

# EXHIBIT 6

THE ORIGINAL OF THE DOCUMENT  
RECORDED AS FOLLOWS  
STATE OF HAWAII

BUREAU OF CONVEYANCES

DATE NOV - 8 1995 TIME 10:00  
DOCUMENT NO. 95-145677

LAND COURT SYSTEM

REGULAR SYSTEM

Return by Mail ( ) Pickup ( ) To:

CASTLE & COOKE LAND COMPANY  
P. O. Box 2990  
Honolulu, Hawaii 96802

## DECLARATION OF COVENANTS AND CLASSIFICATIONS FOR SITE 12 OF ROYAL KUNIA

THIS DECLARATION is made this 8th day of November, 1995, by KUNIA RESIDENTIAL PARTNERS, a Hawaii limited partnership ("Declarant"), with an address at 650 Iwilei Road, Honolulu, Hawaii.

### W I T N E S S E T H T H A T :

A. Declarant is the owner of certain property located at Ewa, Oahu, City and County of Honolulu, State of Hawaii, more particularly described in Exhibit A attached hereto ("Site 12").

B. Site 12 is within a larger residential development project known as "Royal Kunia". Land within Royal Kunia was submitted to that certain Declaration of Protective Covenants for Royal Kunia Community dated April 17, 1989, and recorded in the Bureau of Conveyances of the State of Hawaii in Liber 23083 at page 509. Said declaration was amended by various instruments and was amended and restated in its entirety by that certain Amended and Restated Declaration of Protective Covenants

for Royal Kunia Community filed with the Bureau of Conveyances of the State of Hawaii as Document No. 94-049225. The declaration, together with its amendments, is hereinafter referred to as the "Master Declaration".

C. Section 3.01 of the Master Declaration provides that all land within Royal Kunia shall be classified by area type. Declarant holds the right to designate the classifications for Site 12 and intends to do so through this Declaration.

D. Declarant also intends to set forth additional covenants, conditions, limitations and restrictions as herein set forth, which will inure to the benefit of present and future owners of property within Site 12, the Royal Kunia Community Association ("Association"), Declarant and others.

NOW THEREFORE, Declarant hereby declares that Site 12 shall be held, sold, conveyed, encumbered, leased, occupied and improved subject to the designations, limitations, covenants, conditions and restrictions set forth in this Declaration.

#### ARTICLE I DESIGNATIONS OF LAND CLASSIFICATIONS

Section 1.01 Residential Area. The land described in Exhibit B attached hereto is designated as "Residential Area".

Section 1.02 Common Area. The land described in Exhibit C attached hereto is designated as "Common Area" as said term is defined in the Master Declaration.

Section 1.03 Limited Common Area. The land described in Exhibit D attached hereto is designated as "Limited Common Area" as said term is defined in the Master Declaration, for the exclusive use of the owners and occupants of the Neighborhoods specified on Exhibit D.

Section 1.04 Designated Landscaped Area. The land described in Exhibit E attached hereto is designated as "Designated Landscaped Area" as said term is defined in the Master Declaration.

Section 1.05 Neighborhoods. The land described in Exhibit F attached hereto ("Courtyard Neighborhood") is designated as a "Neighborhood" as said term is defined in

the Master Declaration. The land described in Exhibit G attached hereto ("Country Lane Neighborhood") is designated as a "Neighborhood" as said term is defined in the Master Declaration. The land described in Exhibit H attached hereto ("Country Cottage Neighborhood") is designated as a "Neighborhood" as said term is defined in the Master Declaration.

Section 1.06 Reservation. The designations set forth above are made pursuant to Sections 3.01 and 3.02(d) of the Master Declaration. Declarant reserves the right to change such designations in the manner set forth in Article III below.

## ARTICLE II ADDITIONAL COVENANTS

Section 2.01 Restricted Parking Areas. The provisions in this Section shall apply to the parking areas shown in Exhibit I attached hereto ("Restricted Parking Areas"). The Restricted Parking Areas shall only be used by short-term guests of residents of the Country Lane Neighborhood. Residents of Site 12 shall not park in the Restricted Parking Areas. In addition, no vehicle shall be allowed within the Restricted Parking Areas for more than 24 hours in any 48-hour period. The Association, but not any individual homeowner or resident, shall be entitled to enforce this Section 2.01 and Section 2.02 below by removing vehicles at the expense of the vehicle's owner or operator.

Section 2.02 No Parking Areas. In addition to areas within Site 12 designated from time to time by the City & County of Honolulu ("City") as areas where parking is prohibited, there shall be no parking in any of the Limited Common Areas except as allowed under Section 2.01 above in the Restricted Parking Areas. Without limiting the generality of the foregoing, there shall be no parking on roads, streets and lanes owned by the Association that provide access to or from more than one lot within Site 12.

Section 2.03 Limitation of Liability. The Association shall not be liable for any claims of damage, theft or other loss for vehicles parked on property owned or maintained by the Association.

Section 2.04 Cluster Development Restrictions. Site 12 was developed under the conditions imposed by the Report, Conclusions, and Decision and Order dated July 1,

1994, and modifications thereto dated April 25, 1995, a copy of which is attached hereto as Exhibit J ("Decision and Order"). The conditions of the Decision and Order are hereby incorporated by reference. Without limiting the generality of the foregoing, the following shall apply to Site 12: Building area may be restricted. Vehicular sight lines shall not be obstructed. Future additions or alterations to individual dwelling units and Common Areas subsequent to the initial completion of development on Site 12 shall require the review and approval of the City Director of Land Utilization ("DLU"). Exterior lighting shall conform to applicable restrictions. The Association shall have the right to place and maintain signs, lighting fixtures, and other equipment and improvements within privately owned lots and other areas in Site 12 as may be required to satisfy the conditions of the Decision and Order or as may be reasonably necessary to facilitate rubbish collection, control parking or provide lighting within Site 12. Street trees and landscaping located in private property shall be maintained and, as required under the Decision and Order, replaced by individual homeowners, but if a homeowner shall fail to do so, then the Association shall perform such maintenance and shall be entitled to recover its costs from the homeowner. All nonpaved public right of way areas shall be planted and maintained with groundcover or grass in addition to the street trees. If the adjacent lot owner fails to maintain such groundcover then the Association shall perform such maintenance and shall be entitled to recover its costs from the homeowner. The Association shall have the powers and duties set forth in the Decision and Order including but not limited to the maintenance of "common elements" as indicated in condition 18 of the Decision and Order. Drainage patterns within the privately owned lots shall not be altered by the owners thereof without DLU approval. If the drainage pattern within the owner's lot is not maintained by the lot owner, then the Association shall maintain the drainage pattern to the extent required under the Decision and Order after receiving notice of the alteration of the drainage pattern. If the lot owner altered the drainage pattern without DLU approval, then the Association shall be entitled to recover its costs of restoring the drainage pattern from the owner. Residents of Site 12 shall comply with the refuse collection provisions of the Decision and Order. The Association shall provide the name of a contact person and telephone number to the Refuse Division of the City Department of Public Works or other appropriate agency to coordinate and resolve matters pertaining to refuse collection.

Section 2.05 Fence and Wall Guidelines. In addition to any other applicable restrictions in the Decision and Order or otherwise, the Fence and Wall Guidelines attached hereto as Exhibit K shall apply to the construction of any fences and walls within the Residential Area of Site 12. The Association, through the Design Committee of the Association or otherwise, shall have the right to enforce the Fence and Wall Guidelines.

Section 2.06 Country Cottage Driveway Maintenance. Most of the lots within the Country Cottage Neighborhood shall share a common driveway with one or more other lots as shown by easements designated on the File Plan for Site 12. The owners of the lots entitled to use such a common driveway shall share equally in the cost of repairing and maintaining the driveway. For example, if four lot owners in the Country Cottage Neighborhood share a common driveway, each such owner shall be responsible for one-fourth of the cost of repairing and maintaining the driveway. A majority of owners sharing a driveway shall be entitled to determine the means of repairing and maintaining the driveway, provided that repairs and maintenance necessary for the safety of persons or property may be done by any such owner after making reasonable efforts to notify the other owners, without having to obtain majority approval. Any owner expending more than his share for repair and maintenance of a driveway shall be entitled to reimbursement from the other owners involved who have not yet paid their shares.

Section 2.07 Slopes and Swales. Owners of lots in the Residential Area shall maintain the ground slopes and swales of their lots to lessen chances of erosion and undercutting (especially near foundations). Slopes shall be planted by such owners in conformance with applicable ordinances of the City and County of Honolulu; slope planting is recommended on cut and fill slopes to lessen erosion.

### ARTICLE III MISCELLANEOUS PROVISION

Section 3.01 Assignment of Powers. Any and all of the rights and powers vested in Declarant pursuant to this Declaration may be delegated, transferred, assigned, conveyed or released in whole or in part by Declarant to the Association or any person or entity who acquires any of the undeveloped land in Royal Kunia. The Association shall accept any such rights and powers effective upon the

recording by Declarant of a notice of such delegation, transfer, assignment, conveyance or release. No assignment of the rights and powers of Declarant shall be implied from any conveyance or other document executed by Declarant, but shall only be made effective by a document whereby an assignment of Declarant's rights and powers is expressly made, except that the rights and powers of Declarant shall pass automatically to any legal successor of Declarant by merger or consolidation or otherwise by operation of law.

Section 3.02 Duration. All of the designations, limitations, restrictions, covenants and conditions of this Declaration shall run with the land described in Exhibit A, except as otherwise expressly provided elsewhere in this Declaration. Notwithstanding the foregoing, the provisions of Article I shall continue and remain in full force and effect only so long as the Master Declaration, as amended from time to time, remains in effect. Notwithstanding anything contained in this Declaration to the contrary, if any provision of this Declaration shall be subject to the rule against perpetuities, then such provision shall not be effective for more than 21 years after the death of the last survivor of Robert F. Kennedy (brother of former President of the United States John F. Kennedy) and all his descendants living on the date of this instrument. Notwithstanding anything contained in this Declaration to the contrary, this Declaration shall not apply to any portions of Site 12 now or hereafter owned in fee by the City and County of Honolulu, any other governmental entities or agencies, or any public utility companies, for public or utility purposes.

Section 3.03 Enforcement Nonwaiver.

(a) Subject to the limitations expressly provided in this Declaration, the Association, owners of land within Site 12 and Declarant shall each have the right to enforce any and all of the designations, limitations, restrictions, covenants, conditions, obligations imposed under this Declaration; and the cost of enforcement, including court costs and attorneys' fees, shall be paid by any owner or other person or entity who violates any such limitation, restriction, covenant or condition.

(b) Every act or omission which results in the violation of any restriction, condition or covenant or any other provisions contained in this Declaration, in whole or in part, is hereby declared to be and to constitute a nuisance and may be enjoined or abated, whether or not the relief sought is for negative or affirmative action.

(c) The remedies provided for in this Declaration are cumulative and nonexclusive.

(d) The failure in any case to enforce any limitation, restriction, covenant, condition, obligation, lien or charge now or hereafter imposed by or pursuant to this Declaration shall not constitute a waiver of any right to enforce the same in another case against or with respect to the same owner or lot or any other owner or lot.

Section 3.04 General.

(a) The designations, limitations, restrictions, covenants, conditions and obligations contained herein shall be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion thereof shall not affect the validity or enforceability of any other provision.

(b) The singular shall include the plural and the plural the singular unless the context requires the contrary; and the masculine, feminine and neuter shall include the masculine, feminine or neuter as the context requires. Exhibits referred to in this Declaration are incorporated by reference and made a part hereof.

(c) All titles used in this Declaration, including those of articles and sections, are intended solely for convenience or reference, and the same shall not, nor shall any of them, affect that which is set forth in such articles and sections, nor any of the terms or provisions of this Declaration.

(d) As long as Declarant owns the majority of the land within Site 12 subject to this Declaration, Declarant shall have the right to modify, repeal or amend the provisions of this Declaration. With respect to land owned by Declarant, Declarant shall have the right to change any of the designations set forth in Article I above at any time. Designations for land owned by others may be changed only with the written consent of Declarant and the owner of such land, except that Limited Common Area may be reassigned in accordance with the provisions of Section 3.05(f) of the Master Declaration. This Declaration may not be amended without the written consent of Declarant.

IN WITNESS WHEREOF, Declarant has executed this Declaration as of the day and year first above written.

KUNIA RESIDENTIAL PARTNERS,  
a Hawaii limited partnership  
By Its General Partner  
Castle & Cooke Kunia, Inc.

By Wallace Miyahira  
Its SENIOR VICE PRESIDENT WALLACE MIYAHIRA

By Roland Kim  
Its VICE PRESIDENT ROLAND KIM



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

On this 8th day of November, 1995, before me appeared WALLACE MIYAHIRA and ROLAND KIM, to me personally known, who, being by me duly sworn, did say that they are the Senior Vice President and Vice President, respectively, of CASTLE & COOKE KUNIA, INC., a Hawaii corporation; that said corporation is the general partner of KUNIA RESIDENTIAL PARTNERS, a Hawaii limited partnership; that the seal affixed to the foregoing instrument is the corporate seal of said corporation; that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and in the name and on behalf of said partnership by authority of the partnership agreement of said partnership; and said officers acknowledged said instrument to be the free act and deed of said corporation and as said general partner and said partnership.

