JOSH GREEN, M.D. GOVERNOR | KE KIA'ÄINA

SYLVIA LUKE LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA





DAWN N.S CHANG CHAIRPERSON BOARD OF LAND AND NATURAL RESOURCES COMMISSION ON WATER RESOURCE MANAGEMENT

LAURA H.E KAAKUA FIRST DEPUTY

M. KALEO MANUEL DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES BOATING AND OCEAN RECREATION BUREAU OF CONVEYANCES COMMISSION ON WATER RESOURCE MANAGEMENT CONSERVATION AND RESOURCES ENFORCEMENT ENGINEERING FORESTRY AND WILDLIFE HISTORIC PRESERVATION KAHOOLAWE (SI AND RESERVATION HISTORIC PRESERVATION KAHOOLAWE ISLAND RESERVE COMMISSION LAND STATE PARKS

STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAI'I DEPARTMENT OF LAND AND NATURAL RESOURCES KA 'OIHANA KUMUWAIWAI 'ĀINA

STATE HISTORIC PRESERVATION DIVISION KAKUHIHEWA BUILDING 601 KAMOKILA BLVD, STE 555 KAPOLEI, HAWAII 96707

MINUTES

MAUI / LĀNA'I ISLANDS BURIAL COUNCIL MEETING

| DATE: | Wednesday, January 31, 2024 |
|---------------|--|
| TIME: | 9:00 AM |
| PLACE: | Department of Land and Natural Resources Maui |
| | District Office Complex, Conference Room, 130 |
| | Mahalani Street Wailuku, Maui, HI 96793 |

I. **CALL TO ORDER/PULE**

- Chair Scott Fisher called meeting to order at 9:01 AM
- Pule offered by Vice Chair Vernon Kalanikau

ROLL CALL

- **Chair Scott Fisher present** •
- **Councilmember Everett Dowling present** •
- **Councilmember Michele Hoopii present** •
- **Councilmember Iris Pe'elua present** •
- Vice Chair Vernon Kalanikau present
- Councilmember Diane Preza present via TEAMS .

SHPD: Kealana Phillips, Burial Sites Specialist **Breena Titus, Office Assistant** Susan Lebo, Archaeology Branch Chief via TEAMS Iolani Kauhane, Maui Archaeologist via TEAMS

COMMUNITY:

II.

- **Foster Ampong** .
- **Gwen Rivera** .
- . **Mia Sado-Magbual**
- . Ka'ōnohi Lee
- **Trever Yucha**
- . James Knasnowski
- **Carol Lee Kamekona** .
- **Ashford DeLima** .
- Kalei 'Uwēko'olani
- **Clare Apana**

- Claire Kamalu Carroll via TEAMS
- **Deona (Nona) Naboa** via TEAMS

III. MEETING MINUTES

- A. October 18, 2023
 - a. Motion to Approve made by Everett Dowling, 2nd by Michele Hoopii. Approved with no opposition.
- B. November 15, 2023
 - a. Motion to Approve made by Everett Dowling, 2nd by Michele Hoopii. Approved with no opposition.

IV. BUSINESS – 9:06 am

 A. Descendancy Claim Application of Carol Lee Kamekona to Unidentified Human Skeletal Remains at the Grand Wailea Resort, New Grease Interceptor – Main Kitchen Project, Ahupua'a of Paeahu, District of Honua'ula, Island of Maui, TMK: (2) 2-1-008:109.

Information/Discussion/Determination:

- Councilmember Dowling recuses himself from discussion and outcome.
- SHPD Burial Sites Specialist Kealana Phillips read aloud SHPD letter of recommendation. Correspondence with applicant attached to these minutes.
- 9:30 am Closed Discussion requested by Carol Lee Kamekona who addressed MLIBC.
- End closed session 9:46 am.
- Chair Scott Fisher opened for public testimony.
- Ashford DeLima testified in support of applicant.
- Council discussed that the applicant was recognized by previous burial council to iwi at Grand Wailea Resort. Issues arose regarding applicants connection to ancestor in the ahupuaa/moku. Council agreed to seek clarification from Attorney General of Moku vs. District.
- Foster Ampong testified in support of clarification of Moku vs. District relating to descendancy applications.
- Chair Scott Fisher made Motion to defer pending clarification from AG
 - All "aye", no "nay",
 - Everett Dowling Recused

B. Descendancy Claim Application of Ashford Kaleolani DeLima to Unidentified Human Skeletal Remains at the Grand Wailea Resort, New Grease Interceptor – Main Kitchen Project, Ahupua'a of Paeahu, District of Honua'ula, Island of Maui, TMK: (2) 2-1- 008:109.

Information/Discussion/Determination:

- Councilmember Dowling recuses himself from discussion and outcome.
- SHPD Burial Sites Specialist Kealana Phillips read aloud SHPD letter of recommendation. Correspondence with applicant attached to these minutes.
- Ashford Kaleolani DeLima present and provided testimony in support of Descendancy claim.

