

DAVID Y. IGE
GOVERNOR OF
HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

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

SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA
FIRST DEPUTY

JEFFREY T. PEARSON, P.E.
DEPUTY DIRECTOR - WATER

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

October 13, 2017

Chairperson and Members
Board of Land and Natural Resources
State of Hawai'i
Honolulu, Hawai'i

Land Board Members:

SUBJECT: APPROVAL OF A MEMORANDUM OF AGREEMENT BETWEEN THE DEPARTMENT OF LAND AND NATURAL RESOURCES STATE HISTORIC PRESERVATION DIVISION AND 1250 OCEANSIDE LLC FOR MAINTENANCE OF THE HOKUKANO VILLAGE HISTORIC SITE, HOKUKANO 1ST AHUPUA'A, NORTH KONA DISTRICT, ISLAND OF HAWAII, TAX MAP KEY (TMK): (3) 7-9-012:003

REQUEST APPROVAL OF DECLARATION OF EXEMPTION FROM CHAPTER 343, HRS ENVIRONMENTAL COMPLIANCE REQUIREMENTS FOR ANY PROJECT ACTIVITY OUTSIDE THE SCOPE OF THE ACCEPTED EIS

REQUEST FOR DELEGATION OF AUTHORITY TO THE CHAIRPERSON TO NEGOTIATE, APPROVE, EXECUTE, AMEND AND EXTEND MEMORANDUM OF AGREEMENT, RIGHT-OF-ENTRY AND RELEASE OF LIABILITY AGREEMENTS, FOR THE STATE HISTORIC PRESERVATION DIVISION FOR THE HOKUKANO VILLAGE HISTORIC SITE

SUMMARY:

This Board submittal requests approval of a Memorandum of Agreement (MOA) between the Department of Land and Natural Resources (DLNR) State Historic Preservation Division and 1250 Oceanside LLC (the Developer of Hokuli'a) and The Hokuli'a Parks and Cultural Sites

ITEM I-1

Association (PCSA), the entity charged with maintaining historic sites in the Hokuli'a Development. The purpose of the MOA is to allow for 1250 Oceanside LLC to prepare and implement a preservation plan that would allow for the protection, preservation, maintenance, and interpretation of the Hokukano Village Historic Site which is under the control of SHPD. SHPD also requests approval of a declaration of exemption from Chapter 343, Hawaii Revised Statutes (HRS) environmental compliance requirements for any actions that fall outside of the scope of the accepted Final Environmental Impact Statement for the project and requests a delegation of authority to the chairperson to negotiate, approve, execute, amend and extend the Memorandum of Agreement, Rights-of-Entry, and release of liability agreements between the SHPD and the PCSA for the preservation and maintenance of the Hokukano Village Historic Site.

LEGAL REFERENCE:

Section 171-11, Hawaii Revised Statutes

LOCATION:

Approximately 9.42 acres in Hokukano Ahupua'a, North Kona District identified as Tax Map Key (TMK) (3) 7-9-012:003 (**Exhibit A**).

ZONING:

State Land Use District: Conservation – Subzone Resource

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act: Yes
DHHL 30% entitlement lands pursuant to the Hawai'i State Constitution: No

CONSIDERATION:

Gratis

BACKGROUND:

1250 Oceanside LLC is the developer of, a 1,261-acre master planned community in North and South Kona on the Island of Hawai'i called Hokuli'a. The community includes a 140-acre privately-owned shoreline park that will be developed for use by the general public. The privately-owned Hokuli'a shoreline park surrounds the approximately 10.38 acre State-owned Hokukano Village Historic Site. As described in the Shoreline Park Management and Public Access Plan (PBR 1998), 1250 Oceanside and SHPD propose to include the Hokukano Village Historic Site in the Hokuli'a shoreline park. The shoreline Park Plan received SMA approval by the County of Hawai'i on May 5, 2000 (**Exhibit B**) and CDUA approval on November 12, 2000

(Exhibit C). CDUA No. HA-2977B condition 18 states that the Hokukano Village parcel is to set aside to SHPD for park use and that the Hokuli'a developer shall obtain and maintain a lease or otherwise acquire the use of this state parcel for park purposes.