*Cynthia Kadelos* <sup>6</sup>  
Notary Public, State of Hawaii

My commission expires: 3/22/98

## LIST OF EXHIBITS

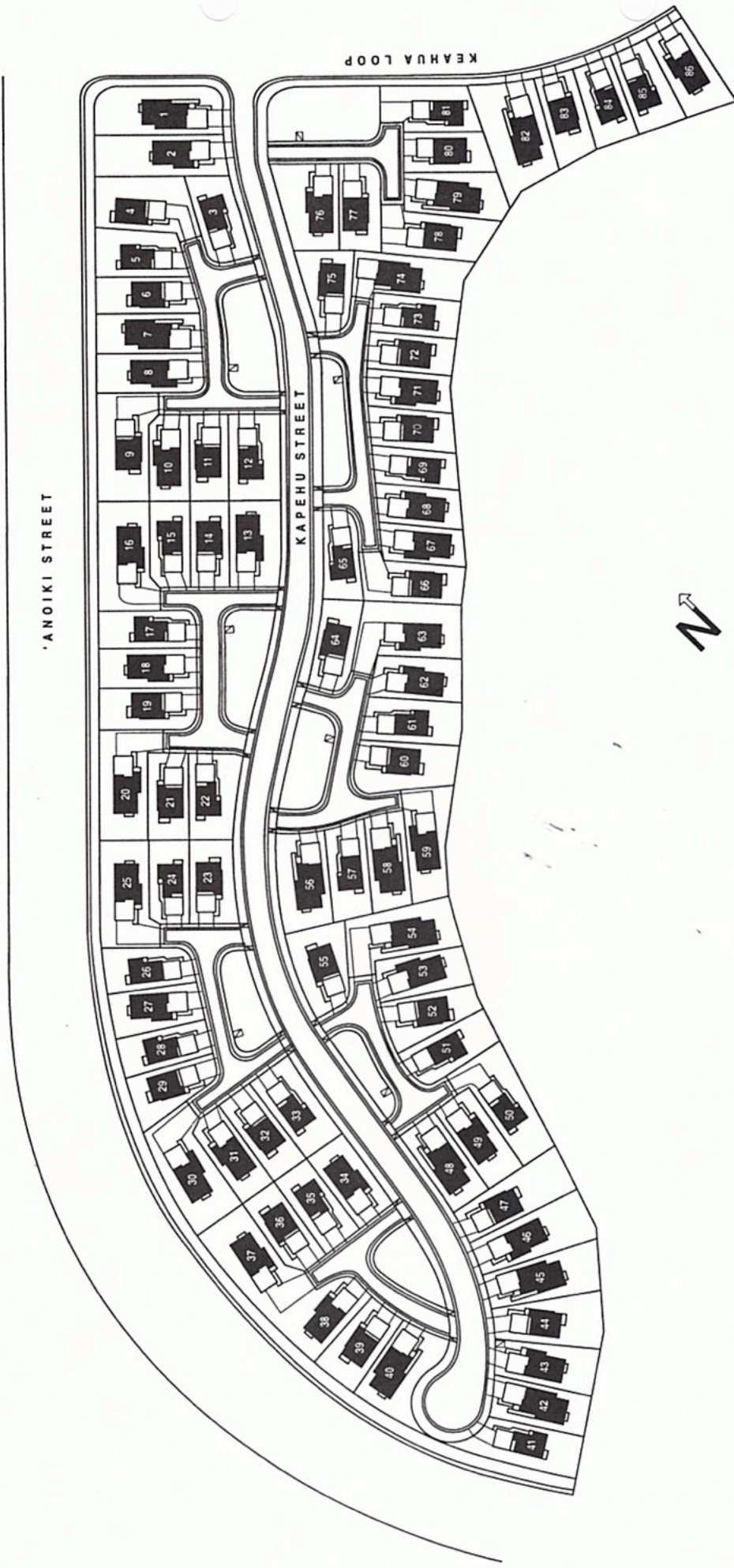
- A - SITE 12
  - A-1 - SITE 12 MAP (SECTION), PHASE A
  - A-2 - SITE 12 MAP (SECTION), PHASE B
  - A-3 - SITE 12 MAP (SECTION), PHASE C
- B - RESIDENTIAL AREA
- C - COMMON AREA
  - C-1 - COMMON AREA MAP (SECTION), PHASE A
  - C-2 - COMMON AREA MAP (SECTION), PHASE B
  - C-3 - COMMON AREA MAP (SECTION), PHASE C
- D - LIMITED COMMON AREA
  - D-1 - LIMITED COMMON AREA MAP (SECTION), PHASE A
  - D-2 - LIMITED COMMON AREA MAP (SECTION), PHASE B
  - D-3 - LIMITED COMMON AREA MAP (SECTION), PHASE C
- E - DESIGNATED LANDSCAPED AREA
- F - COURTYARD NEIGHBORHOOD
  - F-1 - COURTYARD NEIGHBORHOOD MAP (SECTION), PHASE A
  - F-2 - COURTYARD NEIGHBORHOOD MAP (SECTION), PHASE B
  - F-3 - COURTYARD NEIGHBORHOOD MAP (SECTION), PHASE C
- G - COUNTRY LANE NEIGHBORHOOD
  - G-1 - COUNTRY LANE NEIGHBORHOOD MAP (SECTION) PHASE C
- H - COUNTRY COTTAGE NEIGHBORHOOD
  - H-1 - COUNTRY COTTAGE NEIGHBORHOOD MAP (SECTION) PHASE C
- I - RESTRICTED PARKING AREAS
  - I-1 - RESTRICTED PARKING AREA MAP
- J - CLUSTER APPROVAL DECISION AND ORDER and MODIFICATIONS
- K - FENCE AND WALL GUIDELINES
  - K-1 - FENCING LEGEND
  - K-2 - VARIOUS TYPES OF WALLS AND FENCES THAT ARE ALLOWED
  - K-3 - RETAINING WALL AT SLOPE

SITE 12 - "Kahakea"

Those certain parcels of land situated at Hoaeae and Waikele, Ewa, Oahu, Hawaii; being Lots 1 through 103, inclusive, of Royal Kunia Subdivision Site 12 Phase A, as shown on File Plan 2158 filed in the Bureau of Conveyances of the State of Hawaii, generally shown outlined on the map attached hereto as Exhibit A-1 and Lots 1 through 148, inclusive, of Royal Kunia Subdivision Site 12 Phase B, as shown on File Plan 2159 filed in said Bureau, generally shown outlined on the map attached hereto as Exhibit A-2 and Lots 1 through 174, inclusive, 178 and 179 of Royal Kunia Subdivision Site 12 Phase C, as shown on File Plan 2160 filed in said Bureau, generally shown outlined on the map attached hereto as Exhibit A-3.

Note: Lot numbering shown on Exhibits A-1, A-2 and A-3 are for sales and construction purposes only; they may not coincide with File Plan Lot Numbers.

**EXHIBIT A**



'ANOIKI STREET

KAPEHU STREET

KEAHUA LOOP



ROYAL KUNIA  
SITE 12

"KAHAKEA"

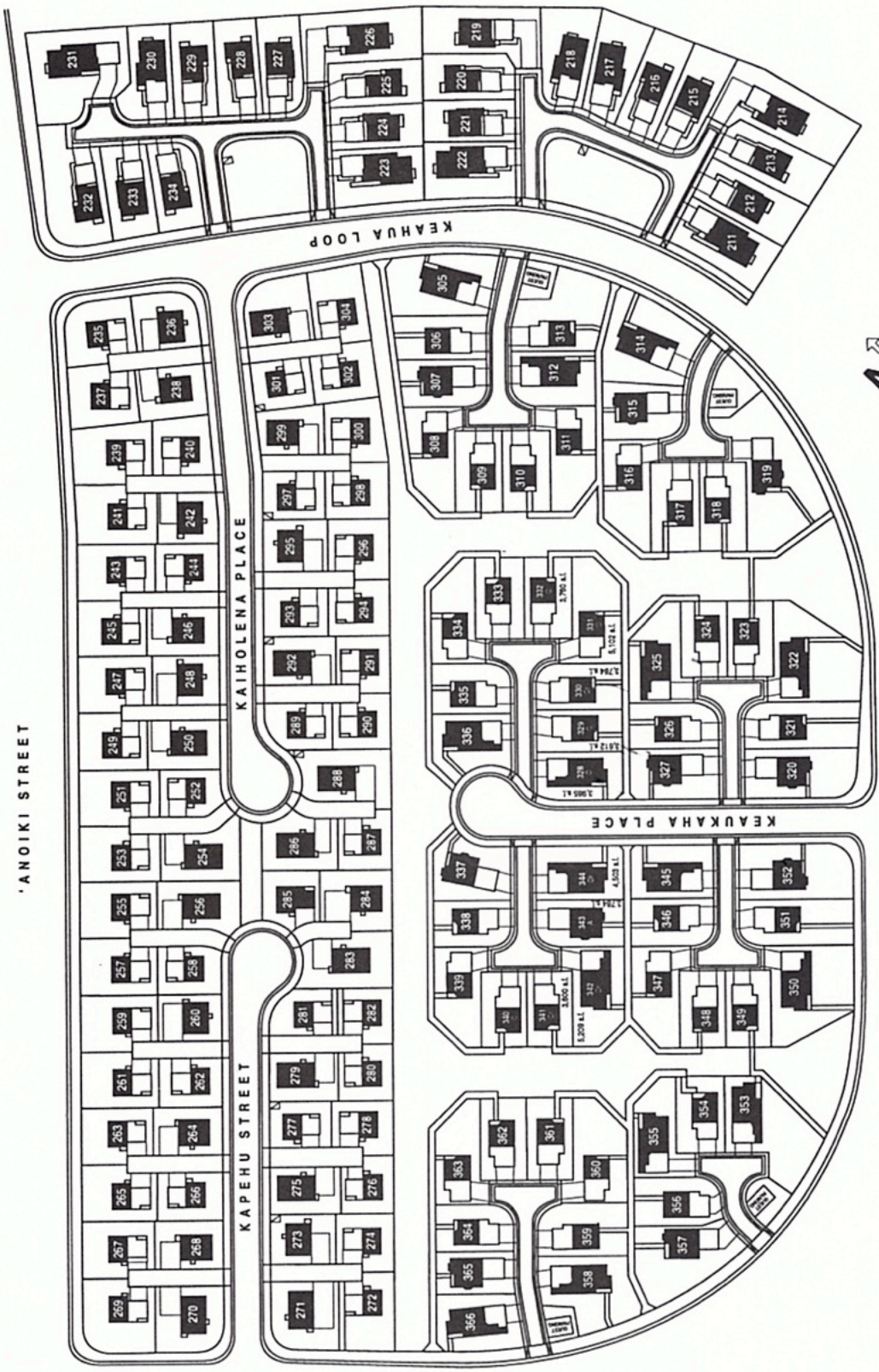
EXHIBIT "A-1"



ROYAL KUNIA  
SITE 12

“KAHAKEA”

EXHIBIT “A-2”



ROYAL KUNIA  
SITE 12

**"KAHAKEA"**

EXHIBIT "A-3"

## RESIDENTIAL AREA

Residential Areas within Site 12 are generally intended to be all lots that are or will be sold to home buyers.

Residential Areas within Site 12 are more specifically defined by Lot numbers from File Plans recorded with the Bureau of Conveyances of the State of Hawaii and are identified as the following:

File Plan:    2158

- Lots 1 through 86, inclusive.

File Plan:    2159

- Lots 1 through 124, inclusive.

File Plan:    2160

- Lots 1 through 156, inclusive.

EXHIBIT "B"

## COMMON AREA

Common Areas within Site 12 are generally intended to be lots that are or will be conveyed to the Royal Kunia Community Association with ownership retained indefinitely.

Common Areas within Site 12 are more specifically defined by Lot numbers from File Plans recorded with the Bureau of Conveyances of the State of Hawaii and are identified as the following:

File Plan: 2158

- Lots 87 through 103, inclusive, also shown shaded on the map attached hereto as Exhibit C-1.

File Plan: 2159

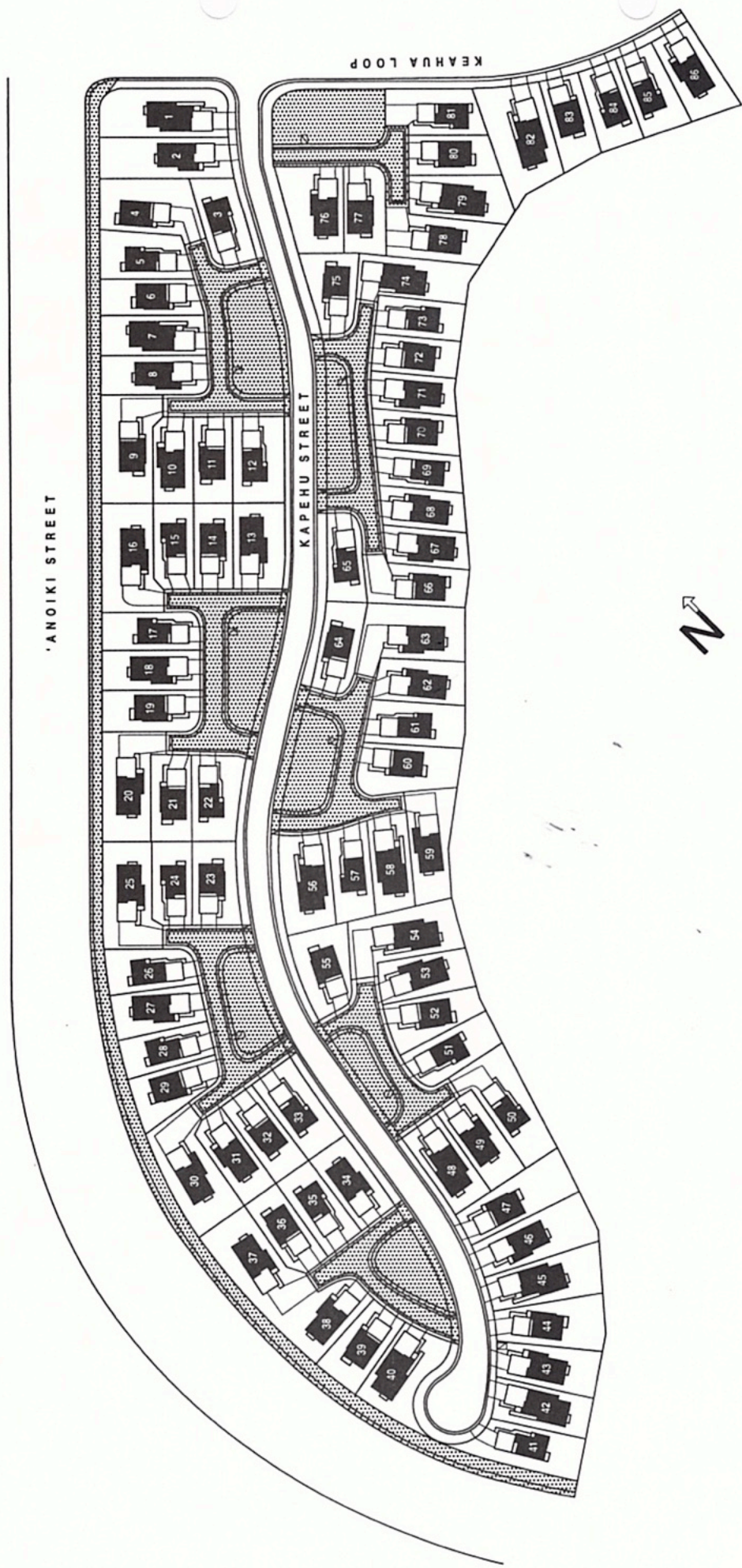
- Lots 125 through 148, inclusive, also shown shaded on the map attached hereto as Exhibit C-2.

File Plan: 2160

- Lots 157 through 174, inclusive; and
- Lots 178 and 179, also shown shaded on the map attached hereto as Exhibit C-3.