- Clare Apana testified in support of applicant.
- Motion to Approve offered by Council Chair Scott Fisher.
- Motion Seconded by Council Vice Chair, Vernon Kalanikau.
- Councilmember Hoopii "aye"
- Councilmember Preza "aye"
- Council Iris Pe'elua "aye"
- No "nays"
- Everett Dowling Recused
- Motion approved; applicant recognized as a cultural descendant.

C. Descendancy Claim Application of Foster Ampong to Unidentified Human Skeletal Remains at the Waiko Road Transmission Line Relocation Project, Ahupua'a of Waikapu, District of Wailuku, Island of Maui, TMK: (2) 3-5-002:009 por., 014.; (2) 3-8-005:002 por., 040 por.; (2) 3-8-006:003 por.; (2) 3-8-007:101 por.; (2) 3-8-094:003 por., 027 por., 028 por., 030 por., 036 por., 044-046 por., 051., 057 por., 059 por., 063 por., and 064 por. (Waiko Road and Kuihelani Highway ROWSs)

- SHPD Burial Sites Specialist Kealana Phillips read aloud SHPD letter of recommendation. Correspondence with applicant attached to these minutes.
- Foster Ampong present and provided testimony in support of Descendancy claim.
- Council Member Michele Hoopii recuses herself from discussion and outcome due to relationship with applicant.
- Motion to Approve offered by Council Member Everett Dowling.
- Motion Seconded by Council Vice Chair, Vernon Kalanikau.
- Councilmember Hoopii recused.
- Councilmember Preza "aye"
- Council Chair Fisher "aye"
- Council Iris Pe'elua "aye"
- No "nays"
- Michele Hoopii Recused.
- Motion approved; applicant recognized as a cultural descendant.

V. CORRESPONDENCE

A. Alleged Violation of the North Burial Preserve Agreement at the Grand Wailea Resort, Ahupua'a of Paeahu, District of Honua'ula, Island of Maui, TMK: (2) 2-1-008:109.

Information/Discussion/Recommendation:

- Clare Apana addressed the council and presented stating that the work is in violation of the MOA.
 - Map of Burial Preserve in 1988 MOA compared to June 2019 MOA burial preserve.
- Trever Yucha, archaeologist with Cultural Survey Hawaii, and Kalei 'Uwēko'olani, Grand Wailea Resort Cultural Practitioner, gave testimony and presentation regarding the Burial Preserves stating work that is being done in proximity of the alleged violation but is not disturbing or in violation of the most recent MOA.
- Trever Yucha supporting documents:

- June 2019 MOA document filed with the Bureau of Conveyance.
- Norther Burial Preserve maps of Archaeological Preserve Site No. 2 with photes taken January 30, 2024.
- Map Excavation Exibit 7 showing no impact on Northern Burial Preserve.
- Copies of documents used in presentation scanned to Susan Lebo, Iolani Kauhane and Diane Perez and attached to these minutes.
- Testimony given by Carol Lee Kamekona
- Testimony given by Foster Ampong
- Council member Iris Pe'elua excused at 11:19 am.
- Council Vice Chair Vernon Kalanikau questioned if OHA had been contacted regarding the alleged violation. Clare Apana confirmed she had been in contact and is having discussions with them. Vernon requested to be a part of those further conversations.
- Council Vice Chair Vernon Kalanikau and community member Foster Ampong requested to be included in any further outside conversations and discussions.

VI. INADVERTENT DISCOVERY OF HUMAN SKELETAL REMAINS

A. Inadvertent Discovery of Human Skeletal Remains during Archaeological Monitoring for an Affordable Housing Subdivision Project, Reported to the Maui Office of the Historic Preservation Division on August 23, 2023, Ahupua'a of Kawaipapa, District of Hāna, Island of Maui, TMK: (2) 1-3-004:001. Information/Discussion/Recommendation:

- Mike Dega and SCS unavailable to provide testimony or update on inadvertant discovery.
- Mia Soda-Magbual provided testimony. She is recognized lineal descendant to burial in that ahupuaa. She requested to be included in future consultations and discussions.
- Claire Kamalu Carroll provided testimony via TEAMS in support of Mia's request.

B. Inadvertent Discovery of Human Skeletal Remains at the HDOT Kahului Base yard, Reported to the Maui Office of the Historic Preservation Division on September 27, 2023, Ahupua'a of Wailuku, District of Wailuku, Island of Maui, TMK: (2) 3-8-079:018.

Information/Discussion/Recommendation:

- Discussion regarding discovery and treatment of the iwi that was discovered at the HDOT baseyard.
- Testimony and discussion by Susan Lebo, Deona (HDOT Representative) & Janet Six (Maui County) via TEAMS
- Council recommended HDOT work directly with the county and SHPD.

VII. Announcements

- A. Next meeting scheduled for Wednesday, March 21, 2024.
- B. Meeting Adjourned at 11:55AM



Highlighted Burial Preserve in 1988 MOA. This MOA is a CONDITION of the original SMA approval for the GWR.

