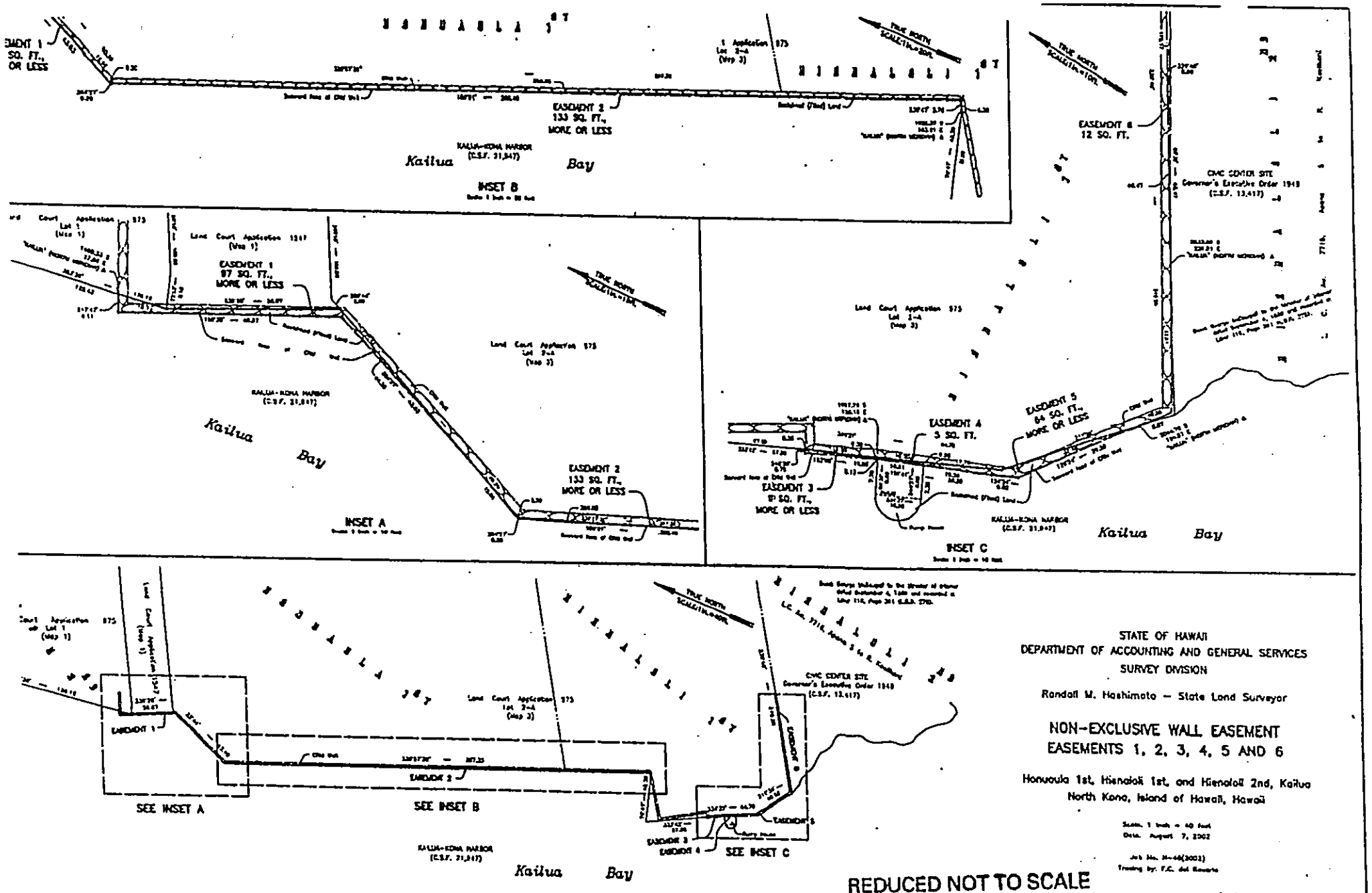
1. 239° 48'	40.47 feet along Lot 2-A as shown on Map 3 of Land Court Application 975;
2. 329° 48'	0.59 of a foot along the remainder of Civic Center Site, Governor's Executive Order 1949;
3. 60° 38'	40.47 feet along the remainder of Civic Center Site, Governor's Executive Order 1949 to the point of beginning and containing an AREA OF 12 SQUARE FEET.

SURVEY DIVISION
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
STATE OF HAWAII

By: Glenn J. Kodani
Glenn J. Kodani
Land Surveyor

gm

Compiled from map furn.
by Wes Thomas & Assoc., Inc.,
CSF 21947 and other Govt.
Survey Records.



EASEMENT 1
SQ. FT.,
OR LESS
EASEMENT 2
133 SQ. FT.,
MORE OR LESS
KAILUA-KONA HARBOR
(C.S.F. 21,847)
Kailua
Bay
INSET B
TRUE NORTH
SCALE: 1"=20'
EASEMENT 6
12 SQ. FT.
CIVIC CENTER SITE
Governor's Executive Order 1949
(C.S.F. 13,417)
Land Court Application 575
Lot 1
(Map 1)
EASEMENT 1
97 SQ. FT.,
MORE OR LESS
Land Court Application 575
Lot 2-A
(Map 3)
EASEMENT 2
133 SQ. FT.,
MORE OR LESS
INSET A
EASEMENT 4
5 SQ. FT.
EASEMENT 5
64 SQ. FT.,
MORE OR LESS
EASEMENT 3
SQ. FT.,
MORE OR LESS
INSET C
SEE INSET A
SEE INSET B
SEE INSET C
EASEMENT 1
EASEMENT 2
EASEMENT 3
EASEMENT 4
EASEMENT 5
EASEMENT 6
STATE OF HAWAII
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
SURVEY DIVISION
Randall M. Hashimoto – State Land Surveyor
NON-EXCLUSIVE WALL EASEMENT
EASEMENTS 1, 2, 3, 4, 5 AND 6
Honuoula 1st, Hienaloli 1st, and Hienaloli 2nd, Kailua
North Kona, Island of Hawaii, Hawaii
Scale: 1 inch = 40 feet
Date: August 7, 2002
Job No. H-46(2002)
Traced by: F.C. del Rosario
REDUCED NOT TO SCALE
For Description See C.S.F. 23,335
H.S.S. PLAT 322

EXHIBIT "B"

Final Environmental Assessment

Tax Map Key: 7-5-007: 021

Maps, Plans, Documents by Exhibit Nos.

MAP, PLANS, DOCUMENTS AND OTHER RELATED EXHIBITS

Exhibit 1	Fee Owner's Authorization Letter
Exhibit 2	Location Map of Property in Tax Map Key form.
Exhibit 3	Reduced copy of 1981 Certified Shoreline Survey of Existing Seawall
Exhibit 4	Photographs of Mauka and Makai Side of Existing Seawall
Exhibit 5	Photographs of Area for Proposed Outdoor Seating Lanai & Existing swimming pool at south end of Property.
Exhibit 6	Reduced copy of development plans, which include Property site plan, Project site plan, Project floor plan, Project elevations and sections, Project framing and foundation plan
Exhibit 7	Colored rendering of Plan View of Proposed Outdoor Seating Lanai.
Exhibit 8	Colored perspective rendering of Proposed Outdoor Seating Lanai.
Exhibit 9	Copy of Kailua-Kona Land Use Master Plan map.
Exhibit 10	Copy of Kailua-Kona Land Use Master Plan State Land Use Commission Zone Districts map.
Exhibit 11	Copy of Kailua-Kona Land Use Master Plan County General Plan Land Use Pattern Allocation Guide Map.
Exhibit 12	Copy of Kailua-Kona Land Use Master Plan County of Hawaii Zoning Districts map.
Exhibit 13	Copy of Kailua-Kona Land Use Master Plan Historical Sites Map
Exhibit 14	Copy of letter to DLNR Historic Preservation Division requesting "No Effect".

EXHIBIT 1

Fee Owner and/or Applicant's Letter of Authorization

Tax Map Key: (3) 7-5-007: 021
District of North Kona
Island, County and State of Hawaii

The undersigned is the authorized representative fee owner of and/or applicant for the real property above-identified, and hereby authorizes the law firm of **Carlsmith Ball**, to apply for, execute and process any and all County, State and federal governmental permit applications, and to participate in proceedings related to said real property.

This authorization may be signed in counterparts, each of which shall be considered an original, and the counterparts shall together constitute one and the same authorization. A photostatic or facsimile copy of this executed authorization shall also be considered as effective and valid as the original.

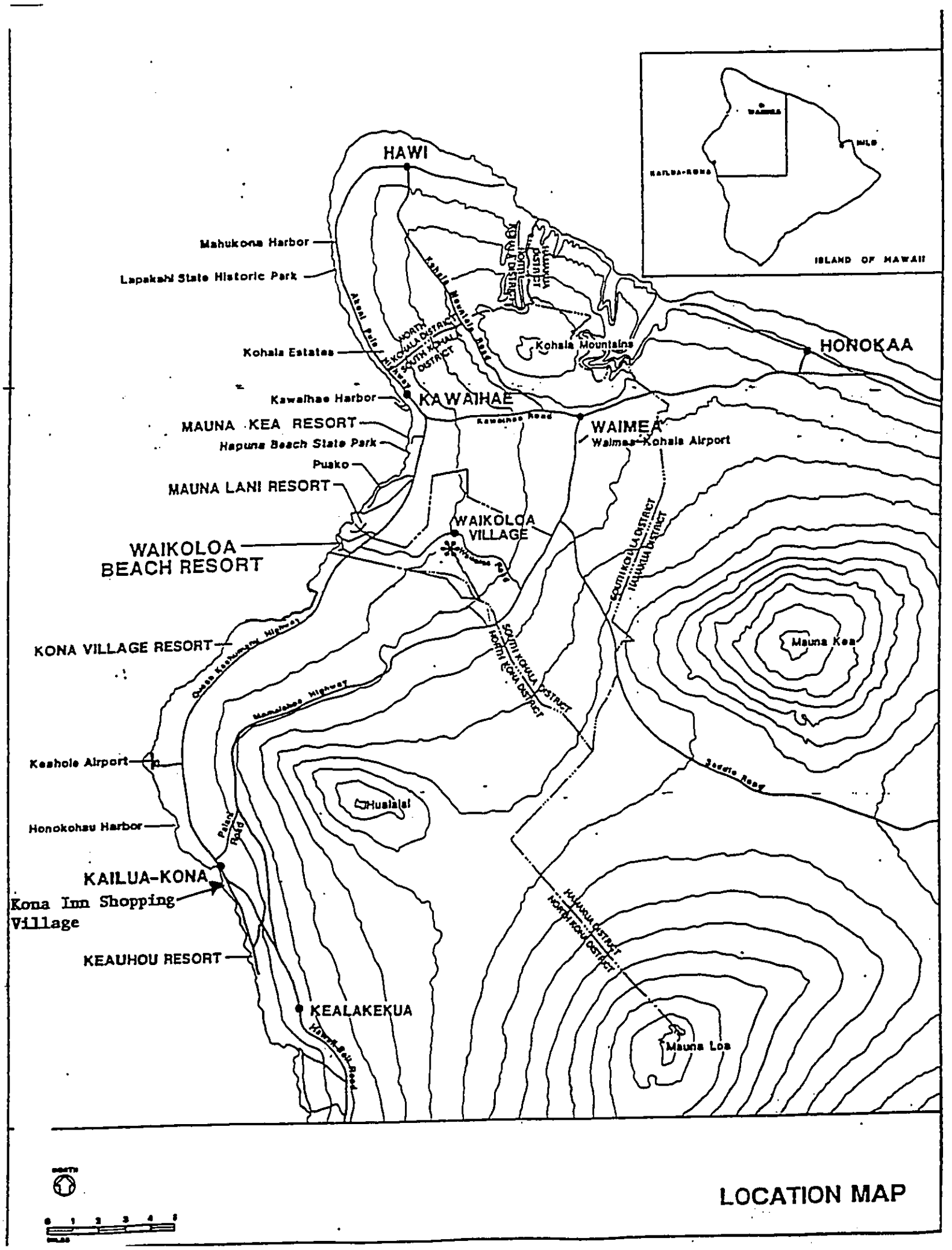
KAILUA KONA VILLAGE
DEVELOPMENT GROUP, a registered
Hawaii Limited Partnership