EXHIBIT "C"





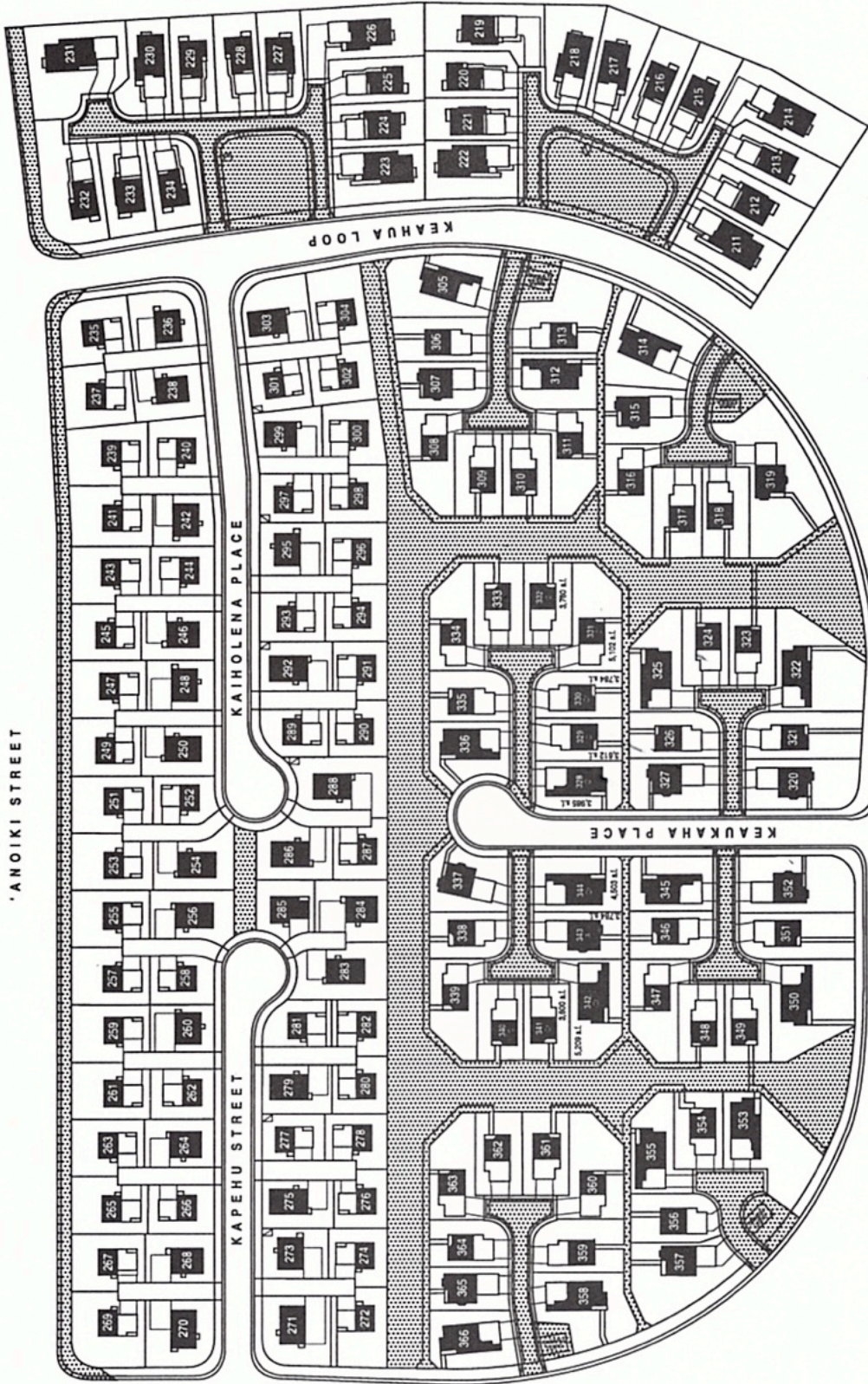
ROYAL KUNIA  
SITE 12

COMMON AREA  
MAP

EXHIBIT "C-1"



ROYAL KUNIA  
 SITE 12  
 COMMON AREA  
 MAP



## LIMITED COMMON AREAS

Limited Common Areas within Site 12 are generally intended as areas that are part of Common Areas but reserved exclusively (subject to easements) for the owners of a designated Neighborhood.

Limited Common Areas within Site 12 are more specifically defined by Lot numbers from File Plans recorded with the Bureau of Conveyances of the State of Hawaii and are identified as the following:

### Limited Common Areas assigned to the Courtyard Neighborhood:

File Plan: 2158

- Lots 87 through 94, inclusive; and
- Lots 96 through 103, inclusive.

File Plan: 2159

- Lots 125 through 148, inclusive.

File Plan: 2160

- Lots 161 and 162; and
- Lots 173 and 174.

### Limited Common Areas assigned to the Country Lane Neighborhood:

File Plans: 2158 and 2159

None

File Plan: 2160

- Lots 157 through 160, inclusive; and
- Lot 163; and
- Lots 165 through 172, inclusive.

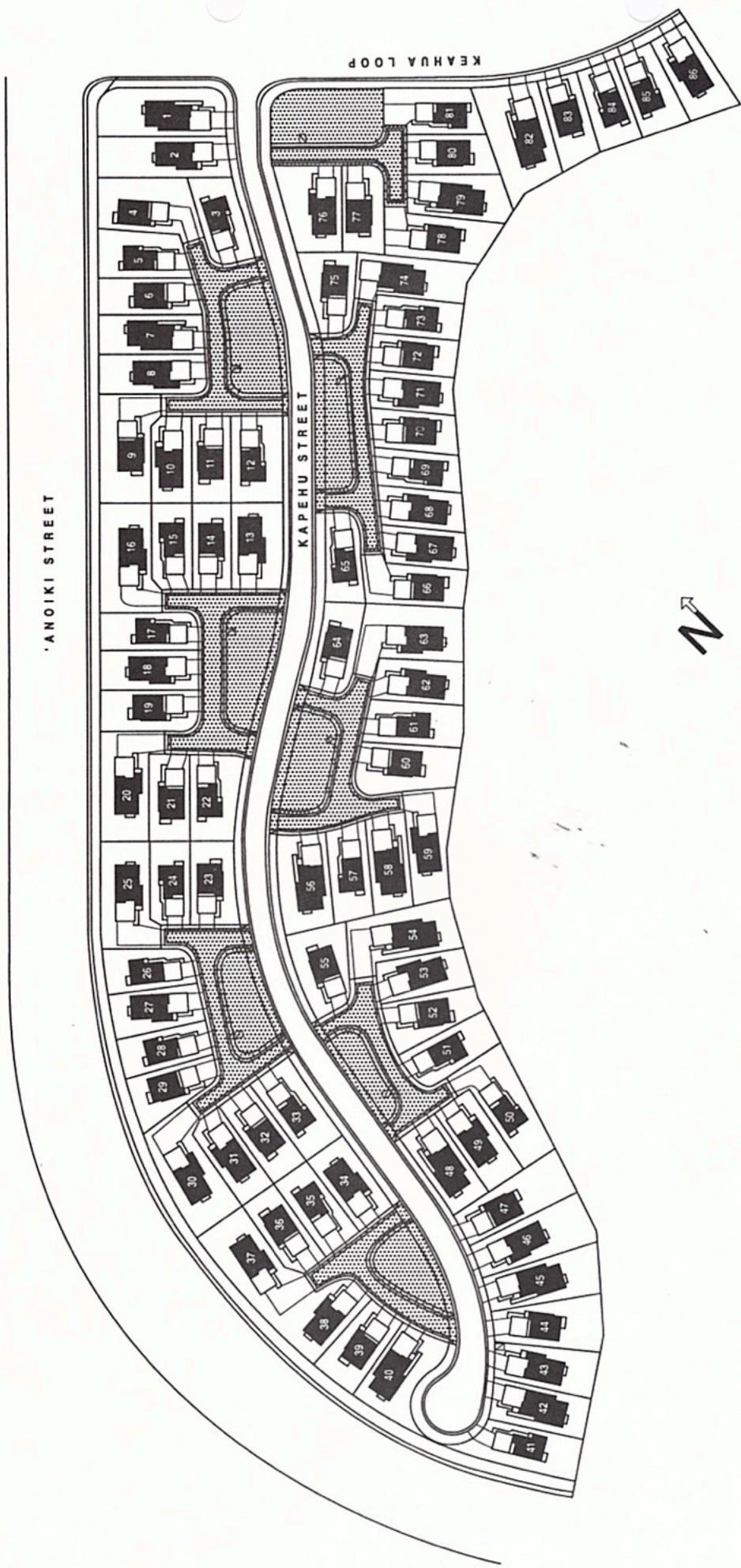
### Limited Common Areas assigned to the Country Cottage Neighborhood:

File Plans: 2158, 2159 and 2160

None

All of the foregoing Limited Common Areas are shown shaded on the maps attached hereto as Exhibits D-1, D-2 and D-3.

EXHIBIT "D"



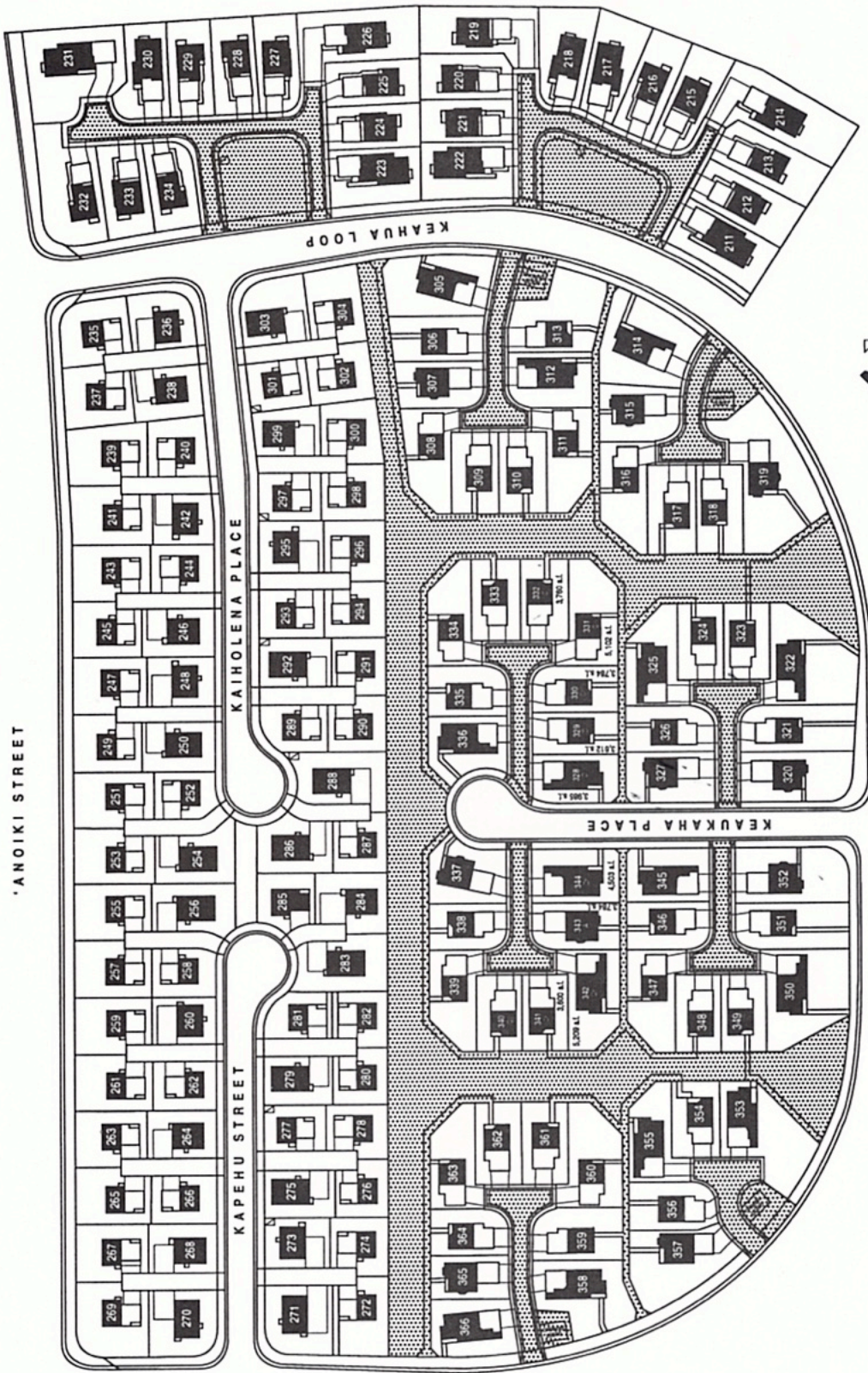
ROYAL KUNIA  
SITE 12

LIMITED COMMON  
AREA MAP

EXHIBIT "D-1"



ROYAL KUNIA  
 SITE 12  
 LIMITED COMMON  
 AREA MAP



ROYAL KUNIA

SITE 12

LIMITED COMMON  
AREA MAP

EXHIBIT "D-3"

**DESIGNATED LANDSCAPED AREAS**

There are no designated landscape areas within Site 12

EXHIBIT "E"



## COURTYARD NEIGHBORHOOD

The areas within Site 12 designated as part of the Courtyard Neighborhood are defined as those unit types that are similar in nature.

The Courtyard Neighborhood within Site 12 is more specifically defined by Lot numbers from File Plans recorded with the Bureau of Conveyances of the State of Hawaii and are identified as the following:

File Plan:    2158

- Lots 1 through 86, inclusive.

File Plan:    2159

- Lots 1 through 124, inclusive.