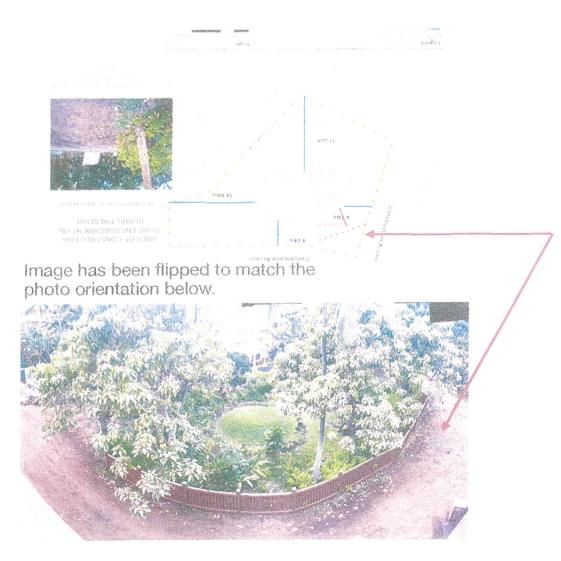


Much smaller burial preserve, now 7,052 sq ft, surveyed for June 2019 MOA.

Clare



Overlay of burial preserve as surveyed for 2019 MOA with original, intended preserve in 1988 MOA, outlined in green and faded



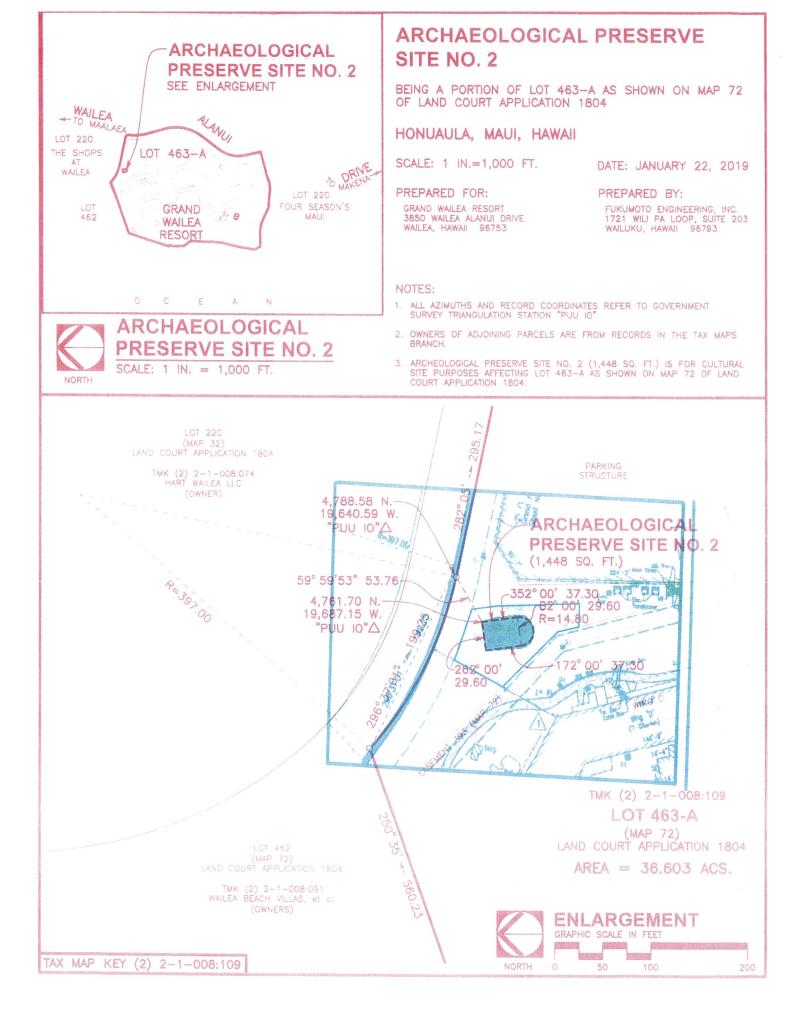
Wooden fence defines a much smaller area for the burial preserve than mapped in the 2019 MOA. Compare the green dashed line of the preserve boundary as mapped in the 2019 MOA with the fence in the photo below. Red arrows show encroachment area as mapped in 2022 and photographed 11/7/23. The photograph shows the east and south sides of the now fenced preserve. What is the area of the fenced preserve now?