At its May 10, 2002 meeting under agenda item D-11, the Board of Land and Natural Resources approved the set aside of the Hokukano Village Historic Site to SHPD, but did not approve the 65-year lease of the state parcel to the Hokuli'a Community Association because the archaeological inventory survey (AIS) of the state land was not completed. After completion of the AIS, the set aside to SHPD was completed through Governor's Executive Order No. 3991, dated June 4, 2003. The Executive Order (EO3991) indicated that the parcel will be included in the preservation plan that will be developed and implemented by the Hokuli'a development for its shoreline park. EO3991 further states that the preservation plan shall supply details on the treatment, interpretation, and access for the historic sites ensuring their protection and public education. An AIS of the Hokukano Village parcel was commissioned by Hokuli'a and accepted by SHPD via correspondence Log No. 2008.1318, Doc. No. 0804MD25. The AIS identified 16 individual historic sites that contribute to the overall significance of the Hokukano Village Historic Site, and recommended that these sites be included in an archaeological preservation plan.

SHPD has determined that the most effective way to preserve and enhance the Hokukano Village Historic Site for public good, while maintaining direct control over the historic properties and cultural resources, is through the implementation of the subject MOA with 1250 Oceanside LLC and PCSA, rather than the issuance of a lease. The MOA will allow for SHPD to maintain a high level of autonomy over the parcel while transferring the financial responsibility for the preparation of a preservation plan, clearing of invasive vegetation, day to day maintenance of historic sites and creation of interpretive infrastructure for public use to 1250 Oceanside LLC. The improvements identified in the MOA will be established in conjunction with an archaeological preservation plan that meets the standards of Hawaii Administrative Rules (HAR) 13-277, which will be reviewed and accepted by SHPD.

CHAPTER 343 – ENVIRONMENT ASSESSMENT:

The Final Environmental Impact Statement for the Hokuli'a Development, which includes the 140-acre shoreline park, was accepted by the County of Hawai'i Planning Department on September 8, 1993 and the acceptance notice for the project was published in the OEQC Bulletin on October 8, 1993. Any activities proposed under this MOA that are outside of the scope of the accepted EIS are exempt from the preparation of an environmental assessment in accordance with the "Exemption List for the Department of Land and Natural Resources, reviewed and concurred upon by the Environmental Council on June 5, 2015." Specifically, the proposed activities fall under Exemption Class 1, Items 28, 29, 33, 34, 38, 47, and 51; Exemption Class 2, Item 19; Exemption Class 3, Items 4, 7 and 19; and Exemption Class 4, Item 2, 3, 6, 8 and 14.

RECOMMENDATIONS:

That the Board:


1. Approve the Memorandum of Agreement between the Department of Land and Natural Resources State Historic Preservation Division, 1250 Oceanside LLC, and the PCSA to prepare and implement a preservation plan and maintenance of the Hokukano Village Historic Site, Hokukano 1st Ahupua'a, North Kona District, Island of Hawai'i, TMK: (3) 7-9-012:003.
2. Declare that after considering the proposed disposition and the environmental review requirements of Chapter 343 HRS and Chapter 11-200 HAR, any project activity that falls outside the scope of the accepted final EIS will have minimal or no significant effect on the environment and is therefore exempt from the preparation of an additional environmental assessment.
3. Delegate the Chairperson the authority to negotiate, approve, execute, amend and extend the Memorandum of Agreement, Rights-of-Entries, and release of liability agreements between the State Historic Preservation Division, PCSA, and 1250 Oceanside LLC and for the preservation and maintenance of the Hokukano Village Historic Site, Hokukano 1st Ahupua'a, North Kona District, Island of Hawai'i, TMK: (3) 7-9-012:003 subject to:
 - a. Review and Approval as to form by the Department of the Attorney General, and;
 - b. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State of Hawai'i.

Respectfully submitted,



Alan S. Downer, Ph.D.
Administrator

Approval for Submittal



SUZANNE D. CASE, Chairperson
Board of Land and Natural Resources

Exhibit A

APR 3 1964

A- 3.0

6-2-2



DEC 27 1967

2074

1971

1971

1. The first step is to identify the problem or question that needs to be answered. This involves understanding the context and the specific requirements of the task.