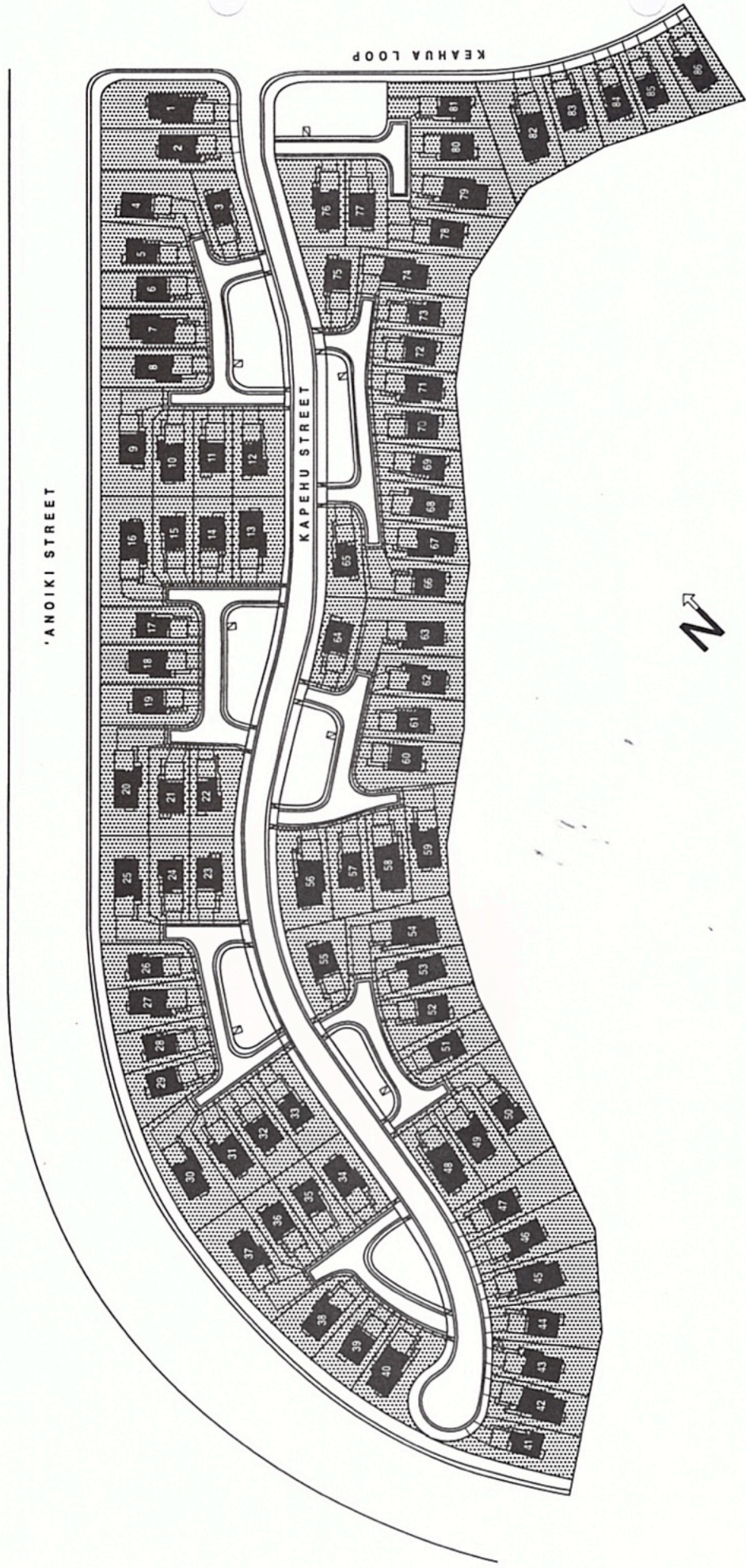
File Plan:    2160

- Lots 133 through 156, inclusive.

All of the foregoing Courtyard Neighborhoods are shown shaded on the maps attached hereto as Exhibits F-1, F-2 and F-3.

Note: Lot number shown on Exhibits F-1, F-2 and F-3 are for sales and construction purposes only; they may not coincide with File Plan Lot Numbers.

EXHIBIT "F"



ROYAL KUNIA

SITE 12

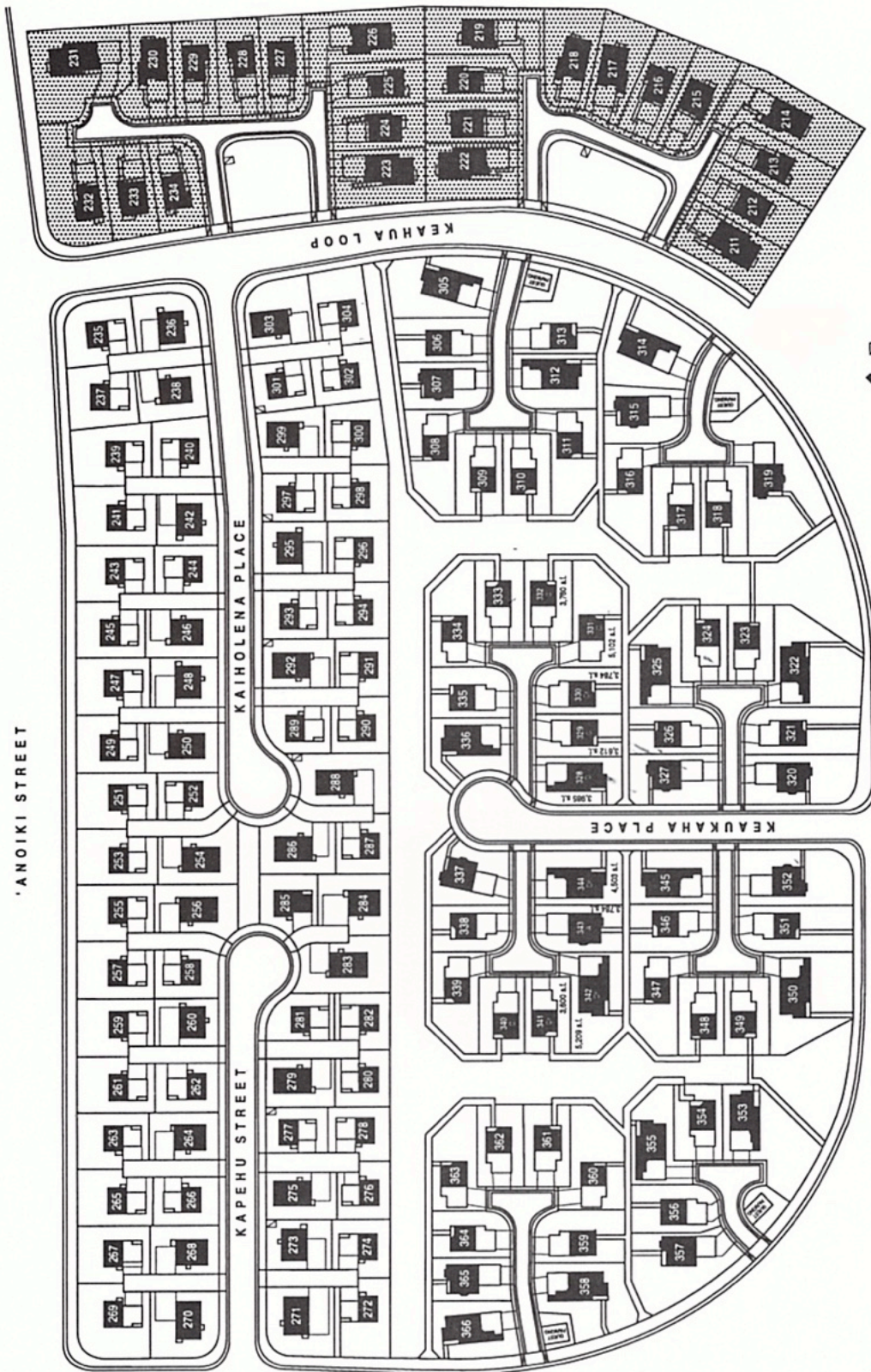
COURTYARD  
NEIGHBORHOOD  
MAP

EXHIBIT "F-1"



ROYAL KUNIA  
SITE 12

COURTYARD  
NEIGHBORHOOD  
MAP



ROYAL KUNIA  
SITE 12

COURTYARD  
NEIGHBORHOOD  
MAP

EXHIBIT "F-3"

## COUNTRY LANE NEIGHBORHOOD

The areas within Site 12 designated as part of the Country Lane Neighborhood are defined as those unit types that are similar in nature.

The Country Lane Neighborhood within Site 12 is more specifically defined by Lot numbers from File Plans recorded with the Bureau of Conveyances of the State of Hawaii and are identified as the following:

File Plan:    2158  
None

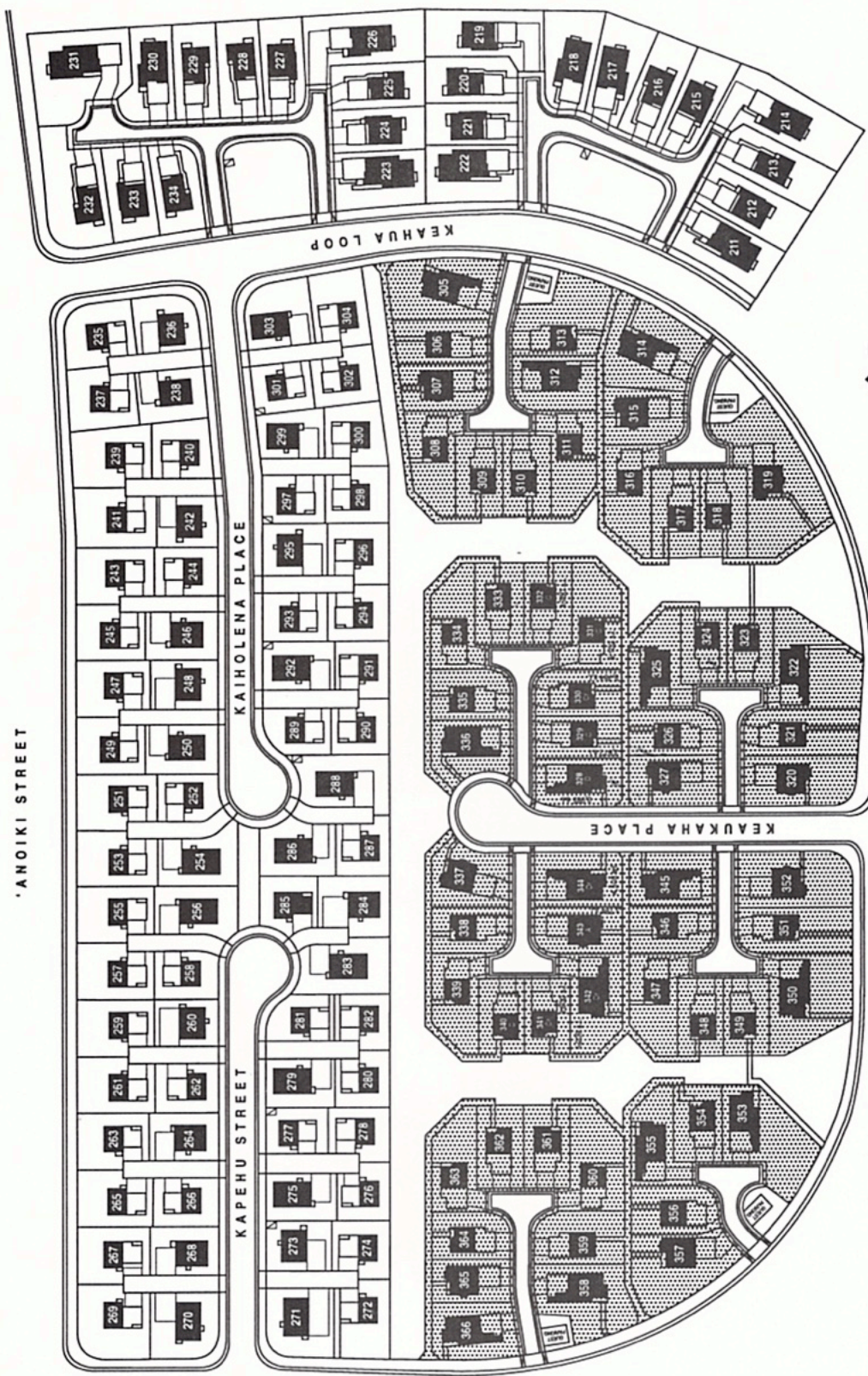
File Plan:    2159  
None

File Plan:    2160  
•        Lots 71 through 132, inclusive.

The foregoing Country Lane Neighborhood is shown shaded on the map attached hereto as Exhibit G-1.

Note: Lot numbering shown on Exhibit G-1 are for sales and construction purposes only; they may not coincide with the File Plan Lot Numbers.

EXHIBIT "G"



ROYAL KUNIA  
SITE 12

COUNTRY LANE  
NEIGHBORHOOD  
MAP

EXHIBIT "G-1"

## COUNTRY COTTAGE NEIGHBORHOOD

The areas within Site 12 designated as part of the Country Cottage Neighborhood are defined as those unit types that are similar in nature.

The Country Cottage Neighborhood within Site 12 is more specifically defined by Lot numbers from File Plans recorded with the Bureau of Conveyances of the State of Hawaii and are identified as the following:

File Plan:    2158  
None

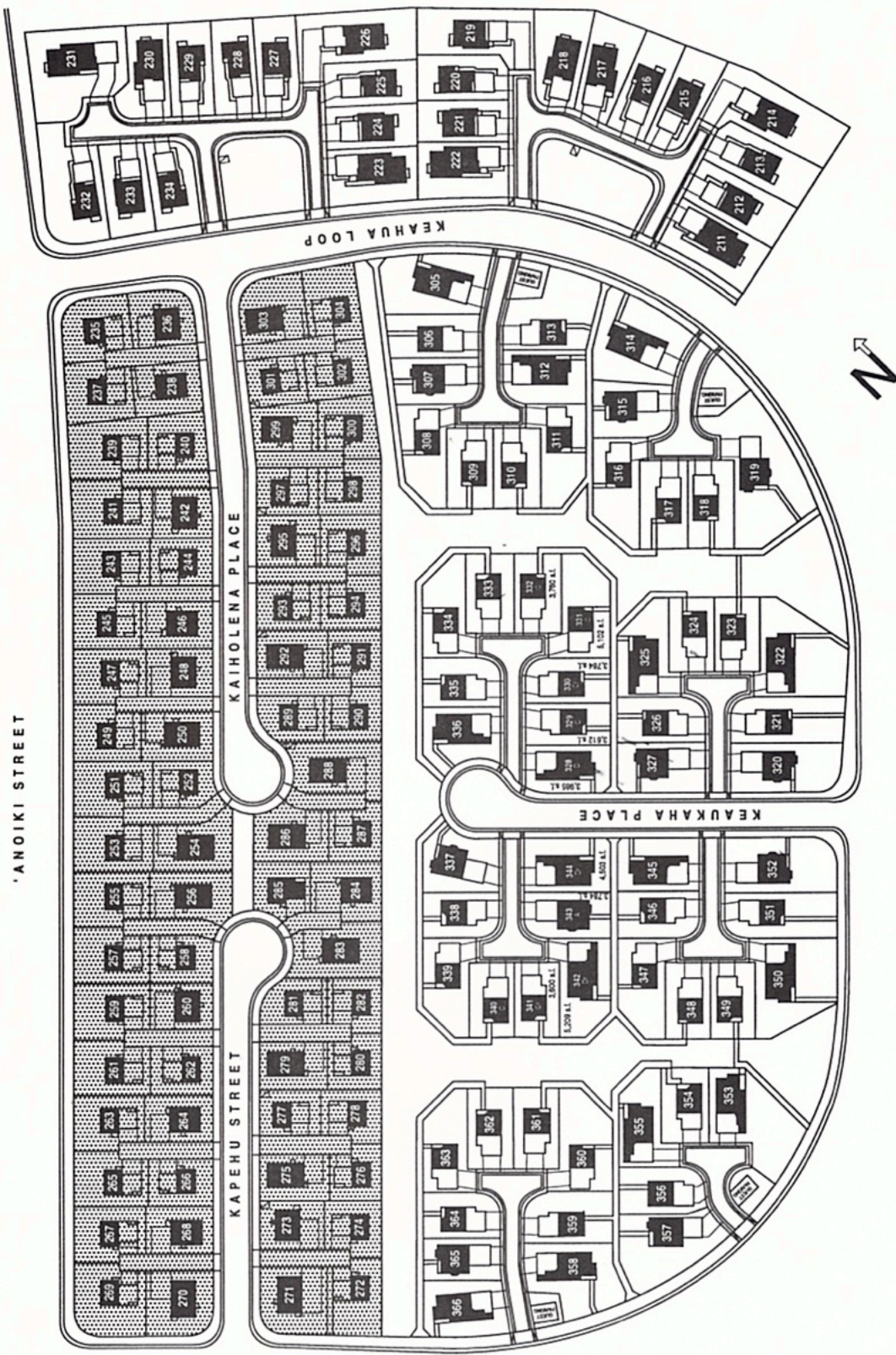
File Plan:    2159  
None

File Plan:    2160  
•     Lots 1 through 70, inclusive.