Northern Burial Preserve

Grand Wailea Resort

Photos taken January 30, 2024

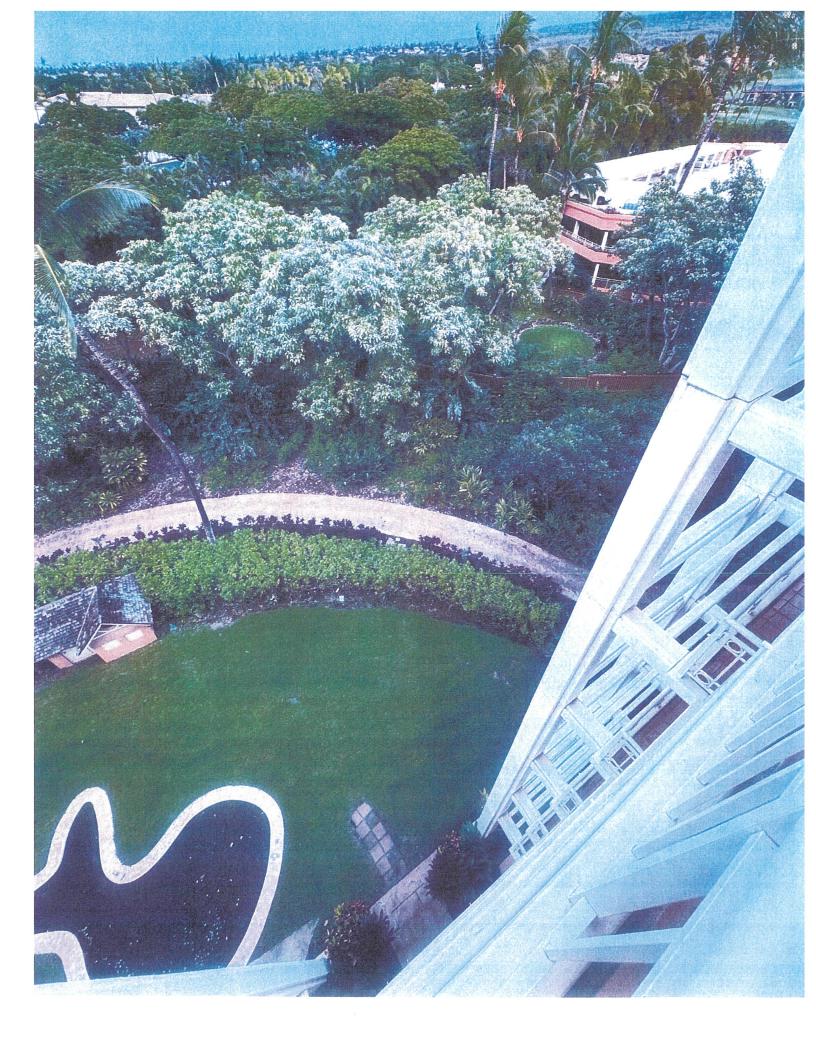
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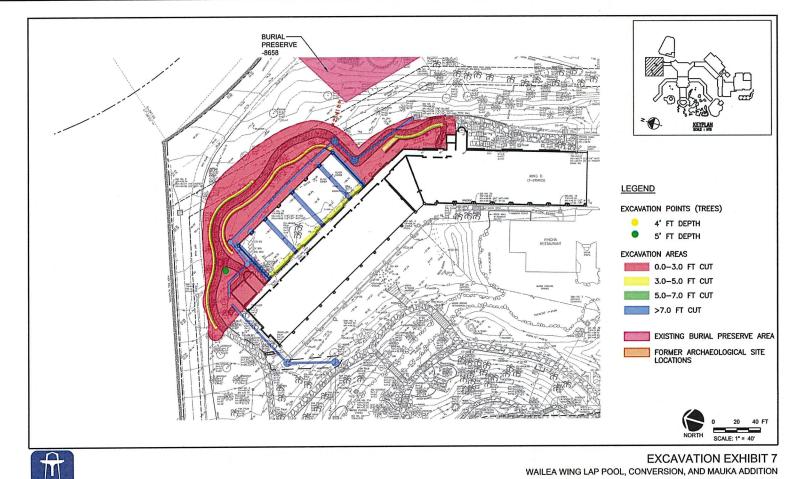












NO IMPACT ON NORTHERN BURIAL PRESERVE

WAILEA WING LAP POOL, CONVERSION, AND MAUKA ADDITION

GRAND WAILEA RESORT RENOVATIONS WAILEA, MAUI, HAWAII

GRAND WAILEA

MAUI

A WALDORF ASTORIA RESORT

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| | THE ORIGINAL OF THE DOCUMENT RECORDED AS FOLLOWS: STATE OF HAWAII BUREAU OF CONVEYANCES Doc A - 71170591 DOCUMENT NO. DATE - TIMEJUNE 27, 2019 8:02 AM | | |
|--|--|--|--|
| LAND COURT SYSTEM | REGULAR SYSTEM | | |
| AFTER RECORDATION: RETURN BY MAIL () PICK UP () | | | |
| Sullivan Meheula Lee LLLP 733 Bishop Street, Suite 2900 Honolulu, Hawaii 96813 | Total Pages:17 | | |

Tax Map Key Nos. (2) 2-1-008-109 (por)

NOTICE OF MEMORANDUM OF AGREEMENT RELATING TO THE DISINTERMENT AND REBURIAL OF NATIVE HAWAIIAN GRAVES AT THE SITE OF THE GRAND HYATT WAILEA, MAUI

THIS NOTICE OF MEMORANDUM OF AGREEMENT RELATING TO THE DISINTERMENT AND REBURIAL OF NATIVE HAWAIIAN GRAVES AT THE SITE OF THE GRAND HYATT WAILEA, MAUI (this "Notice") is made as of <u>June 24</u>, 2019 by BRE ICONIC GWR OWNER LLC, a Delaware limited liability company, whose address is 345 Park Avenue, New York, New York 10154 ("Owner"), the current owner of the Grand Wailea located at 3850 Wailea Alanui Drive, Wailea, Hawaii 96753 (the "Resort").