12 1973

1971

137:

1978

1675
1676

1978

APR 20 1969

1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023, 2024, 2025, 2026, 2027, 2028, 2029, 2030, 2031, 2032, 2033, 2034, 2035, 2036, 2037, 2038, 2039, 2040, 2041, 2042, 2043, 2044, 2045, 2046, 2047, 2048, 2049, 2050, 2051, 2052, 2053, 2054, 2055, 2056, 2057, 2058, 2059, 2060, 2061, 2062, 2063, 2064, 2065, 2066, 2067, 2068, 2069, 2070, 2071, 2072, 2073, 2074, 2075, 2076, 2077, 2078, 2079, 2080, 2081, 2082, 2083, 2084, 2085, 2086, 2087, 2088, 2089, 2090, 2091, 2092, 2093, 2094, 2095, 2096, 2097, 2098, 2099, 2100, 2101, 2102, 2103, 2104, 2105, 2106, 2107, 2108, 2109, 2110, 2111, 2112, 2113, 2114, 2115, 2116, 2117, 2118, 2119, 2120, 2121, 2122, 2123, 2124, 2125, 2126, 2127, 2128, 2129, 2130, 2131, 2132, 2133, 2134, 2135, 2136, 2137, 2138, 2139, 2140, 2141, 2142, 2143, 2144, 2145, 2146, 2147, 2148, 2149, 2150, 2151, 2152, 2153, 2154, 2155, 2156, 2157, 2158, 2159, 2160, 2161, 2162, 2163, 2164, 2165, 2166, 2167, 2168, 2169, 2170, 2171, 2172, 2173, 2174, 2175, 2176, 2177, 2178, 2179, 2180, 2181, 2182, 2183, 2184, 2185, 2186, 2187, 2188, 2189, 2190, 2191, 2192, 2193, 2194, 2195, 2196, 2197, 2198, 2199, 2200, 2201, 2202, 2203, 2204, 2205, 2206, 2207, 2208, 2209, 2210, 2211, 2212, 2213, 2214, 2215, 2216, 2217, 2218, 2219, 2220, 2221, 2222, 2223, 2224, 2225, 2226, 2227, 2228, 2229, 2230, 2231, 2232, 2233, 2234, 2235, 2236, 2237, 2238, 2239, 2240, 2241, 2242, 2243, 2244, 2245, 2246, 2247, 2248, 2249, 2250, 2251, 2252, 2253, 2254, 2255, 2256, 2257, 2258, 2259, 2260, 2261, 2262, 2263, 2264, 2265, 2266, 2267, 2268, 2269, 2270, 2271, 2272, 2273, 2274, 2275, 2276, 2277, 2278, 2279, 2280, 2281, 2282, 2283, 2284, 2285, 2286, 2287, 2288, 2289, 2290, 2291, 2292, 2293, 2294, 2295, 2296, 2297, 2298, 2299, 2300, 2301, 2302, 2303, 2304, 2305, 2306, 2307, 2308, 2309, 2310, 2311, 2312, 2313, 2314, 2315, 2316, 2317, 2318, 2319, 2320, 2321, 2322, 2323, 2324, 2325, 2326, 2327, 2328, 2329, 2330, 2331, 2332, 2333, 2334, 2335, 2336, 2337, 2338, 2339, 2340, 2341, 2342, 2343, 2344, 2345, 2346, 2347, 2348, 2349, 2350, 2351, 2352, 2353, 2354, 2355, 2356, 2357, 2358, 2359, 2360, 2361, 2362, 2363, 2364, 2365, 2366, 2367, 2368, 2369, 2370, 2371, 2372, 2373, 2374, 2375, 2376, 2377, 2378, 2379, 2380, 2381, 2382, 2383, 2384, 2385, 2386, 2387, 2388, 2389, 2390, 2391, 2392, 2393, 2394, 2395, 2396, 2397, 2398, 2399, 2400, 2401, 2402, 2403, 2404, 2405, 2406, 2407, 2408, 2409, 2410, 2411, 2412, 2413, 2414, 2415, 2416, 2417, 2418, 2419, 2420, 2421, 2422, 2423, 2424, 2425, 2426, 2427, 2428, 2429, 2430, 2431, 2432, 2433, 2434, 2435, 2436, 2437, 2438, 2439, 2440, 2441, 2442, 2443, 2444, 2445, 2446, 2447, 2448, 2449, 2450, 2451, 2452, 2453, 2454, 2455, 2456, 2457, 2458, 2459, 2460, 2461, 2462, 2463, 2464, 2465, 2466, 2467, 2468, 2469, 2470, 2471, 2472, 2473, 2474, 2475, 2476, 2477, 2478, 2479, 2480, 2481, 2482, 2483, 2484, 2485, 2486, 2487, 2488, 2489, 2490, 2491, 2492, 2493, 2494, 2495, 2496, 2497, 2498, 2499, 2500, 2501, 2502, 2503, 2504, 2505, 2506, 2507, 2508, 2509, 2510, 2511, 2512, 2513, 2514, 2515, 2516, 2517, 2518, 2519, 2520, 2521, 2522, 2523, 2524, 2525, 2526, 2527, 2528, 2529, 2530, 2531, 2532, 2533, 2534, 2535, 2536, 2537, 2538, 2539, 2540, 2541, 2542, 2543, 2544, 2545, 2546, 2547, 2548, 2549, 2550, 2551, 2552, 2553, 2554, 2555, 2556, 2557, 2558, 2559, 2560, 2561, 2562, 2563, 2564, 2565, 2566, 2567, 2568, 2569, 2570, 2571, 2572, 2573, 2574, 2575, 2576, 2577, 2578, 2579, 2580, 2581, 2582, 2583, 2584, 2585, 2586, 2587, 2588, 2589, 2590, 2591, 2592, 2593, 2594, 2595, 2596, 2597, 2598, 2599, 2600, 2601, 2602, 2603, 2604, 2605, 2606, 2607, 2608, 2609, 2610, 2611, 2612, 2613, 2614, 2615, 2616, 2617, 2618, 2619, 2620, 2621, 2622, 2623, 2624, 2625, 2626, 2627, 2628, 2629, 2630, 2631, 2632, 2633, 2634, 2635, 2636, 2637, 2638, 2639, 2640, 2641, 2642, 2643, 2644, 2645, 2646, 2647, 2648, 2649, 2650, 2651, 2652, 2653, 2654, 2655, 2656, 2657, 2658, 2659, 2660, 2661, 2662, 2663, 2664, 2665, 2666, 2667, 2668, 2669, 2670, 2671, 2672, 2673, 2674, 2675, 2676, 2677, 2678, 26