The foregoing Country Cottage Neighborhood is shown shaded on the map attached hereto as Exhibit H-1.

Note: Lot numbering shown on Exhibit H-1 are for sales and construction purposes only; they may not coincide with File Plan Lot Numbers.

EXHIBIT "H"



ROYAL KUNIA  
SITE 12

COUNTRY COTTAGES  
NEIGHBORHOOD  
MAP

EXHIBIT "H-1"



## RESTRICTED PARKING AREAS

The areas within Site 12 designated as Restricted Parking Areas are defined as portions of those lots within the Country Lane Neighborhood that are reserved specifically for guests of the residents of the Country Lane Neighborhood.

The Restricted Parking Areas within Site 12 are portions of private roadway Lots from a File Plan recorded with the Bureau of Conveyances of the State of Hawaii and are identified as the following:

File Plan: 2160

- Portion of Lots 165, 166, 171 and 172

The foregoing Restricted Parking Areas are more particularly shown shaded on the map attached hereto as Exhibit "I-1".

EXHIBIT "I"



ROYAL KUNIA

SITE 12

RESTRICTED  
PARKING  
AREA MAP

EXHIBIT "I-1"

**EXHIBIT J**  
DEPARTMENT OF LAND UTILIZATION  
**CITY AND COUNTY OF HONOLULU**

650 SOUTH KING STREET  
HONOLULU, HAWAII 96813 • (808) 523-4432

FRANK F. FASI  
MAYOR



DONALD A. CLEGG  
DIRECTOR

LORETTA K.C. CHEE  
DEPUTY DIRECTOR

Application for a Cluster  
Development  
Application No. 94/CL-5

Project: ROYAL KUNIA 12

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REPORT, CONCLUSIONS, AND DECISION  
AND ORDER

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I. APPLICATION

Application Date

April 18, 1994

Recorded Fee Owner

Kunia Residential Partners  
P.O. Box 2780  
Honolulu, Hawaii 96803

Applicant/Developer

Kunia Residential Partners  
650 Iwilei Road  
Honolulu, HI 96813

Agent/Architect

Architects Hawaii, Ltd.  
1001 Bishop Street, Suite 300  
Honolulu, Hawaii 96813

Location

North of the Royal Kunia Golf  
Course and South of a future  
collector, Road "D".



Prepared by: Department of Land Utilization  
City and County of Honolulu  
Date Prepared: 04/23/94

Tax Map Key

9-4-2: Portion of 51

Area

56.6 acres

Request

A 366-unit Cluster-Housing project consisting of one- and two-story single-family detached units, to be subdivided into individual lots.

State Land Use

Urban

Development Plan

Residential and Park

Public Facility Map

Not applicable, all new roadways proposed

Zoning

R-5 Residential District

Shoreline Management Area-Zoning Variance-Chapter 343, HRS

Not applicable.

PROPOSAL:

366 one- and two-story, single-family detached dwellings and associated site work. Access to the cluster site will be through an extension of Royal Kunia Road "R", which is not part of this application.

Internal cluster roadways will branch off the new collector extension road "R". Dwelling units will access directly off internal cluster roadways which will be dedicated to the City, while private roadways will be owned and maintained by the Homeowners' Association and shared driveways will be owned and maintained by the individual lot owners. The dwelling units are comprised of 13 different building types:

Unit Types and Number of Units

<u>Bldg. Type</u>	<u>Stories</u>	<u>Bdrm/Bath</u>	<u>F.A./Unit</u>	<u>Total Units</u>
2C	1	3/2	1,080 s.f.	39
3C	2	3/2.5	1,386 s.f.	39
4C	2	4/2.5	1,600 s.f.	40
5C	2	4/3	1,752 s.f.	58
6C	1	3/2	1,260 s.f.	58
A	1	2/2	826 s.f.	15
B	2	3/2.5	1,180 s.f.	16
C	2	3/2.5	1,273 s.f.	16
D	1	3/2	1,025 s.f.	15
1H	1	2/1.5	720 s.f.	11
2H	1	3/2	864 s.f.	13
3H	2	3/2	1,002 s.f.	26
4H	2	3/2.5	1,240 s.f.	20

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TOTAL NUMBER OF UNITS PROPOSED 366

Density

The proposed development meets the cluster density requirements:

R-5 minimum cluster lot size	=	15,000 s.f.
Zoning Lot Area	=	2,465,496 s.f.
Max. units allowed @ 1 unit per 3,750 s.f. (2,465,496 s.f./3,750 s.f.)	=	657 units
Average density for the site (366 units/56.6 acres)	=	6.46 dua

Land area for the proposed collector road "R" is not included in this calculation.

Park Dedication

Compliance with Park Dedication Ordinance No. 4621, as amended, is proposed by carry-over park credit from Increment 1 of the existing Royal Kunia Phase 1 development.

II. REPORT AND SUMMARY OF AGENCIES COMMENTS

The City Board of Water Supply, Departments of Fire, Parks and Recreation, Public Works, Transportation Services, Wastewater Management, Housing and Community Development, Planning and the State Department of Land and Natural Resources submitted comments on the proposal. The Neighborhood Board No. 22, Honolulu Public Transit Authority and Department of Health did not comment.

The public agencies did not object to the development, subject to their recommendations. Agency letters are on file with the Department of Land Utilization.

Major comments are as follows:

Planning Department (May 13, 1994)

There appears to be a discrepancy between the Cluster application project map and our Development Plan Land Use Map (DPLUM) for Central Oahu. Specifically, part of the northeastern portion of the proposed project area is currently designated as "Park and Recreation" on our DPLUM. This area extends in a "finger-like" configuration from Site 11 into the proposed cluster site.

Department of Parks and Recreation (June 6, 1994)

Two existing and two proposed public parks will be available to serve the project's recreational needs. The project will comply with park dedication requirements through land credits available from Kunia Neighborhood Park and the proposed 9-acre site to be dedicated to the City for public park purposes.

Board of Water Supply (May 16, 1994)

The developer is required to install the necessary water system improvements to serve the proposed development including the temporary 550-foot reservoir. The construction drawings should be submitted to the BWS for review and approval. The availability of water will be confirmed when the construction drawings are submitted for BWS review and approval.

Fire Department (April 27, 1994)

Compliance with Article 10 of the Uniform Fire Code, but not limited to:

1. Provide a private water system where all appurtenances, hydrant spacing and fire flow requirements meet Board of Water Supply standards.
2. Provide a fire access road to within 150 feet of the most remote structure. Such access shall have a minimum vertical clearance of 13 feet-6 inches, be constructed of an all-weather driving surface of not less than 20 feet in unobstructed width shoulder-to-shoulder, capable of supporting the

minimum 60,000-pound weight of fire apparatus, and with a gradient not to exceed 20 percent. All deadend fire apparatus access roads in excess of 150 feet in length shall be provided with an approved turnaround having a radius of not less than 35 feet.

3. Submit construction plans to the Building and Fire Departments for permit review and approval prior to commencement of the project.

Housing and Community Development (May 24, 1994)

The Department of Housing and Community Development does not oppose the proposed development. The DHCD understands and is working with the developer in providing the City with an affordable housing program in accordance with Ordinance No. 91-11.

Department of Transportation Services (June 22, 1994)

- "1. Adequate vehicular sight lines shall be provided at all street intersections and private roadway lots which provide access to three or more zoning lots. Areas which fall within these sight lines should be incorporated into the proposed roadway lot.
2. Landscaping should be placed in locations which do not obstruct vehicular sight lines to other vehicles and pedestrians and to posted street signs.
3. Standard City dropped driveways should be provided at all vehicular access points fronting proposed public streets. The driveway grade should not exceed 5 percent for a minimum distance of 35 feet from the curb line prolongation into the private access road.
4. On-street parking along proposed City streets should not be considered to be permanent. Although we have initially been permitting parking on City streets, we will remove parking, as required, for safety or other considerations. As such, on-street parking should not be used to supplement the parking requirements for individual site developments.
5. The minimum width for a flag lot stem providing access to a single lot should be 12 feet. If the driveway serves multiple lots, the minimum clear driveway width for two-way traffic should be 20 feet of pavement or 18 feet with 3-foot shoulders on each side. A common undivided easement should be provided in the deed for the users of the driveway such that no structures may be constructed in this area to impede vehicular traffic.

6. Green belts and walkways which service internal lots and which are intended for pedestrian use should be directed toward intersections to avoid mid-block pedestrian crossings.
7. Underground conduits and pull boxes should be provided at the intersection of Road "R" and Road "A" in anticipation of future signalization.
8. A design speed of 30 miles per hour should be used for the 48-foot roadway section. As such, standard curbs and sidewalk locations should be provided on Road "A".
9. The pavement transition of Road "A" from 40 feet to 32 feet should occur after its intersection with Road "B".
10. The limited access designation should be provided on lots fronting Road "R".
11. At this time, we do not intend to review or approve private roadways within this development except to the extent where it may impede or conflict with traffic on proposed public streets.
12. Construction plans for all work within the City's proposed road rights-of-way should be submitted to DTS for review."

Department of Public Works (May 24, 1994)

"Engineering:

We recommend that the right-of way widths and the sidewalk width for the proposed public streets be constructed to City standards. The proposed reduction in the right-of-way width for the public streets should be referred to the Department of Transportation Services.

We do not favor the proposal to locate the planting strip along the right-of-way line. Locating the sidewalk along the curb will create numerous problems such as conflicts between pedestrians and the passenger exiting a parked car.

Use of rolled curbs shall be constructed in accordance with the Standard Details. If this project is implemented with the proposed substandard rights-of-way, the City will not participate in any road widening project. The owners will be responsible for all costs.

Reduce peak storm runoff flow (rate) and volume. Minimize impervious areas. Use open space for retention and infiltration of storm runoff. This will be part of the City's NPDES permit for stormwater.



### Refuse Collection:

This project qualifies for City refuse collection. Should the application be approved, we will provide refuse collection subject to the following:

- a. NO PARKING signs shall be provided for the turnarounds.
- b. City refuse collection trucks will not enter privately-owned roadways which lack City-standard turnarounds.
- c. The construction drawings for non-standard roadway improvements shall be forwarded for Division of Refuse review and approval.
- c. The Refuse Division shall be notified in writing at least 12 months prior to when rubbish collection is expected to begin. The notification shall include an approximate schedule for occupancy. The approval for service will be void if occupancy is delayed for more than 12 months."

### DLU Comments to Agency Responses

The Director of Land Utilization has the authority to modify the standards of the Subdivision Rules and Regulations, including flag lot stem, right-of-way and pavement widths, upon consultation with the Directors of Public Works, Transportation Services, and Parks and Recreation.

Based on the analysis which follows, the Director has determined that the minimum public roadway pavement widths (except for Road "A") within this cluster should be 28 feet. This is equivalent to that of the 44-foot right-of-way and has been maintained due to the expected need for on-street parking in those areas. Reduction in rights-of-way widths will be as described below. Mitigative measures to offset these reductions and the need for additional parking in certain areas will be discussed later in this report.

The reduction of right-of-way width at Roads "C", "E", "F" and "H" (from 44 feet to 40 feet) represents a reduction in shoulder width on both sides of the proposed public right-of-way. A fence setback/easement will be required along all yards fronting these proposed public roadways to maintain vehicular sight lines normally associated with a 44-foot right-of-way.

The reduction of right-of-way width at Road "A" (from the 56-foot roadway cross-section) represents elimination of one 8-foot on-street parking lane. Those lots having direct access to this roadway shall maintain a minimum 16-foot-deep driveway apron to accommodate two additional parking spaces. This, in conjunction with other measures, should offset the loss of one on-street parking lane.

The discrepancy between the DPLUM designated Park and Recreation zone and residential cluster zone is clarified in the zoning map approved by Ordinance No. 91-11. This discrepancy may be considered inconsequential and a revision to the Development Plans for Ewa and Central Oahu will be considered by the Planning Department. No conflict exists between the zoning maps and the R-5 cluster site. Therefore, the cluster will be processed in accordance with the approved zoning map. The Development Plan Land Use Map will be adjusted in accordance with Department of Planning's revisions for Ewa and Central Oahu.

### Site Plan Evaluation and Design Analysis

#### 1. Site Plan

The project site is located along the northern boundary of the master planned community of Royal Kunia. It is bounded on the north by agricultural lands, on the east by a proposed golf course and park, on the south by the Royal Kunia Golf Course and on the west by Cluster Site 13 and a future collector.

The new collector Road "R", a major roadway, with an east/west orientation, is contiguous to the western and northern boundaries of the site and provides access to internal cluster roadways. Parcels contiguous to this roadway should be provided with noise abatement measures. Walls along roadways within side or rear yards of adjoining parcels should utilize the same material, color and/or finish.

Two continuous roadway loops (Roads "A" and "G") collect traffic from a majority of the site, back to Road "R". An east-west oriented greenbelt bisects the house lots within Road "A", and provides limited pedestrian access to the lots fronting its southern boundary. Preliminary grading plans indicate this area to be a grade adjustment zone with no accommodation for pedestrian use. This should be revised to provide more areas useable to the public. Road "B" collects traffic from a "finger-like" portion of the site that extends to the west.

Generally, dwelling units are clustered around shared driveways or looped private roads that form islands of open space and landscaping. The number of dwelling units clustered together ranges from 4 to 15 units. Where siting cannot accommodate clustering, single-family lots occur fronting internal cluster roadways.