WHEREAS, two historic-period stone burial platform graves containing human remains were discovered in connection with the initial development of the Resort;

WHEREAS, the Grand Wailea Company, the Office of Hawaiian Affairs ("OHA") and the State Historic Preservation Officer entered into that certain undated and unrecorded Memorandum of Agreement Relating to the Disinterment and Reburial of Native Hawaiian Graves at the Site of the Grand Hyatt Wailea, Maui (the "Memorandum of Agreement"), regarding the disinterment and reburial of said remains and any associated artifacts and reconstruction of said burial platforms at the reburial site referenced therein (the "Reburial Site"); WHEREAS, the Memorandum of Agreement also provided for the disinterment and reburial at the Reburial Site of other previously unknown Native Hawaiian burials unintentionally disturbed by construction activities during the initial development of the Resort;

WHEREAS, the reburials were carried out in August 1991;

WHEREAS, the State of Hawaii Department of Land and Natural Resources, State Historic Preservation Division ("SHPD") has assigned to the Reburial Site a State Inventory of Historical Places (SIHP) Number 50-50-14-08658; and

WHEREAS, SHPD has requested that that a metes and bounds description of the Reburial Site be recorded together with the Memorandum of Agreement.

NOW, THEREFORE, Owner declares and gives notice that:

1. The Reburial Site has been surveyed, and that survey, together with a metes and bounds description of the Reburial Site is attached hereto as <u>Exhibit A</u>.

2. A true and correct copy of the Memorandum of Agreement provided from the files of OHA is attached hereto as Exhibit B.

[The Remainder of This Page Is Intentionally Left Blank]

IN WITNESS WHEREOF, Owner has executed this Notice effective as of the day and year first above written.

BRE ICONIC GWR OWNER LLC, a Delaware limited liability company By: Name: Patrick Volz Title: Vice President

[Signature Page to Notice of Memorandum of Agreement Relating to the Disinterment and Reburial of Native Hawaiian Graves At the Site of the Grand Hyatt Wailea, Maui]

Certificate of Acknowledgement

State of New York)) ss.: County of New York)

On the <u>247</u> day of <u>Jum</u> in the year <u>D19</u> before me, the undersigned, a Notary Public in and for said state, personally appeared <u>Jamuel 1012</u>, personally known to me or proved to me on the basis of/satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

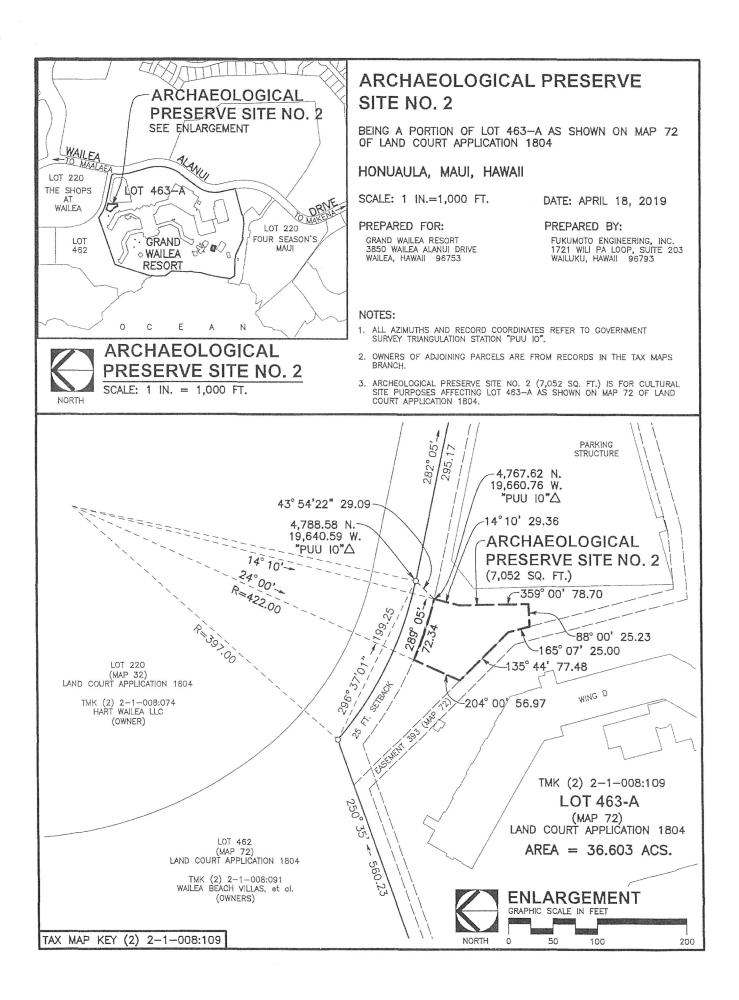
(Signature of Notary)