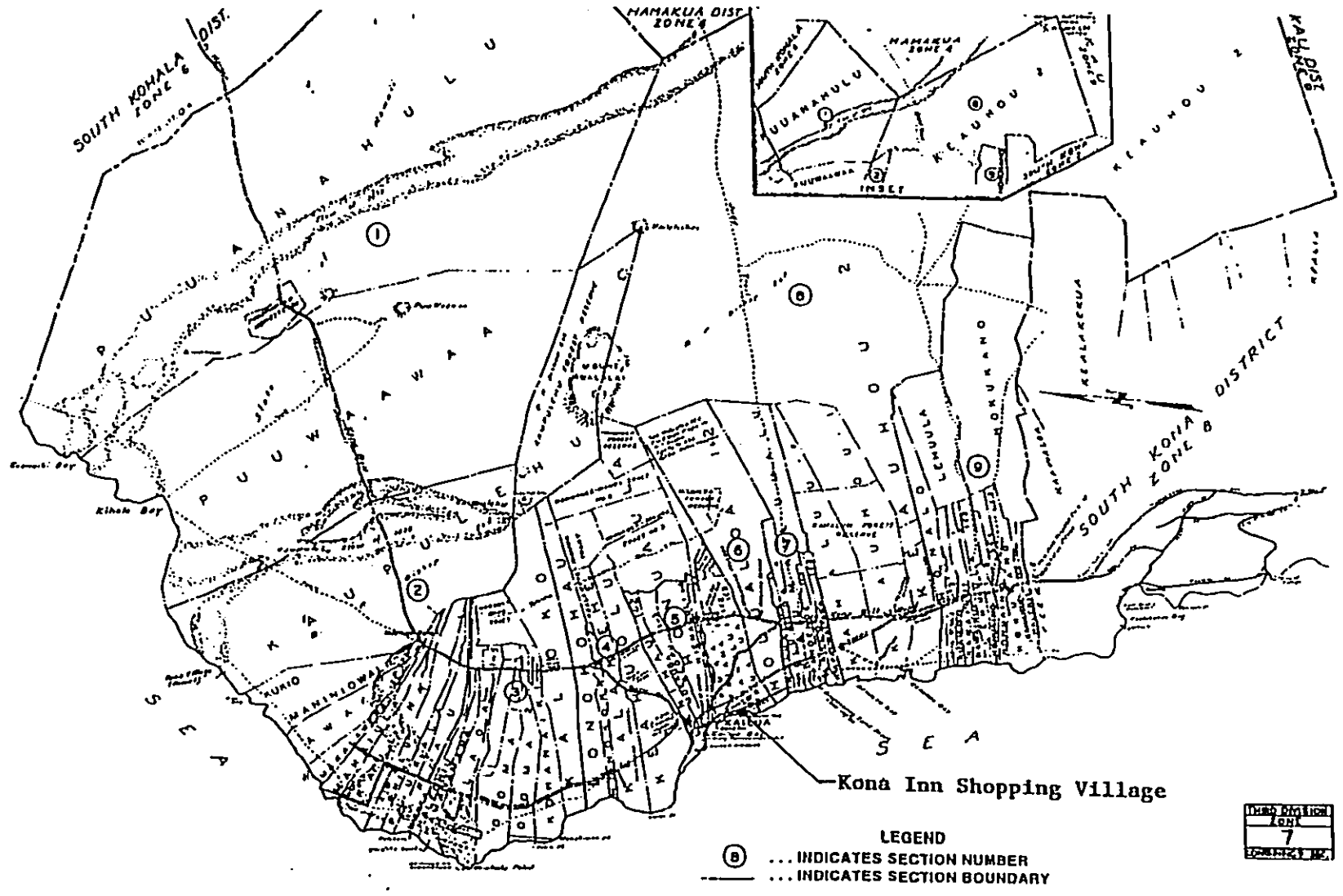
By _____
WILLIAM J. KIMI JR.
Its Authorized Representative

Address: 75-5739 Alii Drive
Kailua-Kona, HI 96740

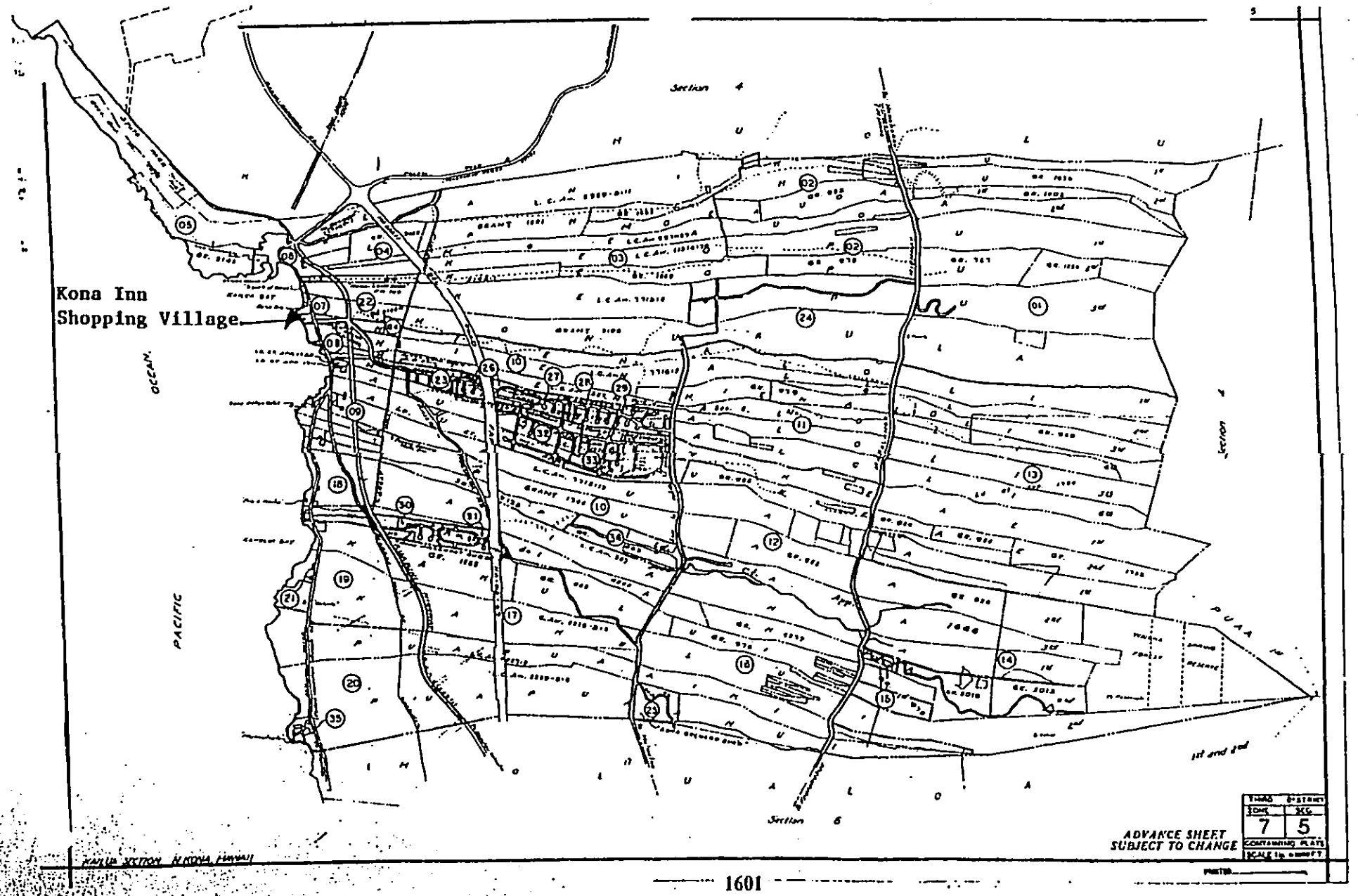
EXHIBIT 18

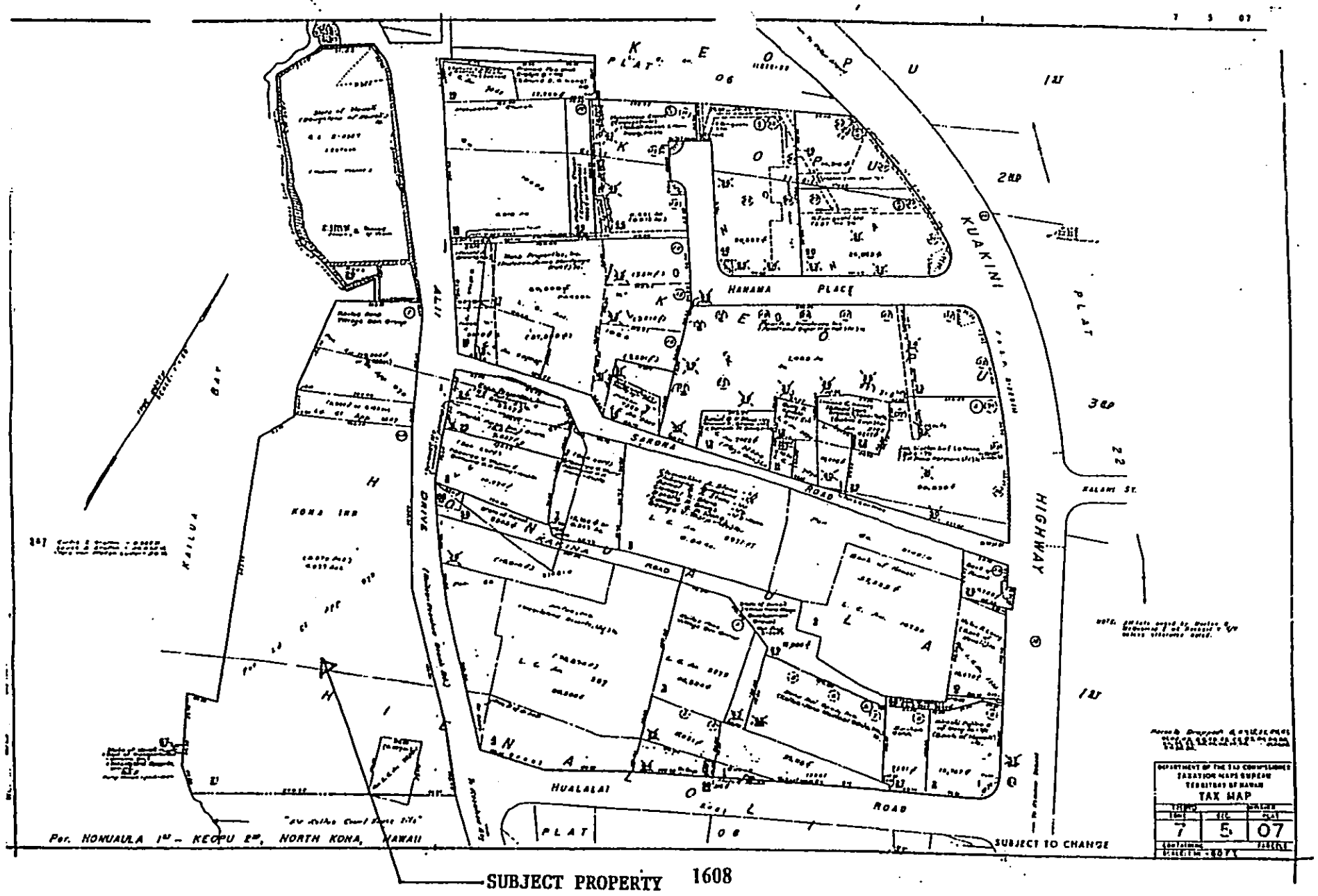
EXHIBIT 2


HAWI
Mahukona Harbor
Lapakahi State Historic Park
Kohala Estates
Kawaihae Harbor
MAUNA KEA RESORT
Hapuna Beach State Park
Puako
MAUNA LANI RESORT
WAIKOLOA BEACH RESORT
KONA VILLAGE RESORT
Keahole Airport
Honokohau Harbor
KAILUA-KONA
Kona Inn Shopping Village
KEAUHOU RESORT
KEALAKEKUA
KAWAIHAE
WAIMEA
Waimea-Kohala Airport
WAIKOLOA VILLAGE
HONOKAA
Kohala Mountains
Mauna Kea
Mauna Loa
Hualalai
ISLAND OF HAWAII
LOCATION MAP



