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LAND COURT SYSTEM

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Total Pages: 52 ①

CASTLE & COOKE LAND COMPANY

P.O. Box 698900

Mililani, HI 96789-8900

CKuratsaki 5482909

Tax Map Key: 9-4-156: 1 to 53, inclusive, 79, 81, 82, 83, 85, 86, 87
9-4-157: 1 to 24, inclusive, 41, 42

DECLARATION OF CLUSTER CONDITIONS
FOR SITE 13A COURTYARDS OF ROYAL KUNIA

THIS DECLARATION is made this 10th day of June, 1999, by KUNIA RESIDENTIAL PARTNERS, a Hawaii limited partnership ("Declarant"), with an address at 100 Kahelu Avenue, 2nd Floor, Mililani, Hawaii 96789.

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 (the "Site"). The Site is a portion of what has been sometimes referred to as Site 13.

B. With respect to the Site, Declarant intends to set forth conditions arising out of the City and County of Honolulu's Decision and Order referred to below pertaining to Declarant's Cluster Development application for Site 13.

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

ARTICLE I
CLUSTER DEVELOPMENT CONDITIONS

Declarant's intent is that the Site comply with the conditions imposed by the Report, Conclusions, and Decision and Order dated July 5, 1994, and modifications thereto dated June 6, 1995, a copy of which is attached hereto as Exhibit B ("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 the Site: 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 the Site shall require the review and approval of the City. 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 the Site 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 the Site. 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 required by the City. If the adjacent lot owner fails to maintain such required groundcover or grass 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 City 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 alters the drainage pattern without City approval, then the Association shall be entitled to recover its costs of restoring the drainage pattern from the owner. Residents of the Site 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.

ARTICLE II
MISCELLANEOUS PROVISION

Section 2.01 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 2.02 Duration. All of the 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 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 encumber any portions of the Site 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 2.03 Enforcement Nonwaiver.

(a) Subject to the limitations expressly provided in this Declaration, the Association 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 2.04 General.

(a) The 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 more than 25% of the acreage of the land within the Site subject to this Declaration, Declarant shall have the right to modify, repeal or amend the provisions of this Declaration. This Declaration may also be amended if the following occur: (i) Owners holding 75% of the

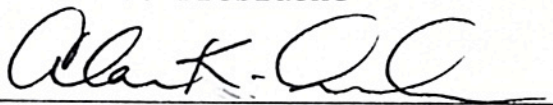
total votes in the Association pertaining to the Site vote or consent to the amendment, and (ii) a majority of the Board of the Association votes or consents to the amendment, and (iii) if the consent of the City & County Department of Planning and Permitting or its successor agency is legally required, said agency consents to the amendment. Notwithstanding the foregoing, so long as Declarant owns any land in Royal Kunia no amendment shall be effective without Declarant's written consent

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 
HARRY A. SAUNDERS
Its Vice President

By 
ALAN K. ARAKAWA
Its Vice President

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

On this 10th day of June, 1999, before me appeared HARRY A. SAUNDERS and ALAN K. ARAKAWA, to me personally known, who, being by me duly sworn, did say that they are the 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 said instrument was signed 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 as said general partner of said partnership.


Cynthia Kadekawa
Notary Public, State of Hawaii

My commission expires: 3/22/2002

EXHIBIT A

SITE

Lots 1 to 77, inclusive, Lots 119 and 120, Lots 122 to 125, inclusive, and Lots 130 to 133, inclusive, of the tract of land known as the ROYAL KUNIA SUBDIVISION SITE 13A, as shown on map filed in the Bureau of Conveyances of the State of Hawaii as File Plan 2168.

Situate at Hoaeae, Ewa, Oahu, State of Hawaii.

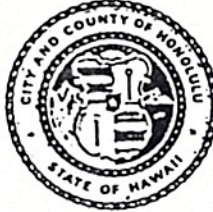
END OF EXHIBIT A

EXHIBIT B

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-4

Project: ROYAL KUNIA 13

REPORT, CONCLUSIONS, AND DECISION AND ORDER

I. APPLICATION

Application Date

April 18, 1994.