EXHIBIT A

Survey and Legal Description of Reburial Site

[Attached on following page]



DESCRIPTION

ARCHEOLOGICAL PRESERVE SITE NO. 2

Being a portion of Lot 463-A as shown on Map 72 of Land Court Application 1804 situated at Honuaula, Island and County of Maui, State of Hawaii.

Beginning at the Northeasterly corner of this site, the azimuth and distance from a Northerly boundary corner of Lot 463-A being 43°54'22" and 29.09 feet, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU IO" being:

4,767.62 feet North

19,660.76 feet West

and running by azimuths measured clockwise from True South:

| 1. | 14° | 10' | 29.36 | feet along the remainder of Lot 463-A as shown on Map 72 of Land Court Application 1804; |
|----|-------|-----------------------|---|---|
| 2. | 359° | 00' | 78.70 | feet along same; |
| 3. | 88° | 00' | 25.23 | feet along same; |
| 4. | 165° | 07' | 25.00 | feet along same; |
| 5. | 135° | 44' | 77.48 | feet along same; |
| 6. | 204° | 00' | 56.97 | feet along same; |
| 7. | Thenc | e along same on a cur | e left with a radius of 422.00 feet, the radial azimuth from the radius point to the beginning of the curve being: 24° 00'; the radial azimuth from radius point to the end of the curve being: 14° 10'; and the chord azimuth and distance being: 289° 05' 72.34 feet to the point of beginning and containing an area of 7,052 Square Feet. | |

This work was prepared by me or under my supervision.



FUKUMOTO ENGINEERING, INC.

Sharon Y. Watahabe

1721 Wili Pa Loop, Suite 203 Wailuku, Hawaii 96793 April 18, 2019

GWR05

Sharon Y. Watakabe Licensed Professional Land Surveyor Certificate Number 13713 License Expires: 4/30/20

EXHIBIT B

Memorandum of Agreement

[Attached on following pages]



Relating to the Disinterment and Reburial of Native Hawaiian Graves At the Site of the Grand Hyatt Wailea, Maui





MEMORANDUM OF AGREEMENT

Relating to the Disinterment and Reburial of Two Native Hawaiian Platform Graves At the Site of the Grand Hyatt Wailea, Maui

This Memorandum of Agreement (MOA) is concluded to fulfill the Shoreline Management Area permit condition regarding the disinterment and reburial of two historic-period platform graves on the grounds of the Grand Hyatt Hotel, Wailea project by the Maui Planning Commission.

The great likelihood that these graves held Native Hawaiians compelled the Office of Hawaiian Affairs to seek explicit assurances regarding the respectful treatment of the remains. Consistent with Office practice, every effort was made to locate family members and to honor their wishes. However, no known genetic family could be found.

This Agreement, then, is concluded by the Office of Hawaiian Affairs as the representative of the cultural Hawaiian family.

GENERAL CONDITIONS

1. Any and all costs associated with the terms of this Agreement shall be borne by the Grand Wailea Company.

2. Before formal disinterment begins, a blessing will be conducted at the Wailea graves. This ceremony will not be publicized. Additional blessings before reburial begins and a closing ceremony will be conducted at the reinterment grounds.

DISINTERMENT

1. Archaeological teams will adhere to the highest standards of professional conduct, displaying respect and sensitivity to the removal and curation of human remains;

2. Removal will retain individual integrity, and any associated burial artifacts will be retained and reburied with the individual;

WAILEA MOA Page 2

> 3. Any osteological study shall be conducted by Project Archaeologists Paul H. Rosendahl, Inc. in a dignified manner to meet the needs of a reasonable scientific study, and a recognition of traditional Native Hawaiian beliefs and respect for ancestral bones.

-

4. Curation of the remains shall be on the Island of Maui, and only for the time necessary to allow for undisturbed reburial on the grounds of project.

5. Prior to the commencement of any grading work, all rocks and stones from the existing burial platforms shall be completely recovered from the site by hand and safely stored near the reburial site. Conspicuous marking and construction workforce education shall protect the stones from disturbance.

REINTERMENT

1. The reburial site will be on the grounds of the project area identified on the accompanying map (ATTACHMENT 1).

2. Reburial will be of individuals, wrapped in kapa with all associated burial artifacts.

3. Individuals will then be reburied underground. The association and arrangement of the burials within the reinterment site will approximate their original associations.

4. Reconstruction of the burial platforms (Attachment 2) over the graves will then be completed. This reburial site area will be landscaped and maintained.