NORTH KONA DISTRICT, ISLAND OF HAWAII, COUNTY OF HAWAII

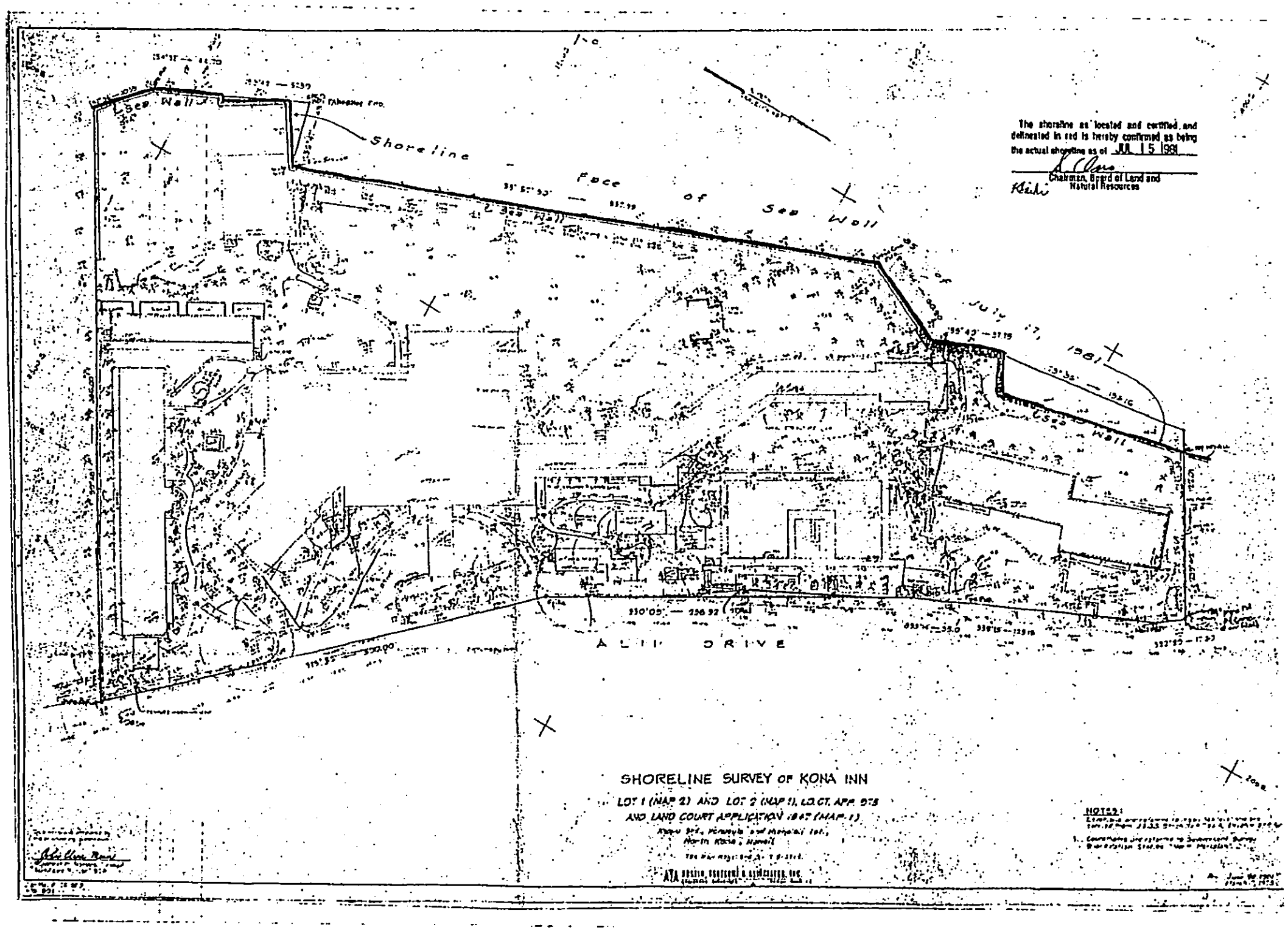

Kona Inn
Shopping Village
PACIFIC
OCEAN
Section 4
Section 6
ADVANCE SHEET
SUBJECT TO CHANGE
7
5



KEOPU
PLAT 06
KUAKINI
HANAMA PLACE
SAKONA ROAD
KAKINA ROAD
HUALALAI ROAD
ALII DRIVE
KONA INN
KAILUA BAY
HIGHWAY
KALANI ST.
PLAT 22
PLAT 06
Por. HONUAULA 1st - KEOPU 2nd, NORTH KONA, HAWAII
SUBJECT TO CHANGE
TAX MAP
7
5
07
SUBJECT PROPERTY

1608

EXHIBIT 3



Sea Wall
Shoreline
Face of Sea Wall
Sea Wall
Sea Wall
ALII DRIVE
The shoreline as located and certified, and delineated in red is hereby confirmed as being the actual shoreline as of JUL 15 1981
Chairman, Board of Land and Natural Resources
SHORELINE SURVEY OF KONA INN
LOT 1 (MAP 2) AND LOT 2 (MAP 1), LD. CT. APP. 975
AND LAND COURT APPLICATION 1847 (MAP 1)
North Kona, Hawaii
NOTES:

EXHIBIT 4

FINAL ENVIRONMENTAL ASSESSMENT
KAILUA KONA VILLAGE DEVELOPMENT GROUP
Tax Map Key: 7-5-007: 021

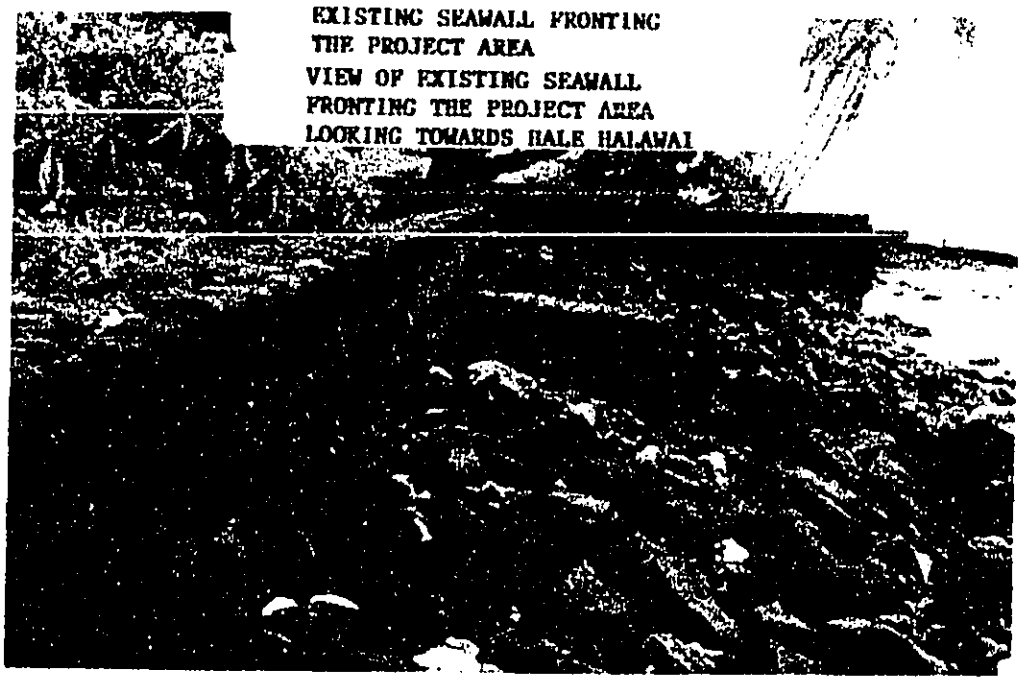
VIEW OF EXISTING SEAWALL, MAUKA
SIDE FRONTING PROJECT AREA

EXHIBIT 4

RECEIVED AS FOLLO

FINAL ENVIRONMENTAL ASSESSMENT
KAILUA KONA VILLAGE DEVELOPMENT GROUP
Tax Map Key: 7-5-007: 021

VIEW OF MAKAI SIDE OF EXISTING SEAWALL FRONTING THE PROJECT AREA
VIEW OF EXISTING SEAWALL FRONTING THE PROJECT AREA LOOKING TOWARDS HALE HALAWAI



VIEW OF EXISTING SEAWALL FRONTING THE PROJECT AREA LOOKING TOWARDS HULIHEE PALACE

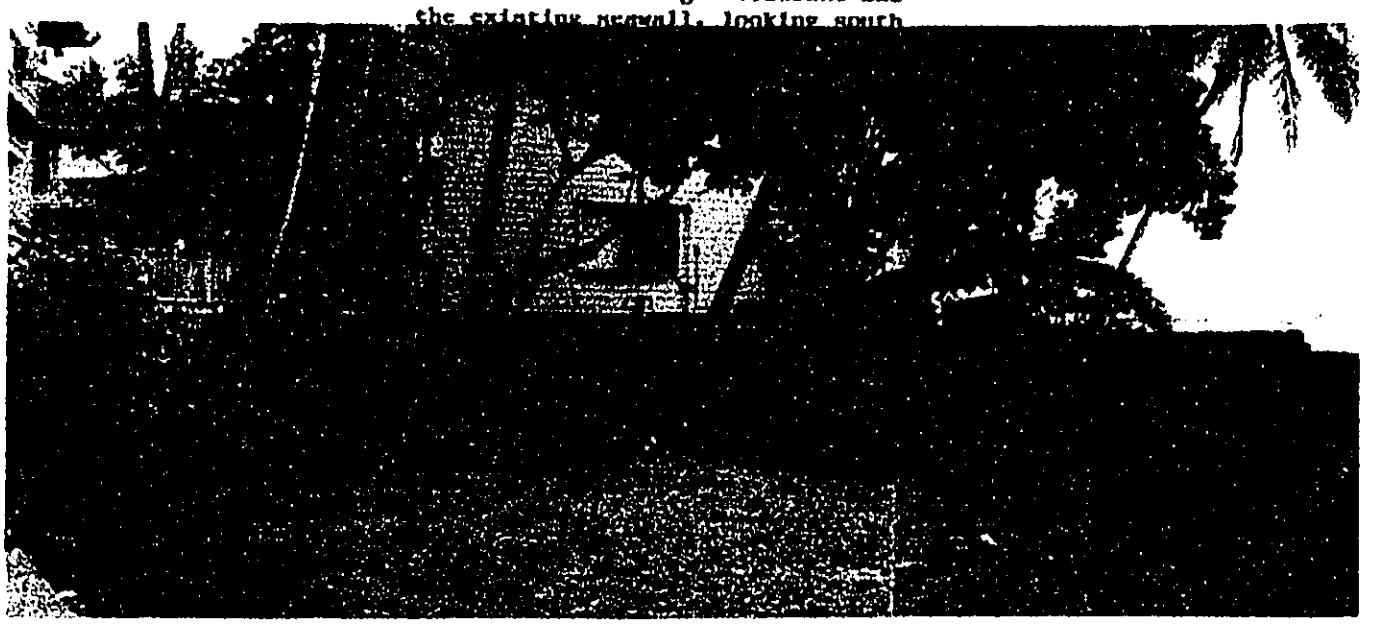
EXHIBIT 4

EXHIBIT 5

RECEIVED AS FOLLOWS

FINAL ENVIRONMENTAL ASSESSMENT
KAILUA KONA VILLAGE DEVELOPMENT GROUP
Tax Map Key: 7-5-007: 021

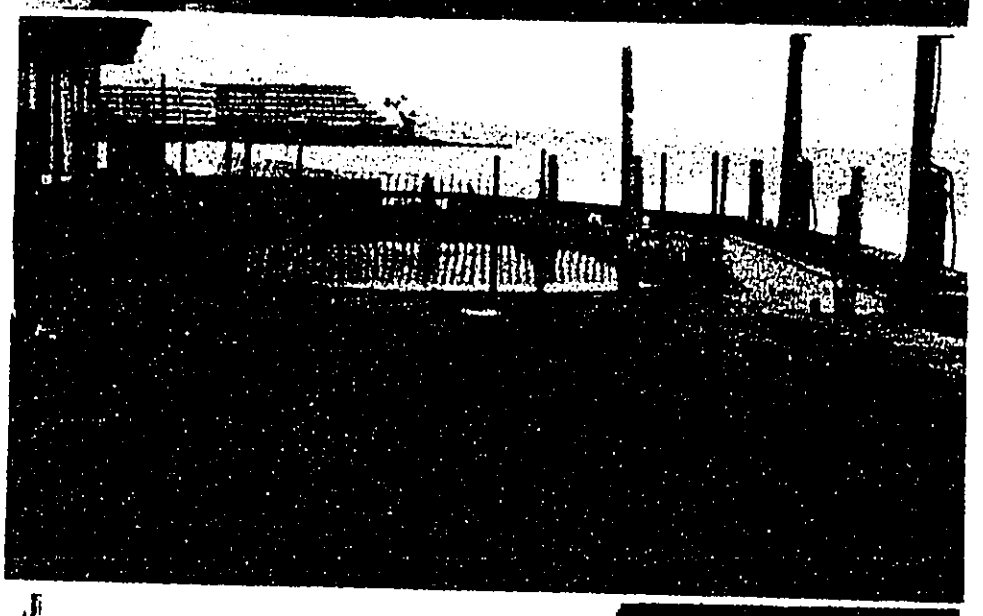
View of Shoreline Setback Area
between the existing restaurant and
the existing seawall, looking south



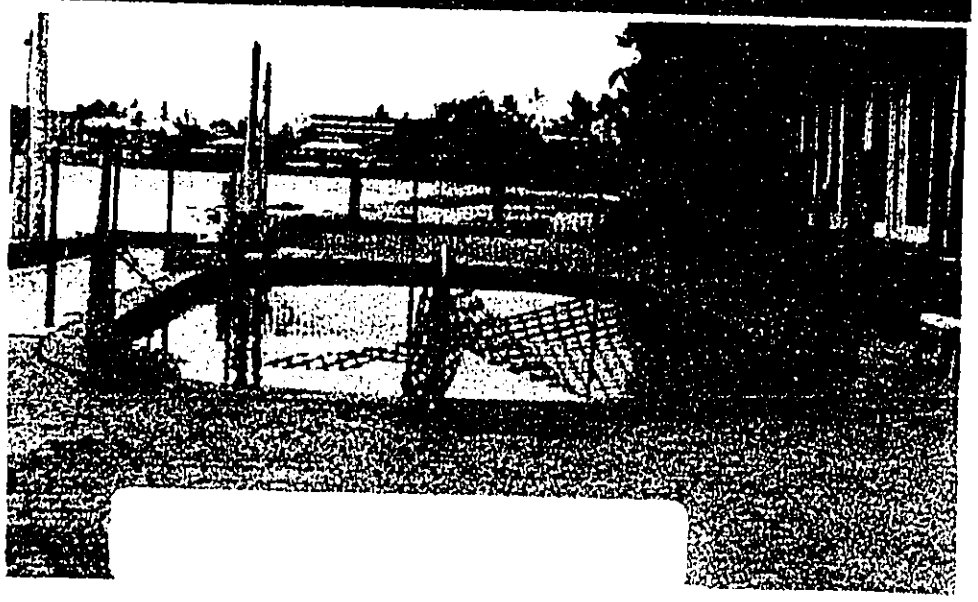
RECEIVED AS FOLLOWS

FINAL ENVIRONMENTAL ASSESSMENT
KAILUA KONA VILLAGE DEVELOPMENT GROUP
Tax Map Key: 7-5-007: 021

View of south end of property, location of existing swimming pool to be filled in.