Recorded Fee Owner

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

Applicant/Developer

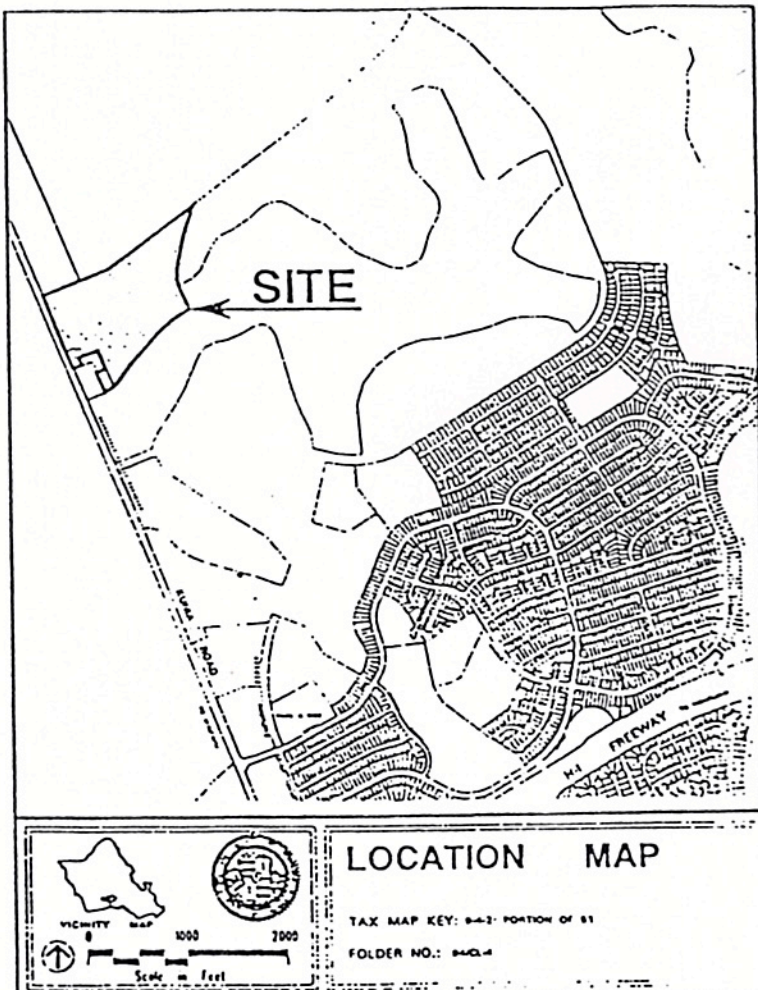
Kunia Residential Partners
650 Iwilei Road
Honolulu, HI 96813

Agent/Architect

Design Partners Inc.
1580 Makaloa St., Suite 1100
Honolulu, Hawaii 96814

Location

North of the Royal Kunia Golf
Course and East of Kunia Road.



Prepared By: Department of Land Utilization
City and County of Honolulu
Date Prepared: 04/26/94

Tax Map Key

9-4-2: Portion of 51

Area

24.98 acres

Request

A 171-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

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:

171 one- and two-story, single-family detached dwellings and associated site work. Access to the cluster site will be from Kunia Road and future collector Roads "D" and "R", which are not part of this application.