5. An appropriate marker will be installed on the site and the inscription will be provided by the Office of Hawaiian Affairs in consultation with the company.





WAILEA MOA Page 3

> Terms and Conditions Relating to Previously Unknown Native Hawailan Burials At Wailea

7 :

By mutual consent, the Grand Wailea Company and the Office of Hawaiian Affairs agree to expand this MOA to address culturally-sensitive and appropriate disinterment and reburial of previously unknown Native Hawaiian burials unintentionally disturbed by construction activities at the project site.

The "General Conditions" and "Disinterment" conditions numbered 1 through 4, and "Reinterment" conditions numbered 1 through 3 shall also apply to this section of the MOA. However, the following additional condition will further guide the respectful treatment of Native Hawaiian burials affected by the Grand Hyatt Wailea project.

REINTERMENT

1. Once reburial of individuals is complete, an earth mound shall be formed to designate the reburial area. Green ti plantings will be incorporated into the landscaping of this area to further mark the reburial area.

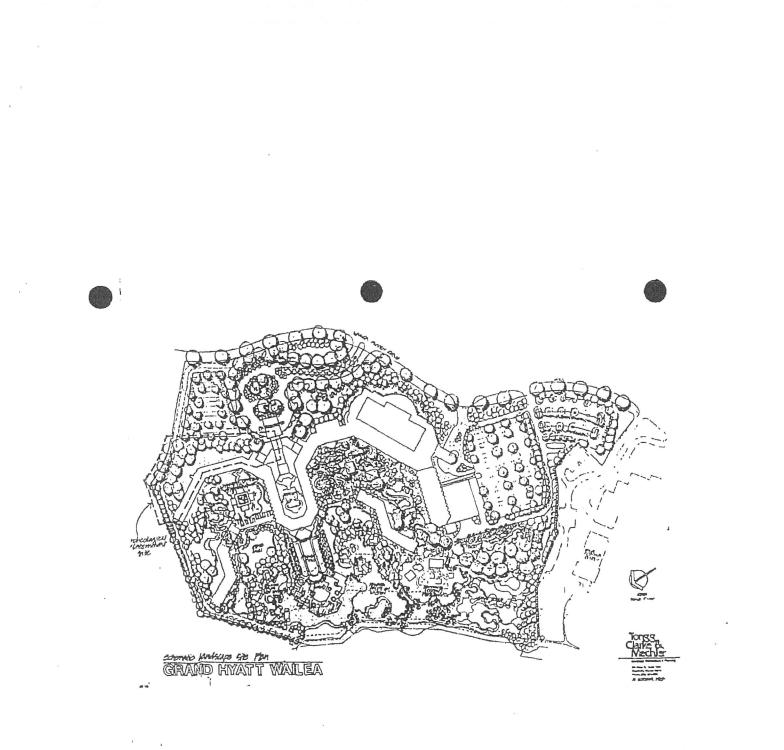
> Na waí e ho'ala i na iwi? Na makou. Who will care for the bones? We will.