DATE: 10/10/1994

Dwg. No.: 2732

Source : Tex. Maps Bureau - Field Survey
By : F.W.B., R.K.B. & E.K.V. June 1936

By : F.W.B., R.K.B. & E.K.V. June 1938

POR. HONUAINO 3RD KANAHELE 1ST 2ND N. KONA, HAW.

Dropped Parcels: 2. 10, 15 thru
25, 34,

THIRD		DIVISION
ZONE	SEC.	PLAT
7	9	12
CONTAINING PARCELS		
SCALE: 1 in. = 500 ft.		

PRINTED

*Shoreline Park Management
and Public Access Plan*

The Villages at Hokukano

Prepared for: Oceanside 1250

Prepared by: PBR HAWAII

NOVEMBER 1998

TABLE OF CONTENTS

	Page
1.0 Introduction	1
1.1 Background	1
1.2 Purpose	2
1.3 Overview of the Park Plan	5
2.0 Existing Conditions	8
2.1 Property Ownership and Access	8
2.2 Geology/Soils	8
2.3 Biological Resources	9
2.4 Archaeological and Cultural Resources	9
2.5 Hazards	10
3.0 Park Improvements	12
3.1 Access Improvements	12
3.2 Park Improvements	13
3.3 Potential Impacts	16
3.4 Safety Considerations	16
4.0 Implementation Measures	17
4.1 Phasing Plan	17
4.2 Phase Schedule	21
4.3 Operation and Management	21
4.4 Management Strategies	22
4.4.1 Management of Marine Resources	22
4.4.2 Protection of Historical and Cultural Resources	23
4.4.3 Access Restrictions	24
4.5 Uses and Procedures	25
4.5.1 Hours of Use	25
4.5.2 Restricted or Prohibited Activities	25
4.6 Monitoring Procedures	25
4.7 Reporting Procedures	26