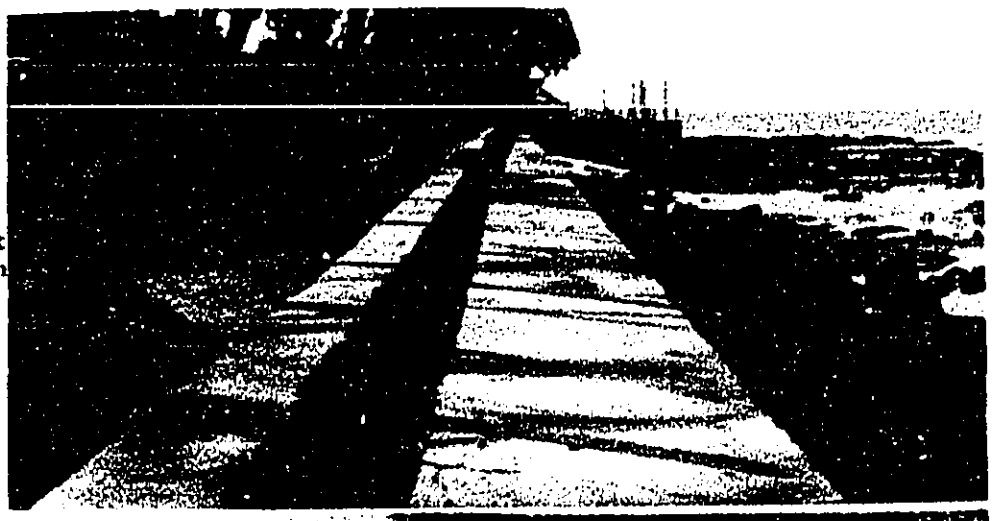
View of existing swimming pool looking south



View of Existing swimming pool looking north

RECEIVED AS FOLLOWS

FINAL ENVIRONMENTAL ASSESSMENT
KAILUA KONA VILLAGE DEVELOPMENT GROUP
Tax Map Key: 7-5-007: 021



View of existing Seawall in the middle Section of the subject property looking south

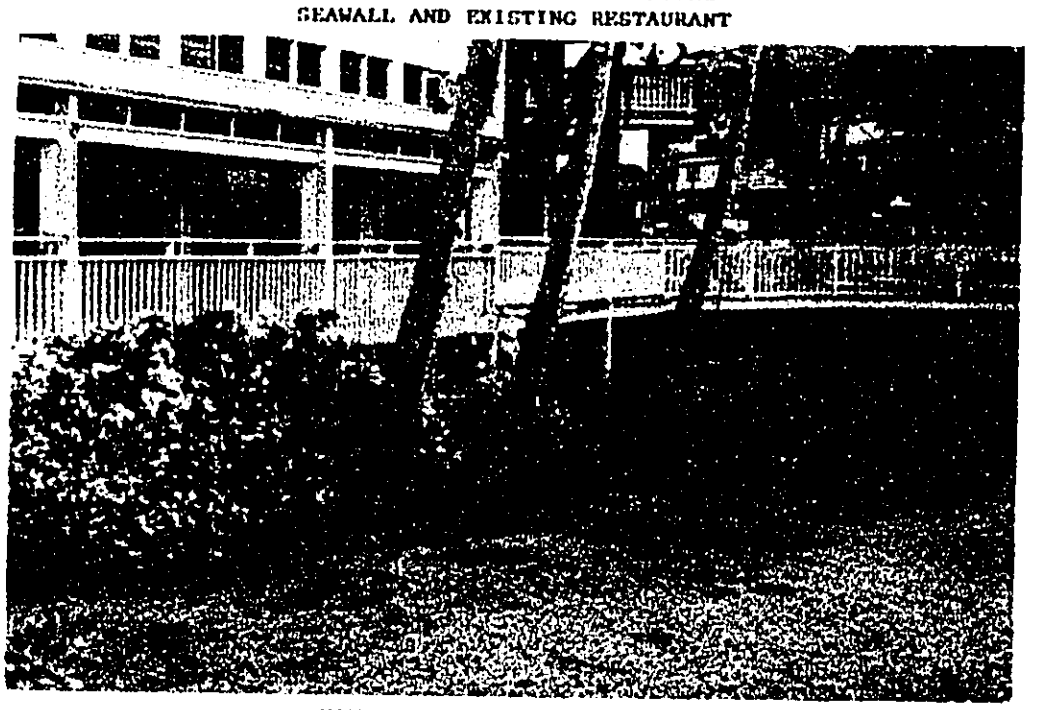
View of the existing Seawall in the middle section of the subject property looking north

View of existing seawall in the middle section of the subject property looking at the makai side of the seawall

RECEIVED AS FOLLOWS

FINAL ENVIRONMENTAL ASSESSMENT
KAILUA KONA VILLAGE DEVELOPMENT GROUP
Tax Map Key: 7-5-007: 021

VIEW OF AREA BETWEEN EXISTING
SEAWALL AND EXISTING RESTAURANT



VIEW OF AREA BETWEEN EXISTING
RESTAURANT AND EXISTING SEAWALL
LOOKING TOWARDS HULIHEE PALACE

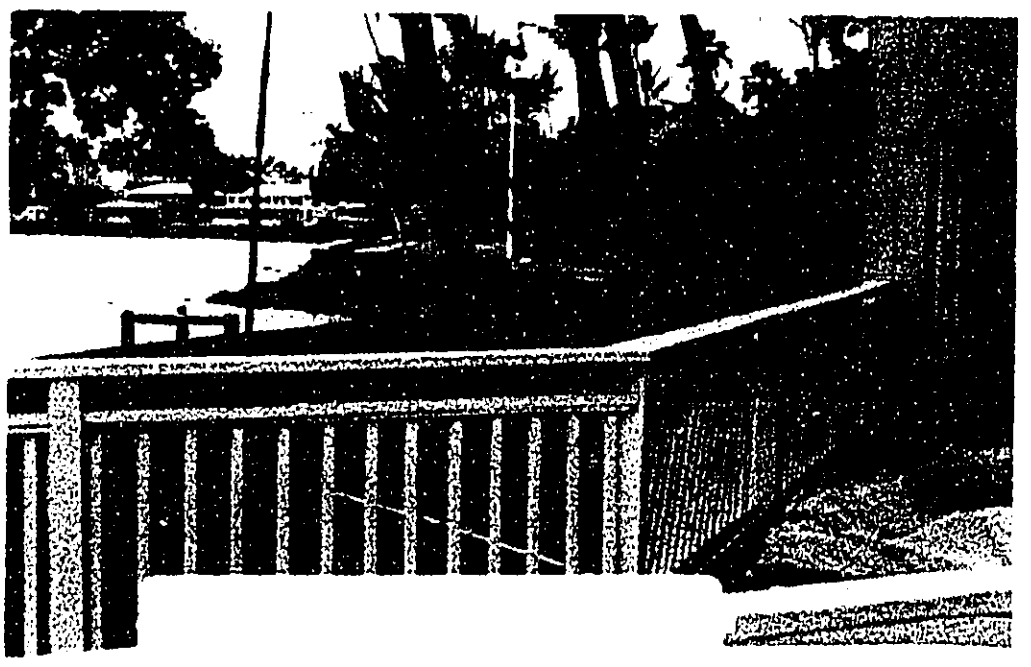
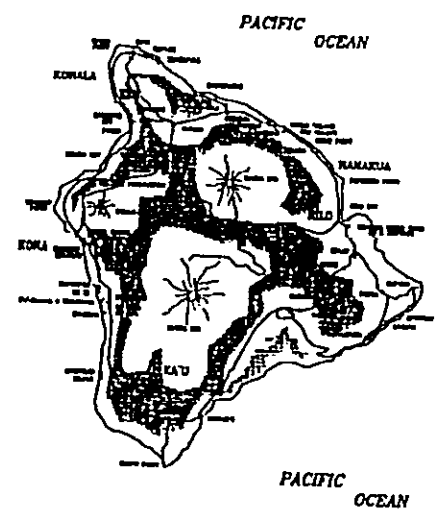


EXHIBIT 6

A NEW LANAI
FOR
AN EXISTING RESTURANT
AT
THE KONA INN SH0PPING VILLAGE



DRAWING INDEX

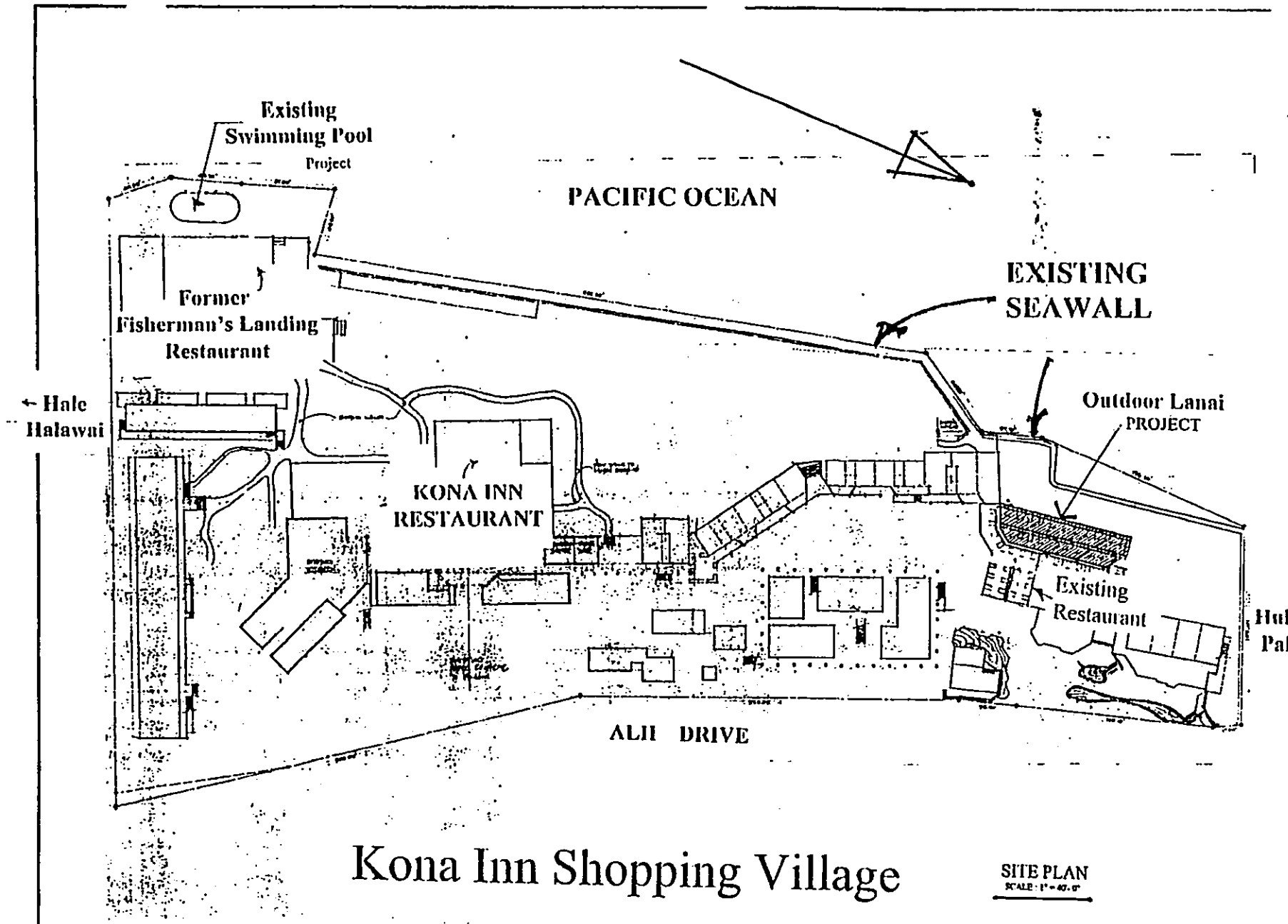
1 TITLE SHEET
2 SITE PLAN
3 SITE PLAN
4 FLOOR PLAN
5 ELEVATIONS & SECTIONS
6 DETAIL SECTION FOUNDATION/ FRAMING PLAN

G L BREWSTER ASSOCIATES
Architecture & Planning

A NEW LANAI
FOR AN EXISTING RESTURANT AT
THE KONA INN SHOPPING VILLAGE

This work was prepared by me or under my supervision and construction of this project will be under my observation