The proposed site plan, which is intended to be subdivided, is generally acceptable subject to the following:

- a. Fence setbacks shall be provided at all lots adjacent to modified rights-of-way. These are Roads "A", "C", "E", "F" and "H". This is to provide adequate vehicular sight lines and planting space for street trees. Due to the small lot sizes of the affordable units, fences should not be allowed except at the perimeter of each small cluster module.
- b. Tree pockets, that extend beyond the setback or proposed rights-of-way lines into private parcels, should be provided to assure compliance with maximum cluster tree spacing requirements. These should occur on both sides of Roads "B", "C", "E", "F", "G", and "H".

In addition, a variety of yard conditions occur along proposed roadways. The combination front, side and rear yard exposures are problematic in maintaining a consistent streetscape. Further, bank or grade change conditions occur within proposed private yards. As tenants wish to expand their useable yard space, retaining walls will be created that will exacerbate this condition. Standard fence and wall designs should be developed to minimize the adverse visual impact from these various conditions.

## 2. Subdivision

The approved cluster site plan should be subdivided in accordance with the proposed subdivision layout in Exhibit A, and the cluster conditions of approval. This plan does not represent final subdivision approval nor is it intended to eliminate the subdivision application process. Additional comments and revisions may arise upon submittal of documents for subdivision.

## 3. Building Design

The proposed mix of thirteen (13) residential building types, heights and roof forms, would produce variety and interest. The unit types fall into three general

categories: a) affordable units located between proposed Road "R" and the greenbelt, b) two-fronted homes, and c) single front single-family dwellings. The affordable homes are clustered in groupings of 3 or 4 units and share a common driveway. The two-front homes have pedestrian entrances off the greenbelt and vehicular entrances off private roadways. The single-family dwelling has both pedestrian and vehicular entrances facing a proposed private or public road.

A minimum 5-foot setback should be provided for uncovered parking areas from proposed lot lines. This will allow for future construction of carports and/or garages. Designated parking spaces fronting the proposed 16-foot-wide shared driveways should be set back from the driveway to maintain the minimum 22-foot vehicular maneuvering distance required by the LUO.

Many of the units are two-story. The applicant shall address privacy between two-story units through strategic window placement. Exterior colors shall be warm earthtones, shall not be reflective and shall be noted on an exterior color schedule for each lot. Color should be used to provide variety and visual interest.

Although the proposed minimum lot areas are below the minimum lot size in the R-5 Residential District, the project is a single-family detached development. The LUO residential standards should apply for the proposed project as well as future additions or alterations. Maximum building area, height limit, and front, side and rear yard setbacks, should comply with the R-5 Residential District regulations.

In addition, minimum building setbacks of 16 feet should be imposed for dwellings having individual driveways providing access to Road "A". This should also apply to all units fronting private roadways to accommodate for the lack of common guest parking spaces.

#### 4. Parking

Each dwelling unit will have a minimum of two off-street parking spaces designated in a garage, carport or uncovered parking area. A minimum of 1 guest stall for every 4 dwelling units (or fraction thereof) fronting a shared driveway or private roadway should be provided within each clustered area. Units having frontage on these courtyards and providing a minimum driveway apron depth of 16 feet shall be excluded from

this requirement. Affordable units utilizing shared driveways should add a minimum of 1 parking space at the end of each driveway, and landscaped island formed by private roads may need to accommodate 1 or 2 parking spaces each.

Units not fronting a shared driveway/courtyard should provide a minimum driveway apron of 16 feet. This distance will be exclusive of any encroachments into the proposed public rights-of-way or private driveways.

#### 5. Landscaping

The proposed wall/fence for noise abatement at Road "R" should be landscaped with hedges and shrubs to buffer its impact to pedestrians.

A variety of street trees are proposed throughout the project area. Street trees should be spaced at a maximum of 50 feet, or one per lot, whichever provides the greater number of trees. Trees should be planted on both sides of the street right-of-way and shall utilize additional pockets of space carved out of private yards as indicated previously in this report.

All landscaping indicated in proposed common and private property and modified by the application documents will be provided by the developer. Landscaping located within common property will be maintained by the Homeowners' Association. Street trees and landscaping located in private property, as a result of tree well locations, shall be maintained by individual homeowners or the Homeowner's Association.

Additional setbacks for fences and landscaping should be provided as described earlier in this report. Additional planting may be required in these setbacks as a result of proposed fence and wall designs. Final tree species and size should be reviewed and approved by the DP&R and DLU.

#### 6. Roads, Circulation

Access and circulation is provided as described earlier in this report. The proposed rights-of-way, sidewalks and landscaped spaces for these rights-of-way, as modified by this report, will be acceptable. In order to maintain rolled curbs throughout internal cluster roadways and to encourage reduced vehicular speeds within isolated residential areas, roadway design speeds of 25 miles per hour should not be exceeded. On-street parking will be restricted as required by DTS.

The proposed 40-foot right-of-way width at Roads "B" and "G" are acceptable. However, the sidewalk width shall be reduced from 6 feet to 5 feet or the minimum required to meet ADA accessibility requirements. Maintaining a continuous 3-foot plant strip is essential for providing buffer space between pedestrian areas and the potential various front, side and rear yard perimeter conditions. Fence setbacks will be taken from this right-of-way line.

Sidewalks should be eliminated from proposed private roadways to allow for adequate planting space.

#### Soil, Grading and Drainage

Grading, erosion controls and drainage systems should be in compliance with all applicable County, State and Federal regulations and requirements.

#### Public Utilities

The agency comments indicate that existing public services are adequate for the proposed project.

Sewer collection lines, laterals and drainage systems should be designed and constructed by the developer in accordance with Department of Public Works requirements.

Telephone and electrical distribution systems should be designed and constructed in accordance with the Department of Public Works, as well as the appropriate telephone and electric company requirements, respectively.

The water system should be designed and constructed by the developer in accordance with the Board of Water Supply requirements.

All utilities within the proposed public rights-of-way should be dedicated to the City and County of Honolulu public utility companies. The utilities should be underground and located mainly within public roadways.

#### Nature and Extent of Open Space, Recreation and Common Area

No major park space is proposed within the cluster site. However, the adjacent Site 11 to the east has been established for a future Recreational Center. In addition, a series of smaller greens and contiguous open spaces are provided and dispersed throughout the project for passive recreation. These landscaped spaces should be graded and landscaped to allow for a variety of passive recreational

uses. The applicant should also consider providing direct pedestrian connections to this site to encourage walking to the future Recreational Center without having to circulate along the proposed vehicular arterial.

Parkway will be provided contiguous to Road "A".

#### Relationship to Neighborhood

The surrounding neighborhood is characterized by one- and two-story, single-family dwellings. The proposed development would not have an adverse impact on the existing community and would be compatible with existing and proposed land use patterns planned for the area.

#### Zoning Code Analysis

The proposal meets the Land Use Ordinance (LUO), Sections 6.50-1, 6.50-2; and 6.50-3, including the site design standards for Cluster Housing Development. All proposed units must comply with the LUO building height, yard setback and building area standards.

### III. CONCLUSIONS

Based on the foregoing analysis, the Director has made the following conclusions:

1. The development, subject to the conditions of approval, complies with the Cluster Development provisions of the Land Use Ordinance and the requirements of other governmental agencies;
2. The properties in the vicinity of the site will not be adversely affected; and
3. The site will be used in a manner permitted in the zoning district and will be of a quality and character compatible with surrounding land uses.

#### IV. DECISION AND ORDER

Based on the Report and Conclusions, the application for the Royal Kunia 12 Cluster is APPROVED, subject to conformity with the following exhibits and conditions:

##### Exhibit "A"

Application drawings DLU date-time-stamped April 8, 1994 (26 sheets).

##### Exhibit "B"

Written narrative (20 pages) DLU date-time-stamped April 8, 1994.

Exhibits "A" and "B" shall be followed except as modified by the following conditions:

##### 1. General

Subdivision, grading and construction plans for roadways, utilities, landscaping, drainage, etc. shall be approved by the appropriate governmental agencies prior to review and approval by the Department of Land Utilization, Building Department, and prior to issuance of any permits, except those structures and landscaping approved as model units.

##### 2. Site Plan

- a. Direct pedestrian access to the future Recreation Center shall be provided, without having to circulate along the proposed vehicular arterial.
- b. Building area shall not exceed 50 percent of any lot of record less access easements.
- c. All buildings, additions, alterations and reconstructions shall comply with the LUO building height, yard setback and building area standards.
- d. A project wall shall be constructed along Road "R", and landscaped with hedges and shrubs to buffer its impact to pedestrians.
- e. A 4-foot fence setback shall be provided at all lots adjacent to Road "A", and a 3-foot fence setback at all lots adjacent to Roads "C", "E", "F" and "H". In addition, no fences shall be allowed between individual affordable housing units, except at the perimeter of each small cluster module.



- f. Final plans shall indicate all required guest parking spaces. In addition to 2 parking spaces for individual dwelling units, one guest stall for every 4 dwelling units or fraction thereof, shall be provided. Final plans shall indicate the following:
  - i. Affordable units utilizing shared driveways shall add a minimum of 1 parking space within each module.
  - ii. Each landscaped island formed by private roads shall accommodate common guest parking spaces to satisfy the number of dwelling units fronting them.
  - iii. Units having frontage to the landscaped islands and a minimum driveway apron depth of 16 feet shall be excluded from the guest parking tabulation.
  - iv. Units having direct access to a proposed public road shall provide a minimum driveway apron depth of 16 feet. Required parking spaces shall not encroach into any proposed public rights-of-way or required driveway width.
  - v. Designated parking spaces fronting the proposed 16-foot-wide shared driveways shall be set back from the driveway to maintain the minimum 22-foot vehicular maneuvering distance required by the LUO.
- g. All transformers shall be screened from public view by a hedge as high as the transformer.

3. Subdivision

A subdivision application shall be submitted to and approved by the Department of Land Utilization. The following shall be incorporated into the final subdivision documents:

- a. Irregular lot lines should be eliminated as much as practicable.
- b. Easements shall be designated for the common access areas and the area of the easement shall be deducted from the gross lot area.
- c. Areas which fall within required vehicular sight lines shall be incorporated into the roadway lot.

- d. All proposed roadways, except private roadways, shall be subdivided and dedicated to the City.

4. Building Design

- a. Proposed exterior finishes, colors and roof material for all structures shall be subject to review and approval by the Department of Land Utilization. An exterior color schedule, and wall and roof material samples, shall be submitted to the Department of Land Utilization for approval.
- b. White or highly reflective roof or exterior wall colors shall not be permitted. All exterior materials shall not exceed 12 to 14 percent reflectivity. Reflectance ratings may be required.
- c. A minimum 5-foot setback shall be provided for all uncovered parking areas from proposed lot lines.
- d. Privacy between two-story units shall be provided through strategic room and window placement.
- e. Standard fence and wall designs shall be developed to minimize the adverse visual impact of walls constructed within required front, side and rear yards along proposed public roadways or pedestrian ways. These standard designs shall incorporate the following:
  - i. "See through" picket fences fronting public roads and pedestrian ways shall not exceed 5 feet in height as measured from the adjoining sidewalk.
  - ii. Solid walls and fences shall not exceed 18 inches in height as measured from the adjoining sidewalk. Solid walls and fences 42 inches high may be used in locations approved by a Fence Master Plan.
  - iii. Additional wall heights for retaining conditions may be obtained by stepping a series of walls in which each exposed face does not exceed 42 inches in height. the lateral distance between stepped walls shall not be less than 42 inches and shall be landscaped.
  - iv. Solid fences and walls fronting private roads and pedestrian ways within the greenbelt, shall not exceed a height of 42 inches as measured from the adjoining pavement or sidewalk.

5. Landscaping

All landscaping indicated in proposed common and private property and modified by the application documents shall be provided by the developer. In addition, the following shall apply:

- a. Landscaping located within common property shall be maintained by the Homeowners' Association. Street trees and landscaping located in private property, as a result of tree well locations, shall be maintained by individual homeowners or the Homeowners' Association.
- b. Street trees shall be installed at a maximum 50 feet spacing, or one per lot, whichever provides the greater number of trees. Trees shall have a minimum trunk height of 6 feet and a trunk diameter of 1-1/2 inches, and they shall be in addition to those trees within the landscaped islands. Final tree species and size should be reviewed and approved by the DP&R and DLU.
- c. Tree pockets, that extend beyond the setback or proposed rights-of-way lines into private parcels, shall be provided to assure compliance with maximum cluster tree spacing requirements. These shall occur on both sides of Roads "B", "C", "E", "F", "G", and "H", and shall have a minimum width of 6 feet with a continuous minimum depth of 3 feet.

6. Roadway

- a. Adequate vehicular sight lines shall be provided at all street intersections and private roadway lots which provide access to three or more zoning lots.
- b. Landscaping shall be placed in locations which do not obstruct vehicular sight lines to other vehicles and pedestrians and to posted street signs.
- c. Standard City dropped driveways should be provided at all vehicular access points fronting proposed public streets. The driveway grade shall not exceed 5 percent for a minimum distance of 35 feet from the curb line prolongation into the private access road.

- d. On-street parking along proposed City streets should not be considered to be permanent. Parking will be removed, as required, for safety or other considerations. As such, on-street parking shall not be used to supplement the parking requirements for individual site developments.
- e. Underground conduits and pull boxes should be provided at the intersection of Road "R" and Road "A" in anticipation of future signalization.
- f. A design speed of 25 miles per hour shall be used for the 48-foot roadway section. As such, rolled curbs and sidewalk locations shall be provided in accordance with Cluster Development Guidelines.
- g. The pavement transition of Road "A" from 40 feet to 32 feet should occur after its intersection with Road "B".
- h. The limited access designation shall be provided on final plans for lots fronting Road "R". In addition, final subdivision approval for Road "R" shall be obtained prior to the issuance of any permits for this cluster.
- i. The proposed 40-foot rights-of-way at Roads "C", "E", "F", and "H" are acceptable. However, the width shall be reduced from 6 feet to 5 feet or the minimum required to meet ADA accessibility requirements. Fence setbacks shall be located from the right-of-way line.
- j. Sidewalks shall be eliminated from proposed private roadways and the 3-foot strip on both sides shall be landscaped.
- k. Roadways and streets to be dedicated to the City shall be built in accordance with the City construction standards. Entry features shall not be located within these rights-of-way.
- l. Access improvements in accordance with the Americans with Disabilities Act Accessibility Guidelines shall be provided at the project site as required.

7. Soils, Grading and Drainage

- a. Grading and drainage plans shall be submitted to and approved by the Department of Public Works (DPW), except those approved for model homes, prior to issuance of any permits.