5.0	Justification	27
5.1	Consistency with Conditions of Approval	27
5.1.1	Ordinance 96-7 and Ordinance 96-8	27
5.2	Consistency with DLNR Regulations	28
5.3	Consistency with Chapter 205A	29

LIST OF FIGURES

<u>Figure Number</u>	<u>Figure Description</u>	<u>Follows Page</u>
1	Location Map	5
2	Project Site Map	5
3	Shoreline Park Concept	5
4	Public Access Plan	12
5	Shoreline Access Area	12
6	Public Access Signage	17
7	Phasing Plan	17

LIST OF APPENDICES

Appendix A:	Park Rules and Regulations
Appendix B:	Draft Outline of Conditions, Covenants and Restrictions
Appendix C:	Water Quality and Marine Life Monitoring and Mitigation Plan, The Villages at Hokukano, Richard E. Brock, Ph.D., 1992.

At the onset, we would like to acknowledge those members of the Community Advisory Group and representatives of State and County agencies, whose input and insights were instrumental to the formulation of this Plan. Those individuals who have been a part of this process include:

Community Advisory Group

Skip and Rita Cowell
Maile David, *Ka Lahui*
Zachary and Shirley Kanuha, *Ka Lahui*
Gordon Leslie
Larry Mitchell, *TORCH*
Sara Peck, *Sea Grant*
Jerry Rothstein, *PASH*
John Spencer
Michael Tomich, *Na Ala Hele*
Charlie Young, *Ka Lahui*

State Department of Land and Natural Resources

Ross Cordy, Ph. D., *Director, State Historic Preservation Division*
Curt Cottrell, *Na Ala Hele Program*
Ralston H. Nagata, *Administrator, State Parks Division*
Robert Nishimoto, *Aquatic Resources Division*
Sherrie Samuels, *Planner, State Parks Division*
Bill Walsh, Ph. D., *Biologist, Aquatic Resources Division*
Martha Yent, *Interpretive Program Manager, State Parks Division*
Dean Y. Uchida, *Administrator, Land Division*

County of Hawai'i

Virginia Goldstein, *Director, Planning Department (Hilo)*
Alice Kawaha, *Planning Program Manager, Planning Department (Hilo)*
Rodney Nakano, *Planning Program Manager, Planning Department (Hilo)*
Royden Yamasato, *Planning Program Manager, Planning Department (Kona)*

Consultants

Doug Borthwick, *Cultural Surveys Hawai'i (Archaeologist)*
Richard Brock, *Ph.D. (Marine Biologist)*
Hallett Hammatt, *Cultural Surveys Hawai'i (Archaeologist)*
James Leonard, *AICP, PBR Hawai'i (Planner)*

Oceanside 1250

R.T. "Dick" Frye, *Project Manager*
Robert Stuit, *Director of Planning*
Linda L. Sutherland, *Administrative Assistant*

1.0 INTRODUCTION

1.1 Background

The Villages at Hokuano is a Master Planned Development of approximately 730 private homesites, a private golf course and an 80-unit members' lodge on the 1,550-acre Hokuano property in North and South Kona, Hawaii. The approximately 140-acre coastal portion of the development has been planned as a public oceanfront park with the intent of encouraging public use and enjoyment of the recreational and cultural attributes of this rural stretch of the shoreline. The shoreline park is envisioned as a passive park, encouraging uses such as hiking, picnicking, swimming, recreational fishing (non-commercial), snorkeling, and to some extent, camping, within appropriate use areas. Although proposed as a public park, the cost of the park improvements, maintenance, and management would be assumed by the Villages at Hokuano property owners.

Since its initial conception, the establishment of a coastal park and the preparation of a management plan for the park has also been included as "conditions of approval" for the various permits and approvals for the Villages at Hokuano project. These include:

Ordinance 96-7, Conditions (K) and (L)

Ordinance 96-8, Conditions (H) and (I)

SMA Use Permit No. 345, Conditions 8 and 10

For reference, a summary of the regulatory requirements pertaining to the establishment of a coastal park and the Shoreline Park Management and Public Access Plan is included within Section 5.1 of this report. Additionally, in that the park area is situated within both the State Conservation District and County Special Management Area, a Conservation District Use Permit and a SMA Use Permit related to the park use will be required from the State and County, respectively. This plan is also intended to supplement the submittal requirements for those applications.