Date 12-30-99
Scale
Drawn
Job
Sheet



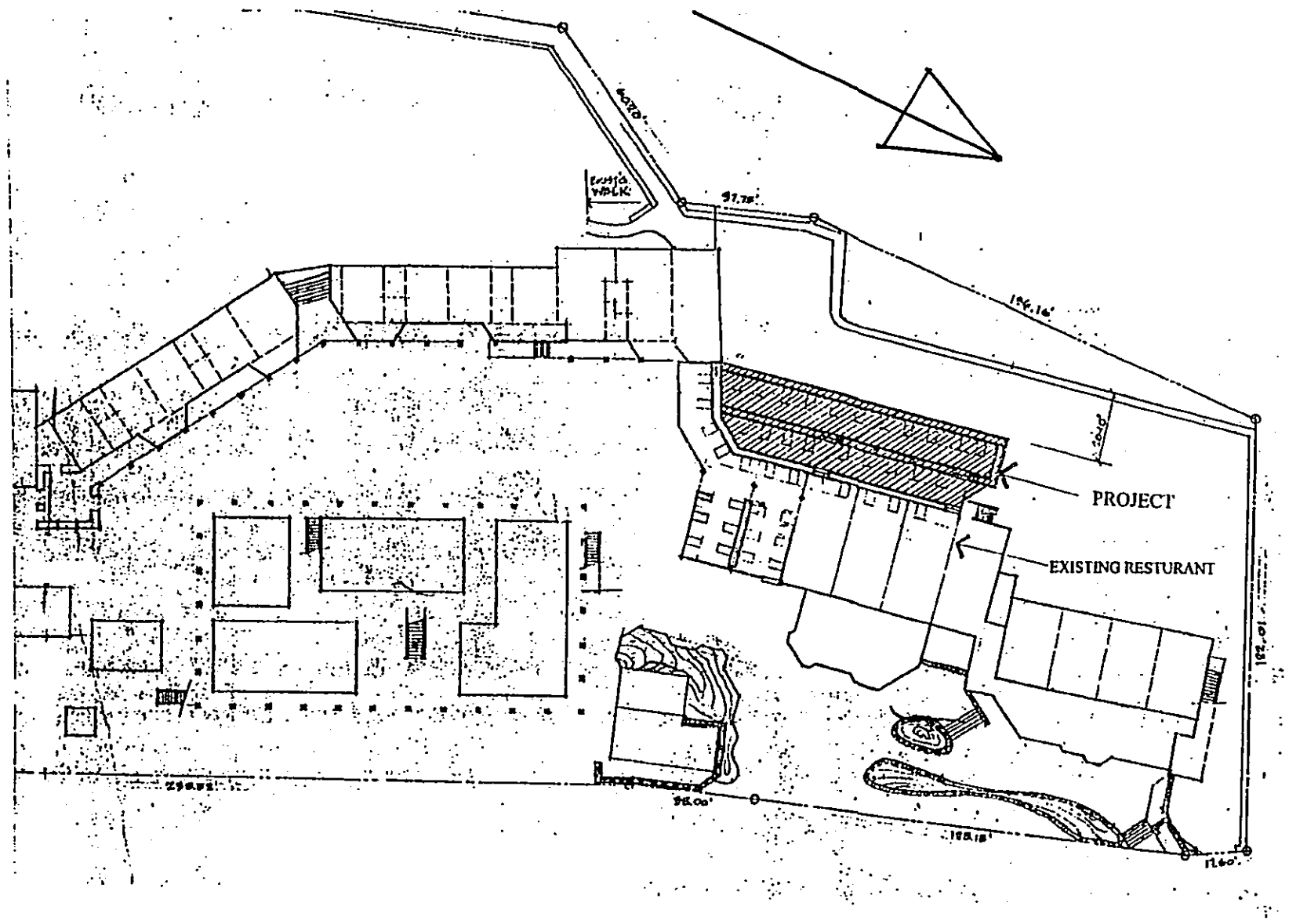
Kona Inn Shopping Village

SITE PLAN
SCALE: 1" = 40'-0"

G L BREWSTER ASSOCIATES
Architecture & Planning

A NEW LANAI
FOR AN EXISTING RESTURANT AT
THE KONA INN SHOPPING VILLAGE

Date 12-30-99
Scale 1" = 40'-0"
Drawn
Job
Sheet 2



G L BREWSTER ASSOCIATES
Architecture & Planning

A NEW LANAI
FOR AN EXISTING RESTURANT AT
THE KONA INN SHOPPING VILLAGE

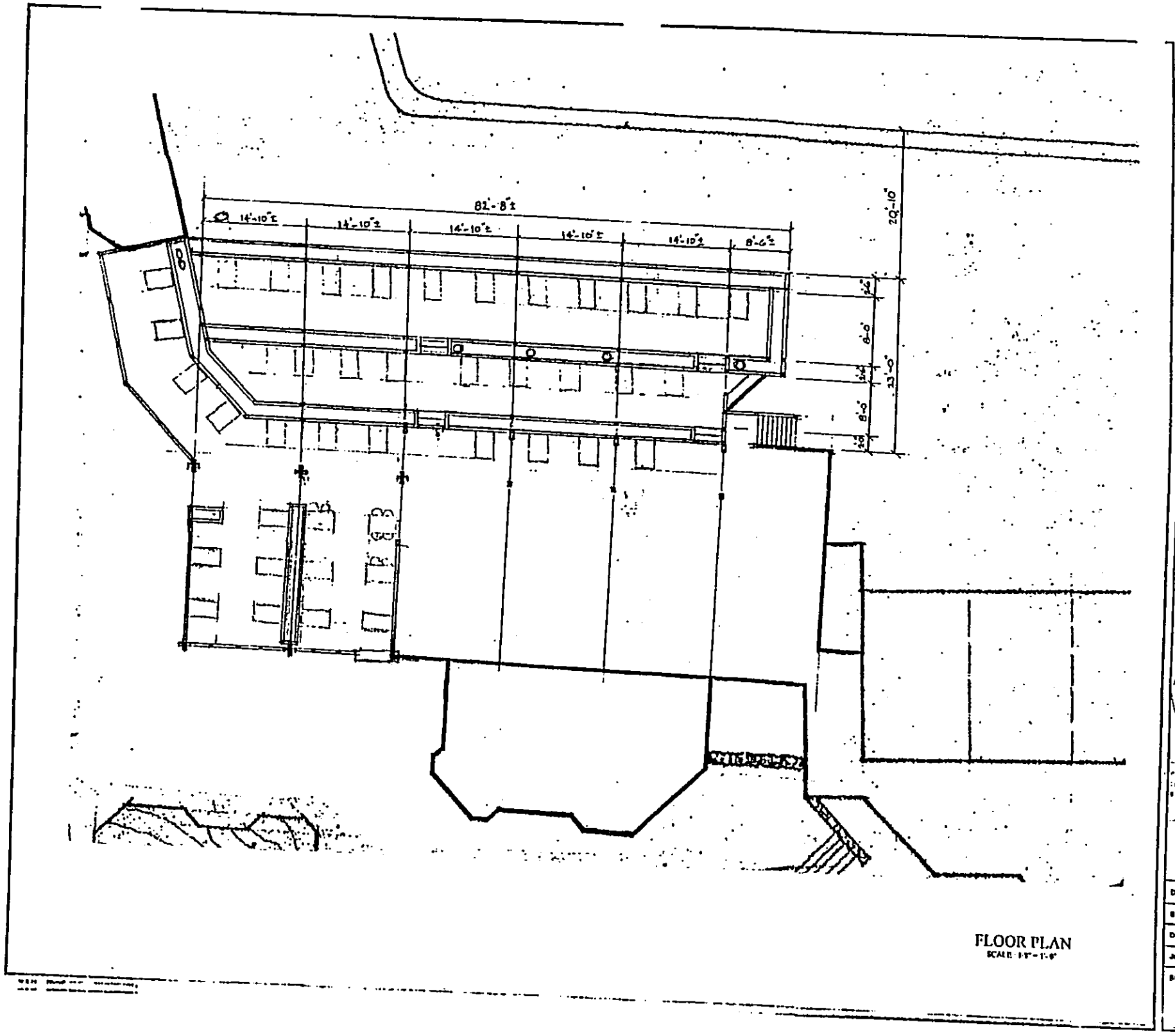
Date 12-30-99

Scale 1" = 20'-0"

Drawn

Job

Sheet 3



FLOOR PLAN
SCALE: 1/8" = 1'-0"

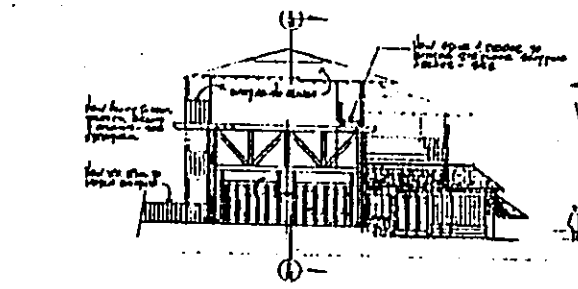
G L BREWSTER ASSOCIATES
Architecture & Planning
75-5077 Hiama Street Hokuloa, Hawaii 96723
Phone (808) 326-5616 Fax (808) 334-1588

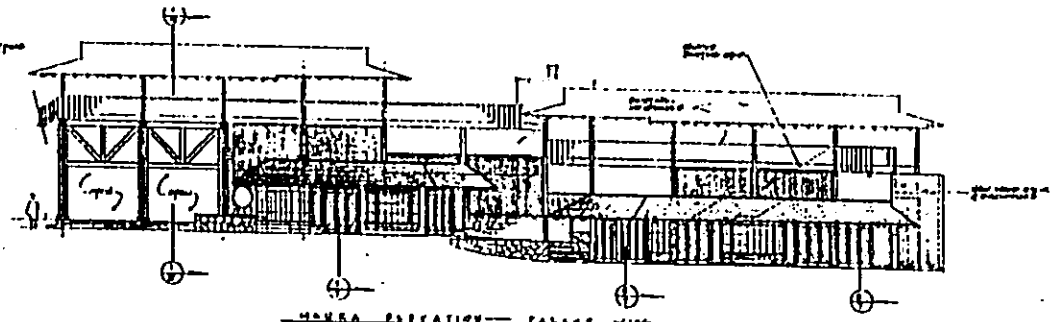
A NEW LANAI
FOR AN EXISTING RESTURANT AT
THE KONA INN SHOPPING VILLAGE
75 - 5744 Alii Drive - Kailua - Kona, Hawaii 96740
TMK No (3) 7-7-5-21

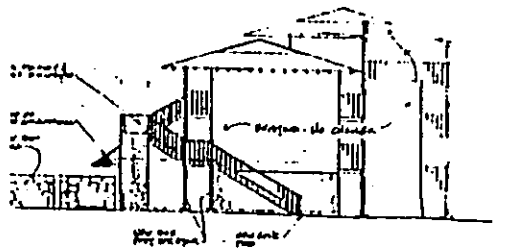
GERALD LEWIS BREWSTER
LICENSED PROFESSIONAL ARCHITECT
AR 9231

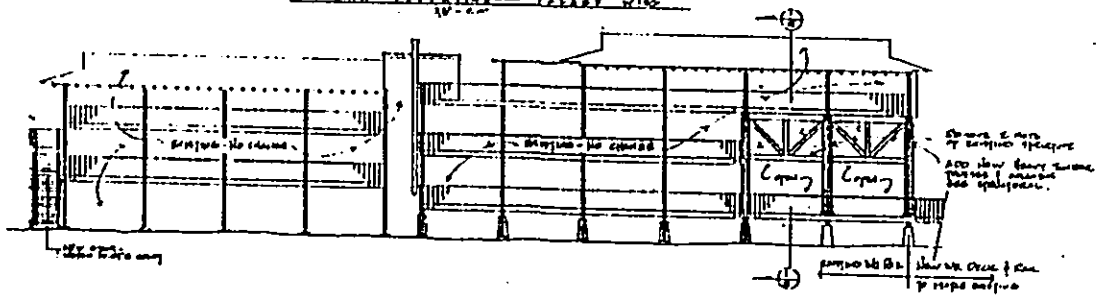
This work was prepared by me or under my supervision or construction of this project will be under my observation.