- b. Pavements for driveways, walkways and parking areas shall be designed for the particular soil conditions and constructed in accordance with the requirements of the DPW.
- c. The grading of the east-west oriented greenbelt shall be revised to provide more areas useable to the public. A minimum of 50 percent of this landscaped area shall have a gradient of less than 15 percent, with the balance not to exceed a gradient of 30 percent.
- d. Grading and drainage work shall comply with all applicable Federal, State and County statutes, ordinances and regulations.
- e. Reduce peak storm runoff flow (rate) and volume, by minimizing impervious areas and use open space for retention and infiltration of storm water runoff. This will be part of the City's NPDES permit for stormwater.

8. Utilities

All utilities within the project site shall be underground. Additional conditions are as follows:

- a. The project shall comply with the requirements of the Board of Water Supply (BWS). Installation of a complete water system shall meet BWS specifications and standards.
- b. The applicant must obtain approval from the Department of Wastewater Management (DWM) for "Sewer Connection Application."
- c. The sewer system shall meet the DWM and DPW specifications and standards.
- d. The applicant shall meet the requirements of the City and County to cover the estimated sewer connection and water development charges applicable to the project.

9. Fire Protection

The applicant shall comply with all of the requirements of the Fire Department as outlined in this report.

10. Park Dedication

An application to satisfy the Park Dedication Ordinance No. 4621 shall be submitted and approved prior to issuance of any permits.

11. Refuse Collection

The applicant shall comply with all of the requirements of the Division of Refuse Collection as outlined in this report.

12. Lighting

- a. All proposed exterior light fixtures and lamps shall be noted on the final building plans. Submittal of samples and/or brochures may be required for review and approval by the DLU.
- b. All exterior lighting shall be recessed and/or shielded to minimize glare and any adverse visual impact to the development and surrounding neighborhood.

13. Archaeological Findings

Should any archaeological artifacts or findings, such as charcoal-filled fire pits, or human skeletal remains be discovered during construction, the applicant and/or contractor shall stop work and notify the State Historic Sites Office, Department of Land and Natural Resources, for appropriate action.

14. Engineer's or Architect's Supervision and Responsibility

The applicant's consulting engineer and/or architect shall be responsible for all work and final plans to comply with all provisions of the Land Use Ordinance. Approval of this Cluster Development does not certify compliance with all zoning code requirements. The project plans shall meet all code regulations for approval by all affected governmental agencies.

15. Flexibility

- a. The architect shall be provided with a reasonable degree of flexibility in the preparation of detailed engineering and architectural plans for the project. For example, buildings may be shifted slightly in order to preserve a particularly desirable element of the landscape or to accommodate certain unforeseen site conditions. In addition, as detailed architectural plans are developed, building configurations may need to be altered slightly also for the above reasons.

- b. The project shall be developed as authorized and approved by the Director of Land Utilization. In no case, however, shall the above alteration harm the general intent of the design concept of the project, nor will there be any increase in the number of dwelling units (366). The environmental character and design concept of the project, as indicated on the submitted plans and modified by the conditions of this report, shall be maintained.
- c. Any modification to the conditions stated herein shall be subject to approval by the Director of Land Utilization. Any major modification may be subject to a new application under the Cluster Development provisions.
- d. Changes made to the conditions or site plan necessitated by additional soils, grading, drainage or other studies shall be subject to the approval of the Director of Land Utilization.

16. Detailed Documents

- a. The applicant shall obtain the approval of the Director of Land Utilization and appropriate governmental agencies on final detailed documents covering all site improvements, including but not limited to parking, grading, drainage, sewers, water and electric utilities, easements, walkways, roadways, street and area lighting, fire hydrants, refuse storage and collection areas, fences, guardrails, screens, signs, landscaping and recreational facilities as they affect site improvement work. These approvals shall be obtained prior to processing of any permits (except those associated with construction of the model homes.
- b. Grading and building permits for site improvements as defined above may be obtained prior to building permits for new structures.

17. Model Units

The grading and building permits for model units may be issued, by the Director of Land Utilization and other appropriate governmental agencies, upon review and approval of detailed documents relating to the model units.

This approval shall be obtained prior to commencement of any work. Submit one complete half-size set of site improvement and landscaping plans to the Director of Land Utilization for this purpose prior to the routing of model unit building permits.

18. Maintenance of Common Areas and Facilities

Legal documents shall be drawn up to ensure perpetual maintenance of all approved common elements by the Homeowners Association including, but not limited to, landscaping, common areas, and drainage patterns within the private property and the City right-of-way.

19. Future Additions and Alterations

Future additions and alterations to individual dwelling units and in common areas subsequent to the completion of the project, shall require the review and approval by the Director of Land Utilization. Individual owners requesting such additions and alterations shall first obtain the written approval from the Homeowners' Association. This approval shall be construed as final approval and that approval by the DLU is forthcoming.

- a. Relocation of approved project wall and fence locations will not be allowed. A fence master plan shall be submitted to and approved by the Director prior to issuing any building permits (except those approved for model units).
- b. Construction of retaining walls and fences shall not impede or redirect surface water runoff patterns approved under this cluster application.
- c. The two-car garages and guest parking stalls designated for each cluster module shall not be converted to usable floor area or removed.
- d. Future additions, alterations and reconstruction shall be compatible in material, form and color to the model types approved as part of this cluster application.
- e. All required yards shall be landscaped and maintained as buffer space. Excessive paving, decking, mechanical equipment, trellises or storage structures will not be allowed in this area if it substantially reduces its intended function of landscaped buffer space.



20. Transfer of Rights

- a. Any assignment and/or transfer of any substantial interest in the land parcel designated as a cluster development by this document shall be subject to the approval and consent of the Department of Land Utilization (except for such assignment and/or transfer to any mortgagee or to any purchaser upon foreclosure). Such approval and consent shall not be unreasonably withheld provided that the assignee and/or transferee agrees in writing to comply with all the conditions imposed herein.
- b. This requirement of obtaining Department of Land Utilization's approval and consent shall become null and void upon the applicant/developer satisfying the following:
  - (1) Completion of all construction according to approved plans as well as sale of housing units within the cluster development project; and
  - (2) Compliance with all the conditions and restrictions imposed by this document.

21. Time Limit

Failure to secure all building permits for the 366 dwelling units within 3 years of the date of this approval, may constitute grounds for the Director to repeal this approval. If the applicant finds that he is unable to obtain a building permit prior to the expiration date of this approval, he shall file with the Director a written request for extension of time one month prior to the expiration date together with acceptable reasons which justify such extension.

22. Responsibility

It shall be the responsibility of the applicant to provide all site improvements, underground utilities, landscaping and other features in conformity with Exhibits "A" and "B" and the conditions and restrictions imposed herein. All structures and site improvements, underground utilities, and landscaping shall be completed for each unit prior to the occupancy of the dwelling unit.

23. Covenants

The developer shall be required to incorporate all of the post-construction conditions set forth which are applicable subsequent to occupancy as part of the

restrictive covenants running with the land and made a part of any sales agreement with any future owners. In conjunction with the covenant, a plot plan for each lot, designating easements, setbacks, required parking and lot coverage shall be provided to every home buyer. These shall be submitted to and approved by the Director of Land Utilization.

24. Recordation

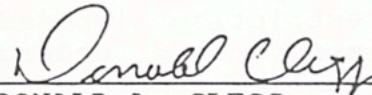
- a. The applicant/developer of the property encompassed by this cluster development shall be required to file a declaration of the above-mentioned restrictive conditions with the Bureau of Conveyances or Assistant Registrar of the Land Court of the State of Hawaii.
- b. A certified copy of the documents as issued by the Bureau of Conveyances or Assistant Registrar shall be presented to the Department of Land Utilization as evidence of recordation prior to occupancy of any dwelling units.

25. Violations

The Department of Land Utilization will review alleged violations of the conditions imposed herein and upon its findings that the applicant has not complied with any of said conditions, may take any lawful action necessary to prevent further non-compliance, or to compel compliance with the conditions.

26. Rescinding Governmental Agency Approvals

Upon repeal of this approval by the Department of Land Utilization, the Director of Land Utilization and other governmental agencies may rescind any or all approvals granted to the development including but not limited to approvals of subdivisions, construction plans, building permits and other detailed documents, in order to restore the property to conditions pre-existing the effective date of this approval.



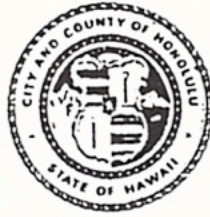
DONALD A. CLEGG  
Director of Land Utilization

Date: July 1, 1994

PS:gc  
94CL5.gkc  
Exhibit "A"  
Exhibit "B"

DEPARTMENT OF LAND UTILIZATION  
CITY AND COUNTY OF HONOLULU

650 SOUTH KING STREET  
HONOLULU, HAWAII 96813 • (808) 523-4432



JEREMY HARRIS  
MAYOR

PATRICK T. ONISHI  
DIRECTOR

LORETTA K.C. CHEE  
DEPUTY DIRECTOR

94/CL-5 (PS)

April 25, 1995

Mr. Mark L. Johnson, Project Manager  
Castle & Cooke Kunia, Inc.  
650 Iwilei Road, 3rd Floor  
Honolulu, Hawaii 96817

Dear Mr. Johnson:

Request for Minor Modification to  
Cluster Conditions of Approval  
Royal Kunia Site 12 - 94/CL-5  
Tax Map Key 9-4-02: portion of 51

This is in response to your letter dated January 3, 1995, and to summarize previous meetings dated August 8, 1994, January 30, 1995 and February 15, 1995 which discussed various modifications to cluster conditions at your request. We will respond to the items and conditions at issue. It will summarize your request, and respond accordingly. Any necessary revisions will be provided in the attached revised Decision and Order.

Condition 2(a)

*You are requesting deletion of this condition, because past experience with similar access easements have created security problems for adjoining residential lots.*

The lack of pedestrian access through residential lots adjoining the proposed park site will not substantially increase the overall distance travelled by pedestrians. Therefore, we will accept your rationale for this request and delete this condition.

Condition 2(e) and 6(i)

*You are requesting modification to these conditions because you are proposing to revise all shoulder widths in proposed public rights-of-way to 8 feet in compliance with the Cluster/PD-H guideline for sidewalks and street trees for minor streets.*

Mr. Mark L. Johnson, Project Manager  
Page 2  
April 25, 1995

The above condition was required to permit adequate planting space which could accommodate the minimum street tree planting requirements. An acceptable street tree planting plan was submitted to the Department of Land Utilization (DLU) on February 15, 1995, making the need for additional fence setback and tree pockets unnecessary. However, the modification to fencing within affordable housing modules will be dependent upon submission of a satisfactory Fence Masterplan.

Condition 2(f)

*You are requesting modification to this requirement to permit a more flexible allocation of parking to satisfy overall guest parking needs.*

We will grant your request. Therefore, this condition will be modified to be consistent with the project parking requirements for Cluster sites 8, 9 & 10.

Condition 2(g)

*You are requesting that this condition be deleted because the proposed transformers will be less than 30-inches in height, will be a green color and the planting of a hedge around the transformer will only draw unneeded attention to it.*

We partially concur, and will modify this condition to require screening for transformers which exceed 30 inches in height.

Condition 3(c) and (d)

*Your consultant requested that similar conditions for Royal Kunia Cluster Site 8 be clarified. These shall also be revised here to be consistent with those clarifications.*

Conditions 5(a) and (c)

*You are requesting that references to tree pockets be deleted from these conditions because a satisfactory street tree planting plan was submitted to and accepted by the DLU.*

We concur with your request. Our rationale is the same as presented for condition 2(e), and we will modify these conditions so it relates to the approved new landscape plans.

Mr. Mark L. Johnson, Project Manager  
Page 3  
April 25, 1995

Condition 6(j)

*You are requesting that this requirement be eliminated due to the 36-inch height restriction for front yard fences being imposed by the Conditions, Covenants and Restrictions. We will concur with your request and will lock for this representation in the Fence Masterplan.*

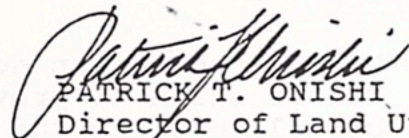
Condition 19(c)

*The language in this condition is being revised to be consistent with changes made to condition 2(f).*

The above changes will be incorporated into the above-mentioned cluster DECISION AND ORDER. Due to the extent of modification, we will reissue (see attached) that portion of the cluster permit. Items that have been deleted are bracketed and those underscored have been added.

Should you have any questions, please contact Patrick Seguirant, Chief, Urban Design Branch, at 527-5369.

Very truly yours,

  
PATRICK T. ONISHI  
Director of Land Utilization

PTO:gc  
Kunia12.pbs

Attachment

cc: .Building Department  
Department of Parks and Recreation  
Board of Water Supply  
Fire Department  
Department of Housing and Community Development  
Department of Transportation Services  
Department of Public Works

IV. DECISION AND ORDER

Based on the Report and Conclusions, the application for the Royal Kunia 12 Cluster is APPROVED, subject to conformity with the following exhibits and conditions:

Exhibit "A"

Application drawings DLU date-time-stamped April 8, 1994 (26 sheets).

Exhibit "B"

Written narrative (20 pages) DLU date-time-stamped April 8, 1994.

Exhibits "A" and "B" shall be followed except as modified by the following conditions:

1. General

Subdivision, grading and construction plans for roadways, utilities, landscaping, drainage, etc. shall be approved by the appropriate governmental agencies prior to review and approval by the Department of Land Utilization, Building Department, and prior to issuance of any permits, except those structures and landscaping approved as model units.

2. Site Plan

- [a. Direct pedestrian access to the future Recreation Center shall be provided, without having to circulate along the proposed vehicular arterial.]
- a[b]. Building area shall not exceed 50 percent of any lot of record less access easements.
- b[c]. All buildings, additions, alterations and reconstructions shall comply with the LUO building height, yard setback and building area standards.
- c[d]. A project wall shall be constructed along Road "R", and landscaped with hedges and shrubs to buffer its impact to pedestrians.
- [e. A 4-foot fence setback shall be provided at all lots adjacent to Road "A", and a 3-foot fence setback at all lots adjacent to Roads "C", "E", "F" and "H". In addition, no fences shall be allowed between individual affordable housing units, except at the perimeter of each small cluster module.]

d. Final plans shall indicate at least 35 percent of all residential lots with a driveway apron length of 16 feet or more and 25 percent between 14 and 16 feet. All other lots shall maintain a minimum 10-foot front yard setback. The applicant shall provide a listing of all lots utilized to comply with this requirement.