1.2 Purpose

This *Shoreline Park Management and Public Access Plan* (hereafter referred to as the "Plan"), for the planned 140-acre shoreline park at the Villages at Hokukano was prepared by Oceanside 1250, in consultation with representatives of the Department of Land and Natural Resources (DLNR), the County of Hawaii Planning Department, and an advisory group consisting of concerned individuals and representatives of various community groups and resource organizations. In addition to meeting the regulatory requirements of various State and County approvals related to the Villages at Hokukano development, the Plan serves as a guide for the implementation of park improvements and the management of the shoreline park area (hereafter referred to as the "Park").

Early in the planning process, Oceanside 1250 and members of its advisory group met on several occasions to identify areas of concern and prepare a set of goals and objectives that would serve as a basis for formulating the Plan. These goals and objectives are as follows:

Goals

- To preserve and enhance the natural, historical and cultural resources of the park area.
- To preserve and protect the park's scenic resources, including important view points, landscapes and topographic features.
- To increase public awareness of the park area's natural, cultural and historic resources.
- To provide, improve and protect public shoreline access opportunities in the park area.
- To provide for the proper and safe use of the Park area.

Objectives

- Comply with applicable laws, rules and regulations.
- Designate and maintain appropriate public access routes and parking.
- Establish dedicated easements providing for continued public access to and over the coastline park area.

Shoreline Park Management and Public Access Plan

- Implement management controls to help protect the safety and enjoyment of those using the park area.
- Implement management procedures to help prevent inappropriate access into culturally or environmentally sensitive areas and near shore resources.
- Implement monitoring and management controls to help protect potentially sensitive cultural and historic resources.
- Implement monitoring and management procedures to help protect shoreline area from over use.
- Upgrade and enhance previously unattended or neglected areas.
- Implement cooperative programs aimed at public education for the protection of the Park's natural and cultural resources.
- Implement improvements that enhance the overall appearance of the area that is in keeping with the natural character of the area.

This Plan includes a description of the planned improvements at the Park, including the phasing and timing of these improvements. The Plan also provides structure for the management of the Park area, including monitoring and reporting procedures to the appropriate State and County agencies.

Additionally, a set of Park Rules and Provisions is also included as part of this report (Appendix A). These regulations, which are based in part on the rules and regulations for State parks, have been formulated to address the special needs of this privately operated park and to reinforce the Plan's overall goals and objectives.

As noted above, permit approvals for the proposed Park use will be required from both the State and County prior to implementation of the planned Park improvements. As such, some modification to the Plan may be necessary as part of the regulatory approval process.

1.3 Overview of the Plan

The 140-acre shoreline Park area is a portion of the Villages at Hokuano (hereafter referred to as the "Project"), an approximately 1,550-acre master planned community in North and South Kona (Figures 1 and 2). The Park property is owned in fee by Oceanside 1250. However, included within the Park area (subject to State approval) is a portion of State-owned land known as the "Hokuano Village" parcel. There are also several kuleana parcels located just south of Pu'u Ohau, in the area of Nāwāwā Bay, which are adjacent to but excluded from the Park area as they are not owned by Oceanside 1250.

Existing Conditions

The Park area, shown in Figure 3, is topographically divided into two distinctive areas: the area south of Pu'u Ohau, where the shoreline consists of cliffs that range from 25 to 80 feet in height and are undercut in several areas by erosion; and the area extending north of Pu'u Ohau, which has a more gentle terrain, allowing greater access to the shoreline and open areas for passive recreational uses. Throughout the Park area are concentrations of important archaeological sites, including house sites, heiau, agricultural features, salt bowls, game boards, and petroglyphs.

While trail access would be provided to the southern portion of the Park, the major focus of the management program is aimed at the northern area between Pu'u Ohau and the northern Park boundary, where a greater concentration of activity is expected. The terrain in this area provides significant opportunities to access important archaeological sites, the shoreline, and small, open, sandy areas, and areas for picnicking and limited camping. Additionally, along the shoreline are several coastal features of interest, including blow-holes, geologic features, tide pools and coastal views.