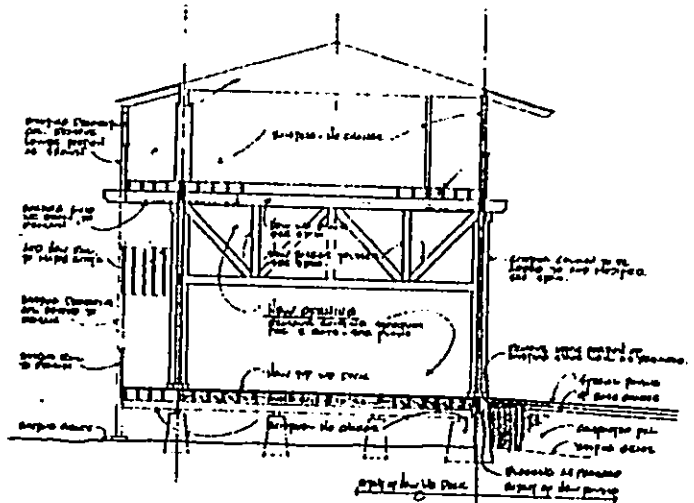
Date 12-30-99
Scale
Drawn
Job
Sheet 1



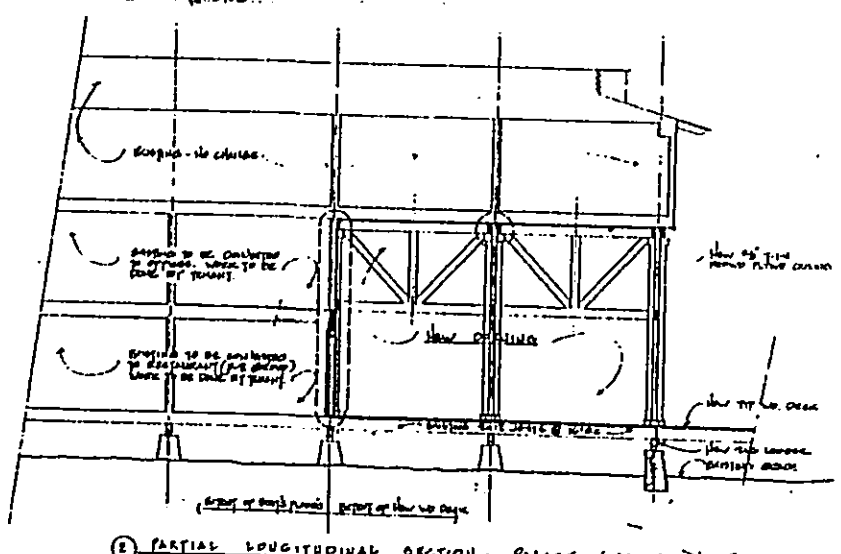








① CROSS SECTION — BUILDING 1 — PALACE WING



② PARTIAL LONGITUDINAL SECTION — PALACE WING — EXHIBIT I

ELEVATIONS & SECTIONS

SCALE AS SHOWN

G L BREWSTER ASSOCIATES
Architecture & Planning

A NEW LANAI
FOR AN EXISTING RESTURANT AT
THE KONA INN SHOPPING VILLAGE

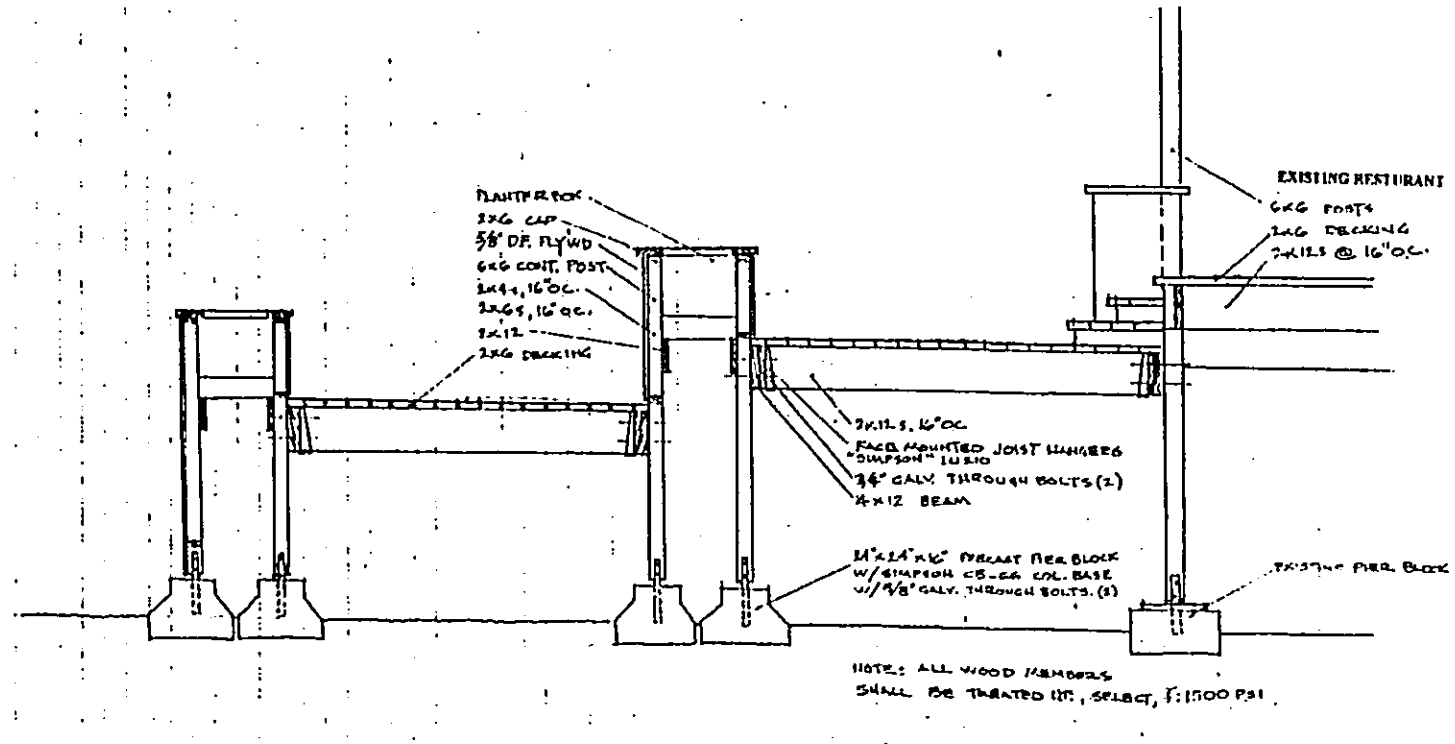
Date 11-30-99

Scale

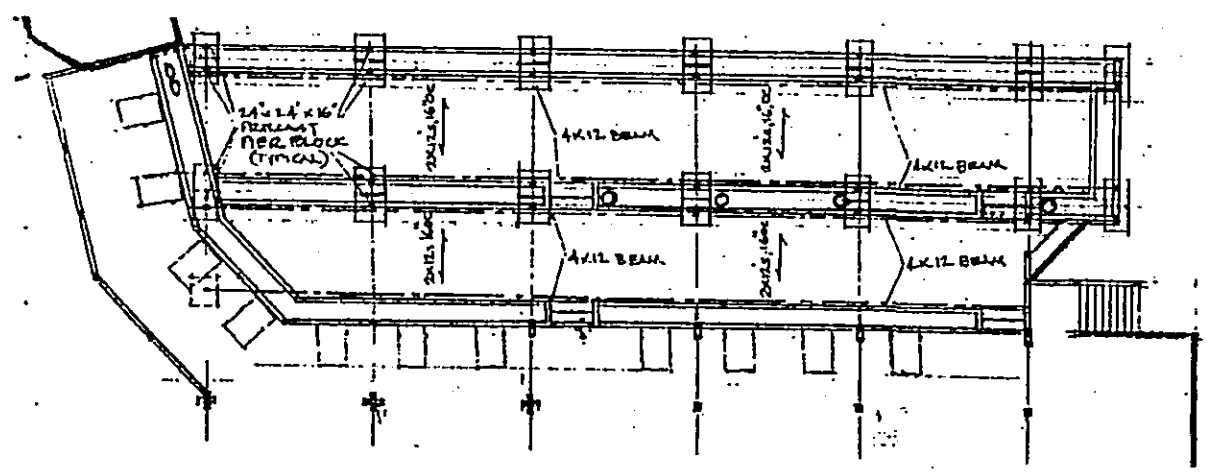
Drawn

Job

Sheet 5 Of 6 Sheets



SECTION
SCALE: 1/2" = 1'-0"