[f. Final plans shall indicate all required guest parking spaces. In addition to 2 parking spaces for individual dwelling units, one guest stall for every 4 dwelling units or fraction thereof, shall be provided. Final plans shall indicate the following:

i. Affordable units utilizing shared driveways shall add a minimum of 1 parking space within each module.

ii. Each landscaped island formed by private roads shall accommodate common guest parking spaces to satisfy the number of dwelling units fronting them.

iii. Units having frontage to the landscaped islands and a minimum driveway apron depth of 16 feet shall be excluded from the guest parking tabulation.

iv. Units having direct access to a proposed public road shall provide a minimum driveway apron depth of 16 feet. Required parking spaces shall not encroach into any proposed public rights-of-way or required driveway width.

v. Designated parking spaces fronting the proposed 16-foot-wide shared driveways shall be set back from the driveway to maintain the minimum 22-foot vehicular maneuvering distance required by the LUO.]

e[g]. All transformers, which exceed 30-inches in height, shall be screened from public view by a hedge as high as the transformer.

### 3. Subdivision

A subdivision application shall be submitted to and approved by the Department of Land Utilization. The following shall be incorporated into the final subdivision documents:

- a. Irregular lot lines should be eliminated as much as practicable.
- b. Easements shall be designated for the common access areas and the area of the easement shall be deducted from the gross lot area.
- c. Areas which fall within required vehicular sight lines shall be incorporated into the roadway lot or an easement.
- d. All proposed public roadways [, except private roadways,] shall be subdivided and dedicated to the City. All private roadways may be subdivided, but in no case dedicated to the City.

4. Building Design

- a. Proposed exterior finishes, colors and roof material for all structures shall be subject to review and approval by the Department of Land Utilization. An exterior color schedule, and wall and roof material samples, shall be submitted to the Department of Land Utilization for approval.
- b. White or highly reflective roof or exterior wall colors shall not be permitted. All exterior materials shall not exceed 12 to 14 percent reflectivity. Reflectance ratings may be required.
- c. A minimum 5-foot setback shall be provided for all uncovered parking areas from proposed lot lines.
- d. Privacy between two-story units shall be provided through strategic room and window placement.
- e. Standard fence and wall designs shall be developed to minimize the adverse visual impact of walls constructed within required front, side and rear yards along proposed public roadways or pedestrian ways. These standard designs shall incorporate the following:
  - i. "See through" picket fences fronting public roads and pedestrian ways shall not exceed 5 feet in height as measured from the adjoining sidewalk.



- ii. Solid walls and fences shall not exceed 18 inches in height as measured from the adjoining sidewalk. Solid walls and fences 42 inches high may be used in locations approved by a Fence Master Plan.
- iii. Additional wall heights for retaining conditions may be obtained by stepping a series of walls in which each exposed face does not exceed 42 inches in height. the lateral distance between stepped walls shall not be less than 42 inches and shall be landscaped.
- iv. Solid fences and walls fronting private roads and pedestrian ways within the greenbelt, shall not exceed a height of 42 inches as measured from the adjoining pavement or sidewalk.

5. Landscaping

All landscaping indicated in proposed common and private property and modified by the application documents shall be provided by the developer. In addition, the following shall apply:

- a. Landscaping located within common property shall be maintained by the Homeowners' Association. Street trees and landscaping located in private property [, as a result of tree well locations,] shall be maintained by individual homeowners or the Homeowners' Association.
- b. Street trees shall be installed at a maximum 50 feet spacing, or one per lot, whichever provides the greater number of trees. Trees shall have a minimum trunk height of 6 feet and a trunk diameter of 1-1/2 inches, and they shall be in addition to those trees within the landscaped islands. Final tree species and size should be reviewed and approved by the DP&R and DLU.
- c. [ Tree pockets, that extend beyond the setback or proposed rights-of-way lines into private parcels, shall be provided to assure compliance with maximum cluster tree spacing requirements. These shall occur on both sides of Roads "B", "C", "E", "F", "G", and "H", and shall have a minimum width of 6 feet with a continuous minimum depth of 3 feet.]

Required street trees and landscaping approved by this permit shall not be removed, replaced or relocated without approval of the Director of Land Utilization, and shall be installed prior to the occupancy of dwellings units. If any tree is destroyed, a replacement tree shall be installed in accordance with the approved landscape plan. The individual homeowner or Association shall bear the cost of the replacement.

All non-paved public right-of-way areas shall be planted and maintained with groundcover or grass in addition to the street trees.

6. Roadway

- a. Adequate vehicular site lines shall be provided at all street intersections and private roadway lots which provide access to three or more zoning lots.
- b. Landscaping shall be placed in locations which do not obstruct vehicular sight lines to other vehicles and pedestrians and to posted street signs.
- c. Standard City dropped driveways should be provided at all vehicular access points fronting proposed public streets. The driveway grade shall not exceed 5 percent for a minimum distance of 35 feet from the curb line prolongation into the private access road.
- d. On-street parking along proposed City streets should not be considered to be permanent. Parking will be removed, as required, for safety or other considerations. As such, on-street parking shall not be used to supplement the parking requirements for individual site developments.
- e. Underground conduits and pull boxes should be provided at the intersection of Road "R" and Road "A" in anticipation of future signalization.
- f. A design speed of 25 miles per hour shall be used for the 48-foot roadway section. As such, rolled curbs and sidewalk locations shall be provided in accordance with Cluster Development Guidelines.
- g. The pavement transition of Road "A" from 40 feet to 32 feet should occur after its intersection with Road "B".

- h. The limited access designation shall be provided on final plans for lots fronting Road "R". In addition, final subdivision approval for Road "R" shall be obtained prior to the issuance of any permits for this cluster.
- [i. The proposed 40-foot rights-of-way at Roads "C", "E", "F", and "H" are acceptable. However, the width shall be reduced from 6 feet to 5 feet or the minimum required to meet ADA accessibility requirements. Fence setbacks shall be located from the right-of-way line.]
- i[k]. Roadways and streets to be dedicated to the City shall be built in accordance with the City construction standards. Entry features shall not be located within these rights-of-way.
- i[l]. Access improvements in accordance with the Americans with Disabilities Act Accessibility Guidelines shall be provided at the project site as required.

7. Soils, Grading and Drainage

- a. Grading and drainage plans shall be submitted to and approved by the Department of Public Works (DPW), except those approved for model homes, prior to issuance of any permits.
- b. Pavements for driveways, walkways and parking areas shall be designed for the particular soil conditions and constructed in accordance with the requirements of the DPW.
- c. The grading of the east-west oriented greenbelt shall be revised to provide more areas useable to the public. A minimum of 50 percent of this landscaped area shall have a gradient of less than 15 percent, with the balance not to exceed a gradient of 30 percent.
- d. Grading and drainage work shall comply with all applicable Federal, State and County statutes, ordinances and regulations.
- e. Reduce peak storm runoff flow (rate) and volume, by minimizing impervious areas and use open space for retention and infiltration of storm water runoff. This will be part of the City's NPDES permit for stormwater.

8. Utilities

All utilities within the project site shall be underground. Additional conditions are as follows:

- a. The project shall comply with the requirements of the Board of Water Supply (BWS). Installation of a complete water system shall meet BWS specifications and standards.
- b. The applicant must obtain approval from the Department of Wastewater Management (DWM) for "Sewer Connection Application."
- c. The sewer system shall meet the DWM and DPW specifications and standards.
- d. The applicant shall meet the requirements of the City and County to cover the estimated sewer connection and water development charges applicable to the project.

9. Fire Protection

The applicant shall comply with all of the requirements of the Fire Department as outlined in this report.

10. Park Dedication

An application to satisfy the Park Dedication Ordinance No. 4621 shall be submitted and approved prior to issuance of any permits.

11. Refuse Collection

The applicant shall comply with all of the requirements of the Division of Refuse Collection as outlined in this report.

12. Lighting

- a. All proposed exterior light fixtures and lamps shall be noted on the final building plans. Submittal of samples and/or brochures may be required for review and approval by the DLU.
- b. All exterior lighting shall be recessed and/or shielded to minimize glare and any adverse visual impact to the development and surrounding neighborhood.

13. Archaeological Findings

Should any archaeological artifacts or findings, such as charcoal-filled fire pits, or human skeletal remains be discovered during construction, the applicant and/or contractor shall stop work and notify the State Historic Sites Office, Department of Land and Natural Resources, for appropriate action.

14. Engineer's or Architect's Supervision and Responsibility

The applicant's consulting engineer and/or architect shall be responsible for all work and final plans to comply with all provisions of the Land Use Ordinance. Approval of this Cluster Development does not certify compliance with all zoning code requirements. The project plans shall meet all code regulations for approval by all affected governmental agencies.

15. Flexibility

- a. The architect shall be provided with a reasonable degree of flexibility in the preparation of detailed engineering and architectural plans for the project. For example, buildings may be shifted slightly in order to preserve a particularly desirable element of the landscape or to accommodate certain unforeseen site conditions. In addition, as detailed architectural plans are developed, building configurations may need to be altered slightly also for the above reasons.
- b. The project shall be developed as authorized and approved by the Director of Land Utilization. In no case, however, shall the above alteration harm the general intent of the design concept of the project, nor will there be any increase in the number of dwelling units (366). The environmental character and design concept of the project, as indicated on the submitted plans and modified by the conditions of this report, shall be maintained.
- c. Any modification to the conditions stated herein shall be subject to approval by the Director of Land Utilization. Any major modification may be subject to a new application under the Cluster Development provisions.

- d. Changes made to the conditions or site plan necessitated by additional soils, grading, drainage or other studies shall be subject to the approval of the Director of Land Utilization.

16. Detailed Documents

- a. The applicant shall obtain the approval of the Director of Land Utilization and appropriate governmental agencies on final detailed documents covering all site improvements, including but not limited to parking, grading, drainage, sewers, water and electric utilities, easements, walkways, roadways, street and area lighting, fire hydrants, refuse storage and collection areas, fences, guardrails, screens, signs, landscaping and recreational facilities as they affect site improvement work. These approvals shall be obtained prior to processing of any permits (except those associated with construction of the model homes.
- b. Grading and building permits for site improvements as defined above may be obtained prior to building permits for new structures.

17. Model Units

The grading and building permits for model units may be issued, by the Director of Land Utilization and other appropriate governmental agencies, upon review and approval of detailed documents relating to the model units.

This approval shall be obtained prior to commencement of any work. Submit one complete half-size set of site improvement and landscaping plans to the Director of Land Utilization for this purpose prior to the routing of model unit building permits.

18. Maintenance of Common Areas and Facilities

Legal documents shall be drawn up to ensure perpetual maintenance of all approved common elements by the Homeowners Association including, but not limited to, landscaping, common areas, and drainage patterns within the private property and the City right-of-way.

19. Future Additions and Alterations

Future additions and alterations to individual dwelling units and in common areas subsequent to the completion of the project, shall require the review and approval by the Director of Land Utilization. Individual owners requesting such additions and alterations shall first obtain the written approval from the Homeowners' Association. This approval shall not be construed as final approval and that approval by the DLU is forthcoming.

- a. Relocation of approved project wall and fence locations will not be allowed. A fence master plan shall be submitted to and approved by the Director prior to issuing any building permits (except those approved for model units).
- b. Construction of retaining walls and fences shall not impede or redirect surface water runoff patterns approved under this cluster application.
- c. The two-car garages and required driveway aprons [guest parking stalls designated for each cluster module] shall not be converted to usable floor area or removed.
- d. Future additions, alterations and reconstruction shall be compatible in material, form and color to the model types approved as part of this cluster application.
- e. All required yards shall be landscaped and maintained as buffer space. Excessive paving, decking, mechanical equipment, trellises or storage structures will not be allowed in this area if it substantially reduces its intended function of landscaped buffer space.

20. Transfer of Rights

- a. Any assignment and/or transfer of any substantial interest in the land parcel designated as a cluster development by this document shall be subject to the approval and consent of the Department of Land Utilization (except for such assignment and/or transfer to any mortgagee or to any purchaser upon foreclosure). Such approval and consent shall not be unreasonably withheld provided that the assignee and/or transferee agrees in writing to comply with all the conditions imposed herein.

b. This requirement of obtaining Department of Land Utilization's approval and consent shall become null and void upon the applicant/developer satisfying the following:

- (1) Completion of all construction according to approved plans as well as sale of housing units within the cluster development project; and
- (2) Compliance with all the conditions and restrictions imposed by this document.

21. Time Limit

Failure to secure all building permits for the 366 dwelling units within 3 years of the date of this approval, may constitute grounds for the Director to repeal this approval. If the applicant finds that he is unable to obtain a building permit prior to the expiration date of this approval, he shall file with the Director a written request for extension of time one month prior to the expiration date together with acceptable reasons which justify such extension.

22. Responsibility

It shall be the responsibility of the applicant to provide all site improvements, underground utilities, landscaping and other features in conformity with Exhibits "A" and "B" and the conditions and restrictions imposed herein. All structures and site improvements, underground utilities, and landscaping shall be completed for each unit prior to the occupancy of the dwelling unit.

23. Covenants

The developer shall be required to incorporate all of the post-construction conditions set forth which are applicable subsequent to occupancy as part of the restrictive covenants running with the land and made a part of any sales agreement with any future owners. In conjunction with the covenant, a plot plan for each lot, designating easements, setbacks, required parking and lot coverage shall be provided to every home buyer. These shall be submitted to and approved by the Director of Land Utilization.



24. Recordation

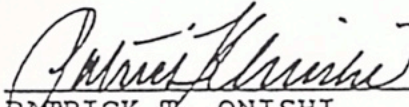
- a. The applicant/developer of the property encompassed by this cluster development shall be required to file a declaration of the above-mentioned restrictive conditions with the Bureau of Conveyances or Assistant Registrar of the Land Court of the State of Hawaii.
- b. A certified copy of the documents as issued by the Bureau of Conveyances or Assistant Registrar shall be presented to the Department of Land Utilization as evidence of recordation prior to occupancy of any dwelling units.

25. Violations

The Department of Land Utilization will review alleged violations of the conditions imposed herein and upon its findings that the applicant has not complied with any of said conditions, may take any lawful action necessary to prevent further non-compliance, or to compel compliance with the conditions.

26. Rescinding Governmental Agency Approvals

Upon repeal of this approval by the Department of Land Utilization, the Director of Land Utilization and other governmental agencies may rescind any or all approvals granted to the development including but not limited to approvals of subdivisions, construction plans, building permits and other detailed documents, in order to restore the property to conditions pre-existing the effective date of this approval.

  
\_\_\_\_\_  
PATRICK T. ONISHI  
Director of Land Utilization

Date: April 25, 1995

PTO:gc  
94CL5r.gkc  
Exhibit "A"  
Exhibit "B"

**END OF EXHIBIT** J