Located near the northern portion of the Park, just north of Keikiwaha Point, are the remains of a prehistoric fishing village known as Hokuano Village (hereafter referred to as the "Village"). A large portion of the Village site, comprising of approximately 11.7-acres, is owned by the State of Hawai'i, with portions of the Village extending into the adjacent Oceanside 1250 property. Oceanside 1250 is working with the State to include the Village as part of the Park management program, through a "management lease" or similar agreement with the State, although ownership of the parcel would likely remain with the State.

Shoreline Park Management and Public Access Plan

Located in the area south of Pu'u Ohau and overlooking Nāwāwā Bay, are 14 privately-owned "kuleana" parcels, none of which are owned by Oceanside 1250. Access to these parcels is currently provided by way of the existing ranch roads leading from the top of the Oceanside 1250 property, at the current terminus of Haleki'i Street, to the area of the Park.

Public Access

A public road would provide direct access from the mauka property boundary at Haleki'i Street or from the planned Mamalahoa Bypass Road to a parking area at the Park. The parking area is planned in the central portion near Keikiwaha Point where there is the greatest potential for recreational use and shoreline access. There are also portions of foot trails and ranch jeep roads on adjacent properties near the Park area that can provide lateral shoreline access from these properties to the north and south of the Park. Mauka of the Park area is the State-owned Ala Loa Trail, also referred to as the Old Government Road, or Ala Aupuni Trail. As shown in Figure 3, the Plan provides for potential links to this trail, as well as another mauka-makai trail linking the shoreline area to a planned historic park at the 275 foot elevation and to the abandoned railroad bed in the upper elevations of the property. Shorter connector trails would provide access between the shoreline area and historic sites within the Park. In all, several miles of trails and trail loops of varying difficulty are planned for public use.

Along the shoreline, some sandy tide pools are found which are suitable for wading during certain times of the day, however, because of the rocky shoreline conditions, opportunities for safe access to the ocean are limited to just a few locations.

Park Improvements and Management

Park visitors would be asked to comply with the regulations established under this management program and detailed within the Park's rules and regulations. Any restrictions on uses are guided by the goals and objectives for the Park area, which are aimed at protecting the land and marine resources and the general welfare, safety and enjoyment of park visitors. Although the hours of operation would generally be between dawn and dusk, extended hours for activities, such as overnight camping and night fishing, are provided under the management program.