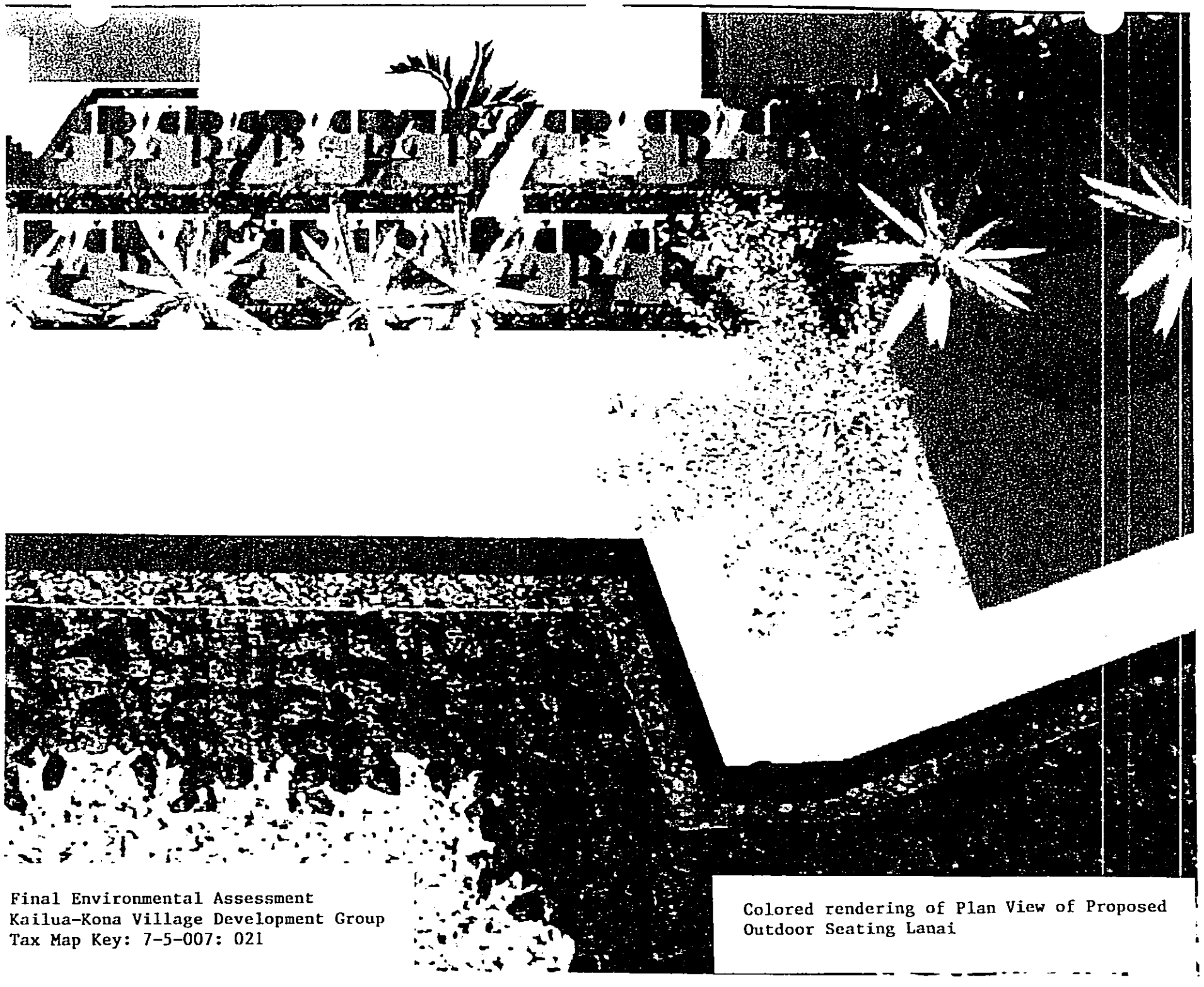
FRAMING PLAN &
FOUNDATION PLAN

G L BREWSTER ASSOCIATES
Architecture & Planning

A NEW LANAI
FOR AN EXISTING RESTURANT AT
THE KONA INN SHOPPING VILLAGE

Date 12-30-99
Scale
Drawn
Job
Sheet 6

EXHIBIT 7

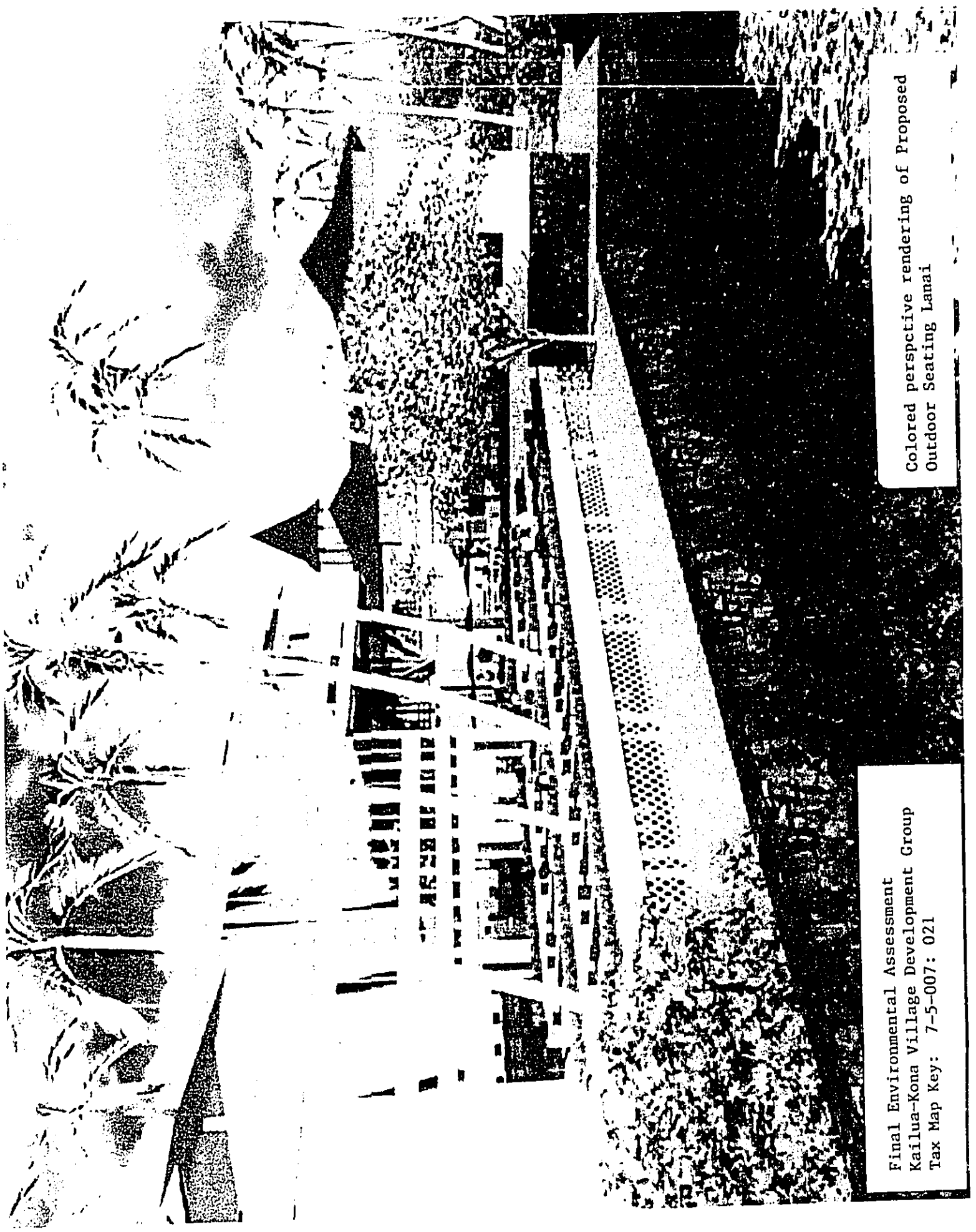


Colored rendering of Plan View of Proposed Outdoor Seating Lanai

RECEIVED AS FOLLOWS

EXHIBIT 8

RECEIVED AS FOLLOWS



Colored perspctive rendering of Proposed
Outdoor Seating Lanai

Final Environmental Assessment
Kailua-Kona Village Development Group
Tax Map Key: 7-5-007: 021

EXHIBIT 9

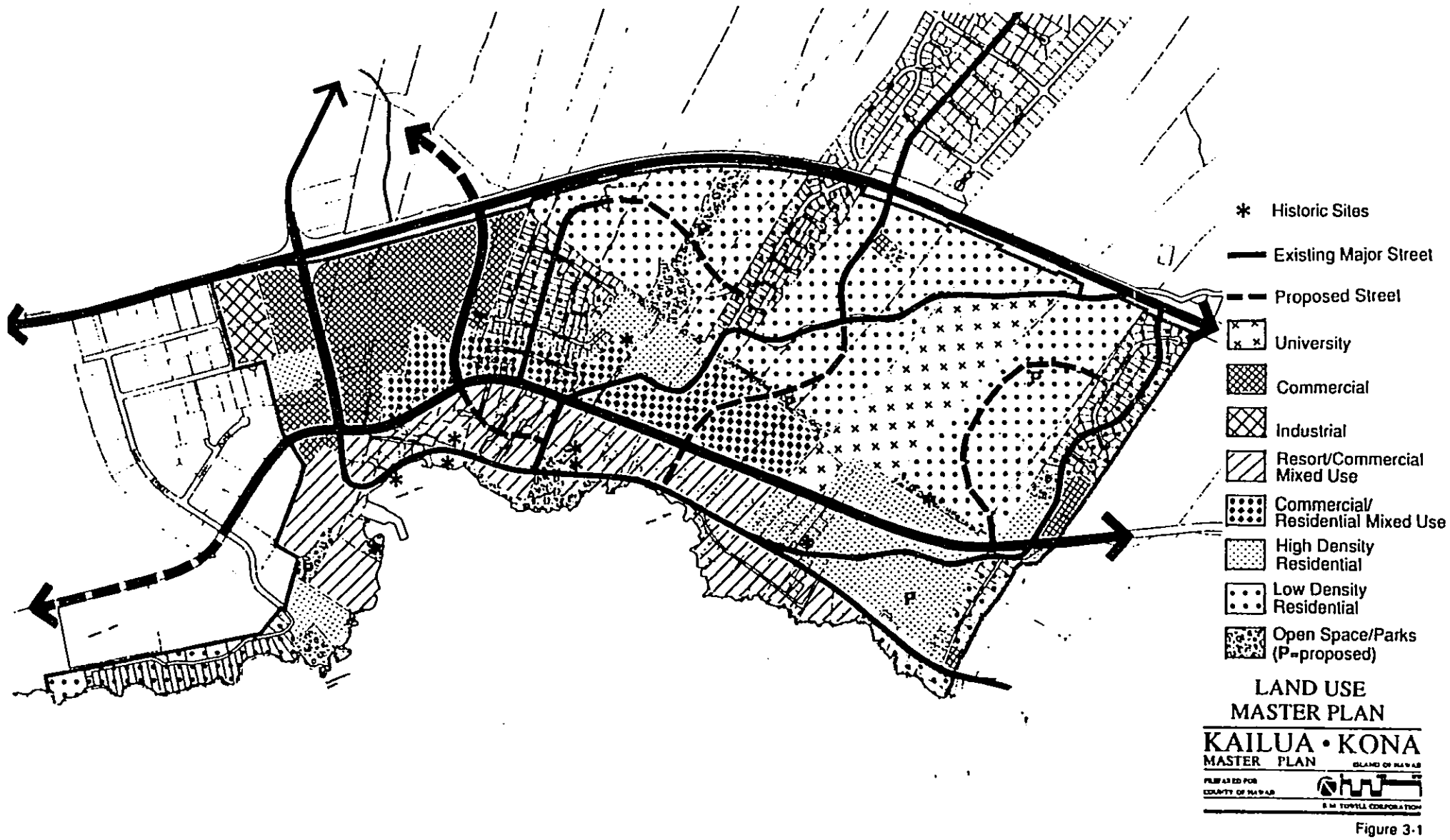
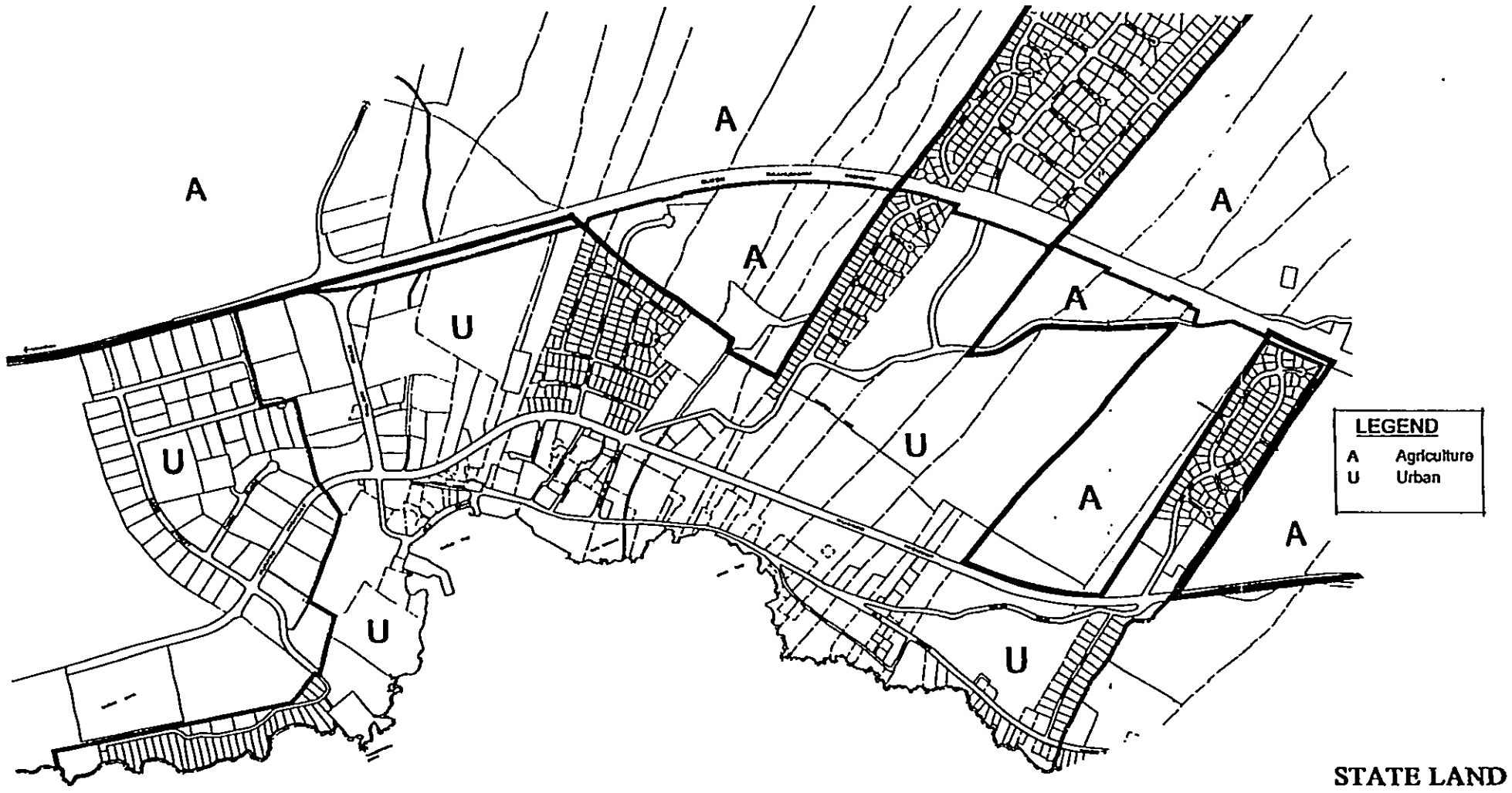


Figure 3-1

From County of Hawaii
MASTER PLAN FOR KAILUA KONA 1994

Final Environmental Assessment
Kailua-Kona Village Development Group
Tax Map Key: 7-5-007: 021

EXHIBIT 10



STATE LAND USE

KAILUA • KONA
MASTER PLAN

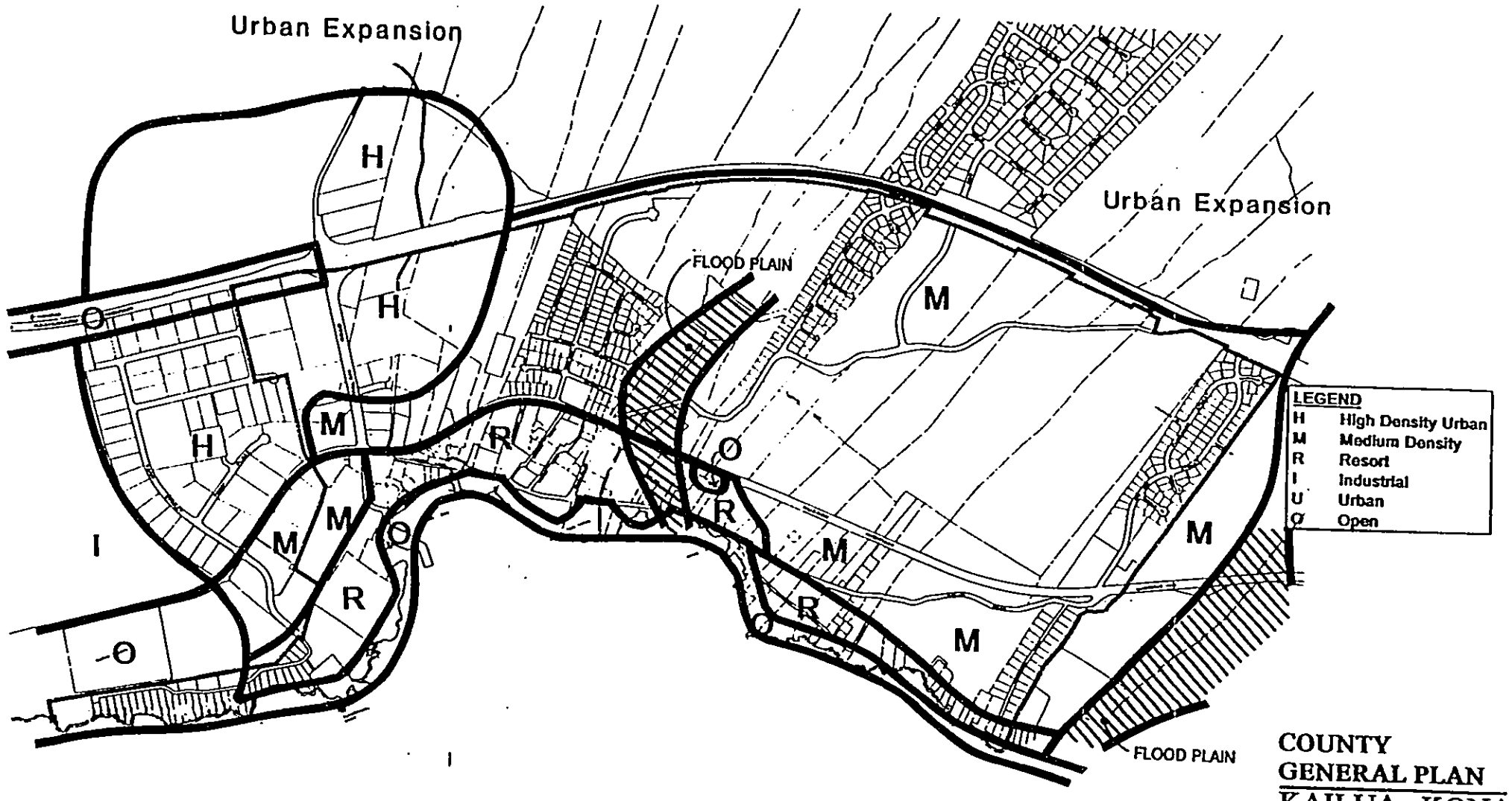
FIGURE 3-3

Figure 6-3

From County of Hawaii
MASTER PLAN FOR KAILUA KONA 1994

Final Environmental Assessment
Kailua-Kona Village Development Group
Tax Map Key: 7-5-007: 021