Internal cluster roadways will branch off the new collector Road "R". Dwelling units will access directly off internal cluster roadways which will be dedicated to the City, while private roadways will be maintained by the Homeowners' Association, and shared driveways will be owned and maintained by the individual lot owners. The dwelling units are comprised of 11 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.	20
3C	2	3/2.5	1,357 s.f.	28
4C	2	4/2.5	1,663 s.f.	29
A	1	2/2	826 s.f.	4
B	2	3/2.5	1,180 s.f.	12
C	2	3/2.5	1,273 s.f.	17
D	1	3/2	1,025 s.f.	8
1H	1	2/1.5	720 s.f.	9
2H	1	3/2	864 s.f.	9
3H	2	3/2	1,002 s.f.	20
4H	2	3/2.5	1,269 s.f.	15
TOTAL NUMBER OF UNITS PROPOSED				171

Density

The proposed development meets the cluster density requirements:

R-5 minimum cluster lot size	=	15,000 s.f.
Zoning Lot Area	=	1,088,129 s.f.
Max. units allowed @ 1 unit per 3,750 s.f. (1,088,129 s.f./3,750 s.f.)	=	290 units
Average density for the site (171 units/24.98 acres)	=	6.84 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 and the 9-acre park at Site 2.

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:

Department of Parks and Recreation (May 19, 1994)

"Adequate public and private parks will be available to serve the project's recreational needs. Halekua Development Corporation has dedicated the 9-acre future neighborhood park to the City. These parks will be used as credit for residential projects in Royal Kunia to comply with the Park Dedication requirements. The Street Tree Plan for the subject project shall be submitted to the DP&R Landscape Section for review and approval."

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 (June 1, 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-1/R-2" and Road "A" in anticipation of future signalization.

8. The limited access designation should be provided on lots fronting Road "R-1" and "R-2".
9. 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.
10. 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 25, 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.

Sidewalks shall be constructed at rights-of-way. Rolled curbs shall be constructed only as permitted in 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.

The emphasis of the City stormwater management is to reduce the stormwater volume and runoff to the maximum extent practicable. Use open space and landscaped areas for retention and infiltration are potential options to decrease peak discharge and reduce volume of stormwater runoff. Section 14-12.9(f) of Ordinance No. 92-122 is the legal basis for this recommendation.

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 need enforcement of parking regulations by the Homeowners' Association on privately-owned streets. We request the declaration of covenants, conditions and restrictions to include the following statement:

The Homeowners' Association shall provide and maintain signs to control parking along privately-owned roadways and shall enforce parking restrictions on rubbish collection days. The association shall provide the Refuse Division with the name and telephone number of the person responsible for enforcing the restrictions and maintaining the signs.

Should the association fail to control parking, the City reserves the right to refuse to enter the privately-owned roadways. Residents along such roadways will be required to bring their rubbish out to the curbside of a City-owned street.

- c. The construction drawings for non-standard roadway improvements shall be forwarded for Division of Refuse review and approval.
- d. 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 rights-of-way and pavement widths for proposed public roads may be modified. 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 and pavement width at Road "B" (from 56 feet to 44 feet) represents elimination of one on-street parking lane and a reduction in travel lane widths from 12 feet to 10 feet.

The reduction of right-of-way width at Roads "C" and "D" (from 44 feet to 40 feet) represents a reduction of shoulder width and the elimination of planting strips normally located on both sides of the rights-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 and pavement widths at Roads "E" and "F" (from the 44-foot roadway cross-section to 36 feet) represents a reduction in shoulder width and a 4-foot reduction in pavement width.

Lots having direct access to modified public roadways shall maintain a minimum 16-foot deep driveway apron to accommodate two additional parking spaces. Additional parking will be required within each cluster grouping. This should offset the loss of one on-street parking lane.

Site Plan Evaluation and Design Analysis

1. Site Plan

The project site is located along the northeastern boundary of the master planned community of Royal Kunia. It is bounded on the north by agricultural lands, on the east by collector Road "R", on the south by the Royal Kunia Golf Course, and on the west by Kunia Road. Cluster Housing Site 12 is located to the east across collector Road "R".

The new collector Road "R" is contiguous to the eastern boundary of the site and provides access to internal cluster roadways. Noise abatement measures for parcels contiguous to this roadway and Kunia Road should be provided. If walls are to be utilized along these roadways, then they shall utilize the same material, color and/or finish.

A continuous roadway loop created by Roads "B", "C" and "D") collect traffic from a majority of the site back to Road "R". An east-west oriented greenbelt bisects the block in the center of the site and provides limited pedestrian access to house lots. 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. Deadend roads collect the balance of traffic off the major circulation loop.