Keale, Sr. Chairperson, Board of Trustees Office of Hawaiian Affairs

Grand Wailea Company

William W. Paty State Historic

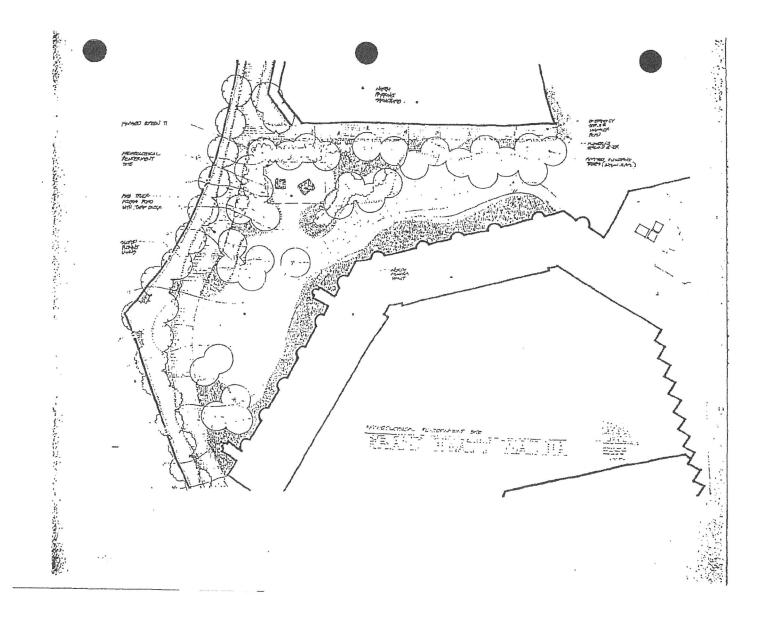
Preservation Officer

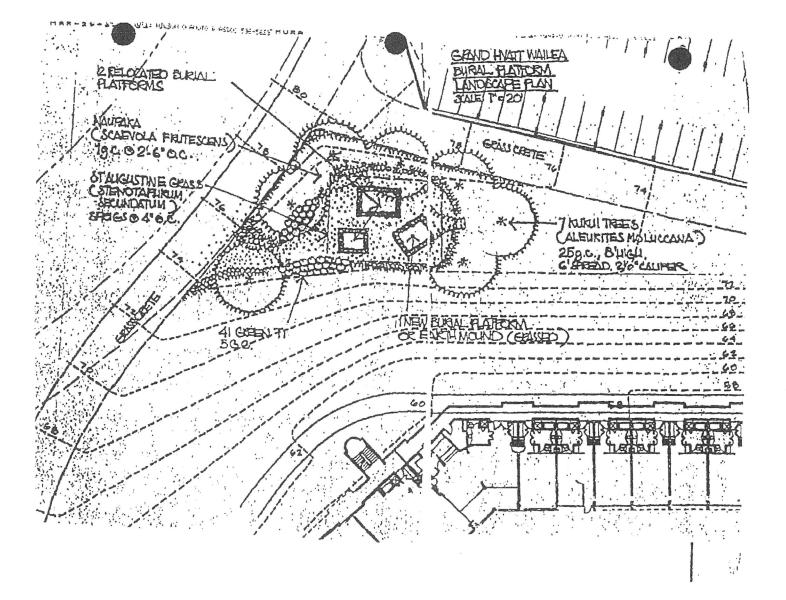


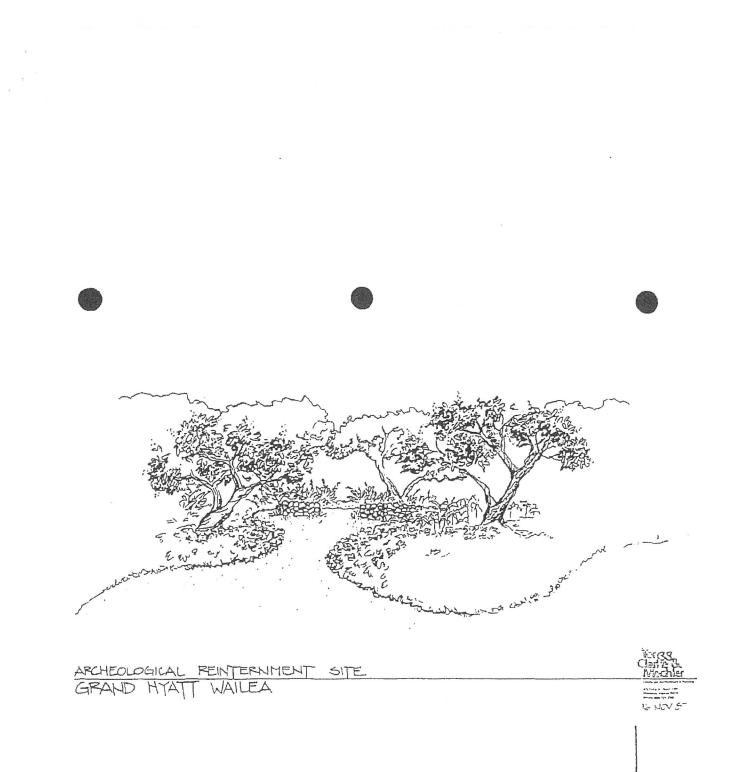
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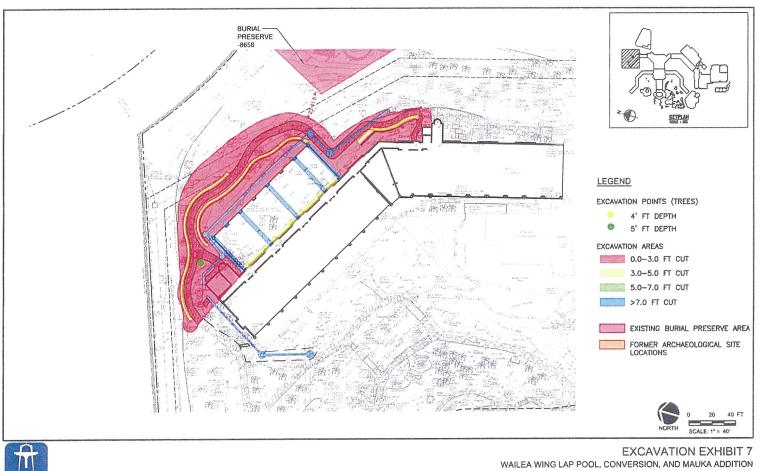
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<u>NO</u> IMPACT ON NORTHERN BURIAL PRESERVE</u>

WILSON OKAMOTO

EXCAVATION EXHIBIT 7

WAILEA WING LAP POOL, CONVERSION, AND MAUKA ADDITION

GRAND WAILEA RESORT RENOVATIONS WAILEA, MAUI, HAWAII

GRAND WAILEA MAUI A WALDORE ASTORIA RESORT