EXHIBIT 11



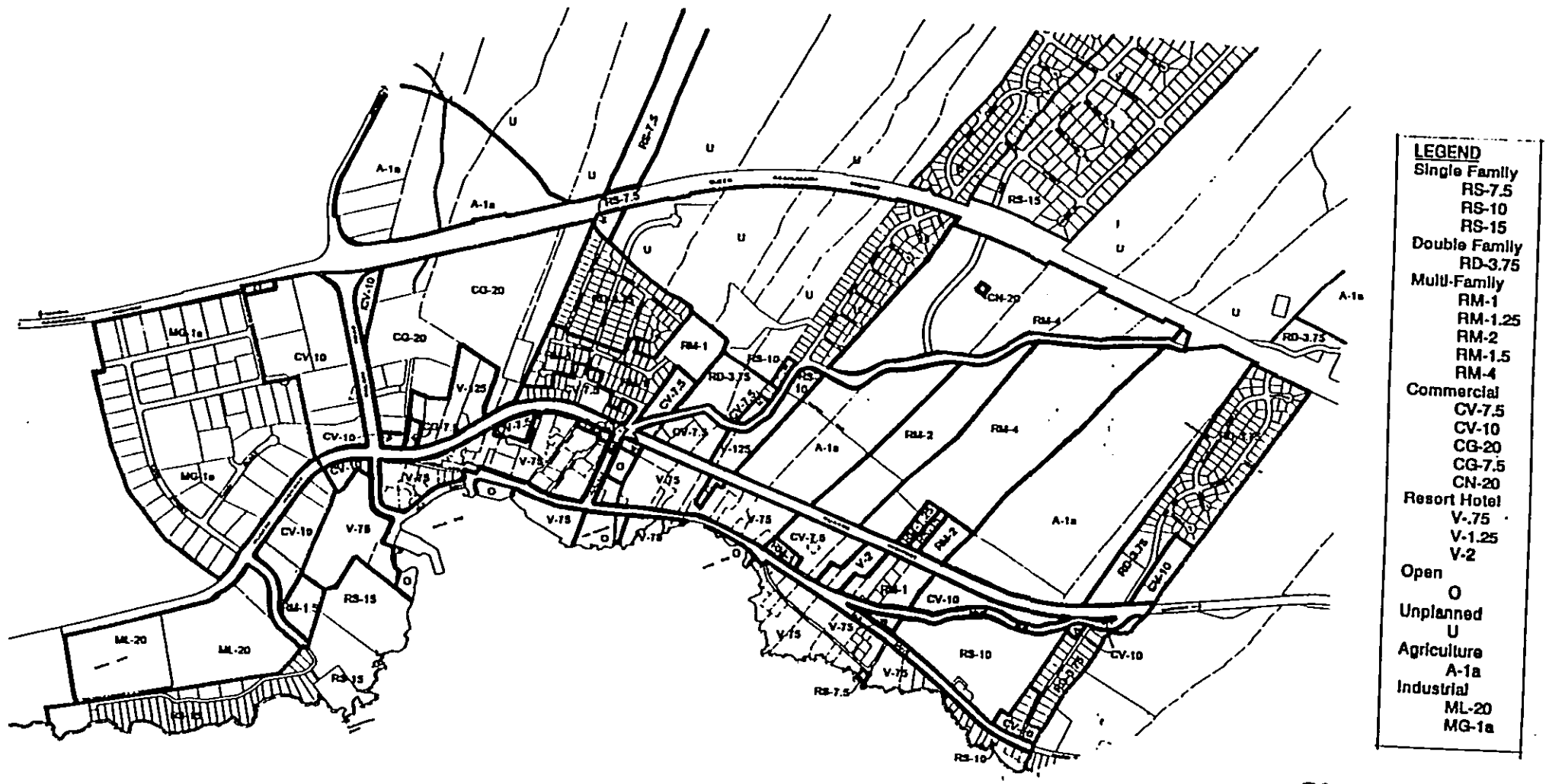
From County of Hawaii
MASTER PLAN FOR KAILUA KONA 1994

Final Environmental Assessment
Kailua-Kona Village Development Group
Tax Map Key: 7-5-007: 021

COUNTY GENERAL PLAN
KAILUA • KONA
MASTER PLAN

Figure 6-4

EXHIBIT 12



COUNTY ZONING

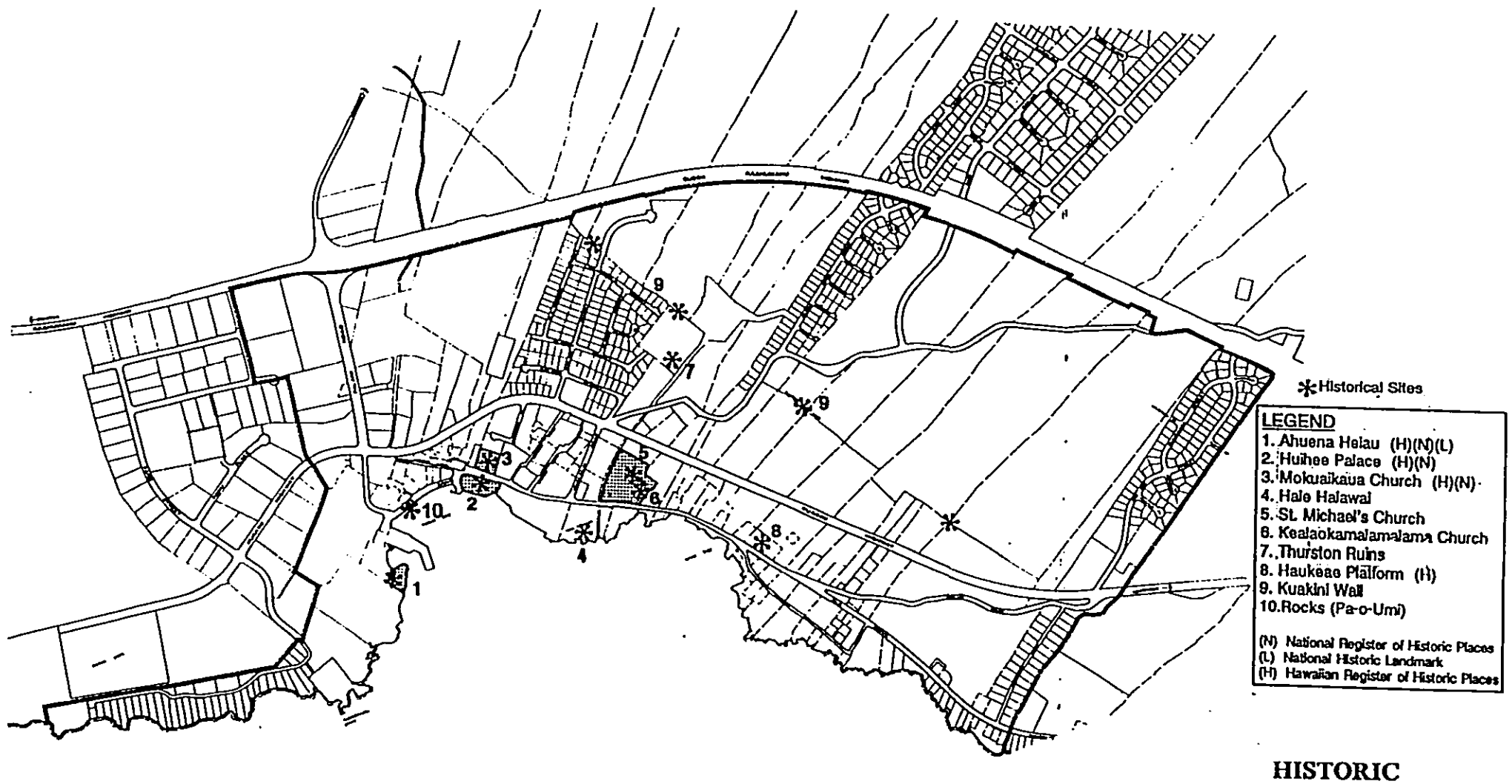
KAILUA • KONA MASTER PLAN

Figure 6-5

From County of Hawaii
MASTER PLAN FOR KAILUA KONA 1994

Final Environmental Assessment
Kailua-Kona Village Development Group
Tax Map Key: 7-5-007: 021

EXHIBIT 13



From County of Hawaii
MASTER PLAN FOR KAILUA KONA 1994

Final Environmental Assessment
Kailua-Kona Village Development Group
Tax Map Key: 7-5-007: 021

HISTORIC

KAILUA • KONA
MASTER PLAN

Figure 6-7

EXHIBIT 14

CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

121 WAIANUENUE AVENUE
P.O. BOX 686
HILO, HAWAII 96721-0686
TELEPHONE 808.935.6644 FAX 808.935.7975
WWW.CARLSMITH.COM

'04 JUL -6 P12:03

DIRECT DIAL NO.

SLIM@CARLSMITH.COM

OUR REFERENCE NO.:
056805-00001

July 6, 2004

Jeanne Knapp
Hawaii Island Assistant Archaeologist
DLNR, Historic Preservation Division
74-383 Kealakehe Parkway
Kailua-Kona, Hawaii 96740

Re: Request for "No Effect" Letter
Final Environmental Assessment (FEA)
Owners: Kailua Kona Village Development Group
Tax Map Key: 7-5-007: 021

Dear Jeanne:

We are in the process of preparing a Final Environmental Assessment Application to the Planning Department on the above-referenced property.

Proposed Actions: The owners, Kailua-Kona Village Development Group propose the following: hereinafter referred to as ("Proposed Actions"):

1. Construct an outdoor seating lanai addition on the makai (west) side of the former Drysdale Restaurant on the Property with a 20 foot shoreline setback in lieu of the minimum required 40 foot shoreline setback.;
2. Fill in existing swimming pool at the south end of the Property with concrete within the 40 foot Shoreline Setback Area.

The Owner is seeking approval to construct an Outdoor Seating Lanai addition to an existing restaurant building. The proposed addition will consist of approximately 1,992 square feet of improvements. The construction costs of this Outdoor Seating Lanai addition and the filling of the existing swimming pool will be approximately $116,000.00. The Outdoor Seating Lanai design will be two terraced seating areas approximately 84 feet-8 inches in width, extending 23 feet beyond the wall of the existing restaurant building 20 feet into the 40 foot Shoreline Setback Area. The existing swimming pool is in disrepair and is a hazard and the Owner proposes to fill the pool with concrete to level it with the existing pool deck. The Property consisting of approximately 4.077-acre coastal property ("Property") is located on the makai side of Alii Drive between Hulihe'e Palace and the County's Hale Halawai park in Keopu 3rd, Honuaula 1st, Hienaloli 1st, District of North Kona, Hawaii. The Proposed Action is within the County Special Management Area ("SMA"). The Property is situated within the State Land Use "Urban" District, and the County of Hawaii's Resort (V-.75) zone district. The Property is also situated within the Kailua Village Special District. The Property is accessed via Alii Drive, but the

off-street parking for the Property is situated on off-site parking areas at the Kona Bay Hotel and off of Hualalai Road.

The County of Hawaii Planning Department now requires that either of the following be submitted as part of the Special Permit application submittal:

1. "An archaeological inventory survey;
2. A "No Effect" letter from the State DLNR Historic Preservation Division; or
3. A copy of a letter written by the applicant to the State DLNR Historic Preservation Division requesting a "no effect" letter, including supporting documentation, to which SHPD has not responded after 30 days (SHPD's) time limit under their rules)."

Since, the above-referenced property is not listed on the State of Hawaii Register of Historic Places, in the County of Hawaii General Plan Historic Site element or in the Kailua Village Master Plan in the location of the proposed actions, we would request that a "No Effect" letter be issued for the above-referenced property so that it can be included with the Special Permit Application submittal to the County of Hawaii Planning Department.

Phtographs of the area of the proposed actions have been included for your information.

Should you have any questions, please contact me.

Very truly yours,

Steven S.C. Lim

SSL/rhy
4828-3742-1056.1.023295-00009