Generally, dwelling units are clustered around cul-de-sacs, shared driveways, or looped private roads that form islands of open space and landscaping. The number of dwelling units clustered together range from 4 to 12 units. Where siting cannot accommodate clustering, single-family lots occur fronting proposed public roadways. In addition, lots 2/3, 18/19, 26/27, 47/48, 57/58 and 68/69 will utilize shared driveways to minimize the amount of curb cuts and increase distances between adjacent driveways.

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 "B", "C", "D", "E" and "F". This is to provide adequate vehicular sight lines and planting space for street trees. Due to the small lot sizes at 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 "C", "D", "E", and "F".

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 and 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 eleven (11) residential building types, heights and roof forms, would produce variety and interest. The unit types fall into three general categories: a) affordable units located at the northeastern corner of the site, b) two-front homes located in the center of the project site along the greenbelt, and c) single-front single-family dwellings.

The affordable homes are clustered in groupings of 2 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 dwellings have 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 would allow for future construction of carports and/or garages as well as provide for adequate spacing between lots. 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 "B", "E" or "F". 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 islands 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" and Kunia Road 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 Homeowners' 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 landscape 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 "C" and "D" and the proposed 36-foot right-of-way width at Roads "E" and "F" are acceptable. However, sidewalk widths should be reduced from 6 feet to 5 feet or the minimum required to comply with ADA accessibility requirements.

Maintaining this 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 revised 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, nearby 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.

Parkway will be provided contiguous to Road "B".

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 13 Cluster is APPROVED, subject to conformity with the following exhibits and conditions:

Exhibit "A"

Application drawings DLU date-time-stamped April 8, 1994 (23 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. Building area shall not exceed 50 percent of any lot of record less access easements.
- b. All buildings, additions, alterations and reconstruction shall comply with the LUO building height, yard setback and building area standards.
- c. A project wall shall be constructed along Road "R" and Kunia Road, and landscaped with hedges and shrubs to buffer its impact to pedestrians.
- d. A 6-foot fence setback shall be provided at all lots adjacent to Road "B", and a 3-foot fence setback at all lots adjacent to Roads "C", "D", "E" and "F". In addition, no fences shall be allowed between individual affordable housing units, except at the perimeter of each small cluster module.

- e. 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 right-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.
- f. 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-1/R-2" and Road "A" in anticipation of future signalization.
- f. A design speed of 25 miles per hour shall be used for the roadway sections. As such, rolled curbs and sidewalk locations shall be provided in accordance with Cluster Development Guidelines.
- g. 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 the cluster site.
- h. The proposed 40-foot rights-of-way at Roads "C" and "D" and the 36-foot rights-of-way at Roads "E" and "F" are acceptable. Sidewalk widths shall be reduced from 6 feet to 5 feet or the minimum required to comply with ADA accessibility requirements. Fence setbacks shall be located from the right-of-way line.
- i. Sidewalks shall be eliminated from proposed private roadways and the 3-foot strip shall be landscaped.
- j. 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.
- k. 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. The use of landscaped areas for retention and infiltration shall be utilized to reduce peak discharge, and storm runoff rate and volume.

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 specification 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

The application to satisfy the Park Dedication Ordinance No. 4621 (94/PARK-40) shall be 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 (171). 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). It shall indicate the height of walls and fences, and those areas that would require retaining walls.
- 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 reconstructions 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 171 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

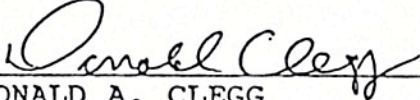
- a. The applicant/developer of the property encompassed by this cluster development shall be required to file a declaration of the above-mentioned restrictive conditions with the Bureau of Conveyances or Assistant Registrar of the Land Court of the State of Hawaii.
- b. A certified copy of the documents 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: 7/1/94

PS:gc
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Exhibit "A"
Exhibit "B"