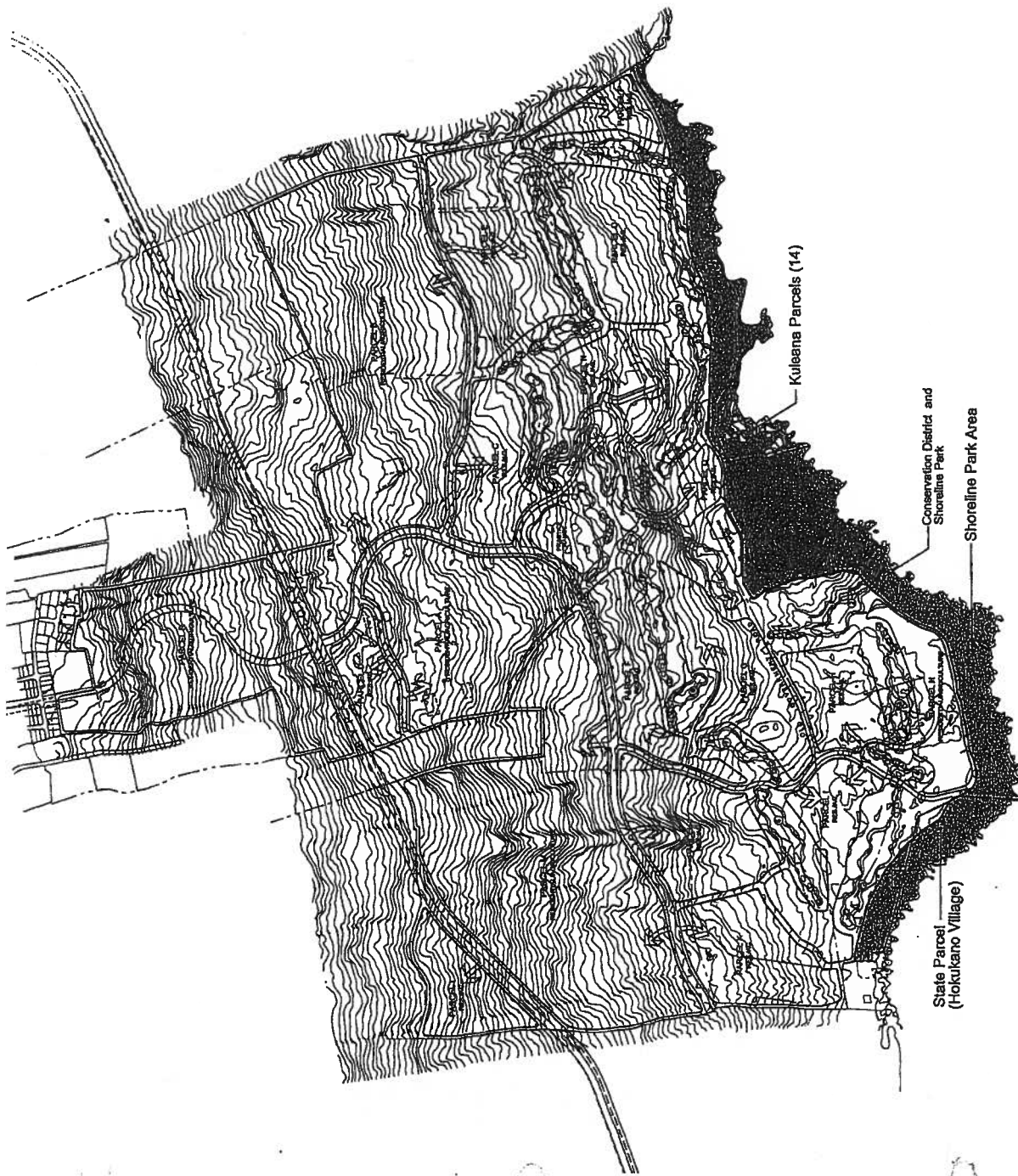


Figure 2: Project Site Map
 Shoreline Park Plan
 Villages at Hokukano





Figure 3: Shoreline Park Concept
Shoreline Park Plan
Villages at Hokukani

Not to Scale
11/98

Shoreline Park Management and Public Access Plan

Oceanside 1250 would implement the Park improvements in phases, with the first increment of improvement concentrated near the primary access and use area, between Keikiwaha Point and Pu'u Ohau. Included with these initial improvements would be a parking area, portable restroom facilities, showers, rest areas, tables and benches, signage, and debris clean-up and landscape remediation. Trails from the parking area to the shoreline would be improved and some historic sites in the area would be cleaned and identified with appropriate signage as part of an overall interpretive program.

The overall cost of improvements and the maintenance and management of the Park would be assumed by a management entity eventually funded by the Villages at Hokukano property owners. No fees would be charged to the public for use of the Park. The management entity for the Park would be comprised of representatives of the developer and property owners.

2.0 EXISTING CONDITIONS

2.1 Property Ownership and Access

The Park area encompasses approximately 140 acres and is comprised of the Tax Map Keys (TMK) 7-9-12:03 and a makai portion of 8-1-4:03. TMK 7-9-12:03 is an approximately 9.42 acre parcel referred to as Hokukano Village owned by the State of Hawai'i, and TMK 8-1-04:03 is owned by Oceanside 1250. In the area of Nāwāwā Bay, just south of Pu'u Ohau, are fourteen kuleana parcels of various ownership, none of which are owned by Oceanside 1250. Immediately north of the park and outside the Project area is the Kainaliu Beach area with its associated beach lots and homes, which are owned by others and are not included in the Park.

Access to the Conservation District is currently provided from an old private ranch road extending through the Villages at Hokukano property, from Haleki'i Street next to Kona Scenic Park to the shoreline just south of Nenu Point. This approximately 9-foot wide road, which is accessed through a locked ranch gate at the Haleki'i end, was recently paved by Oceanside 1250. Currently, Oceanside 1250 allows access to the shoreline for fishing, camping or other recreational uses with written liability waivers. The current procedures for access are intended to inform guests of the property conditions, promote protection of resources and to address concerns of owner liability. The provisions for continued public shoreline access as part of the Project development is further delineated within this plan. Private access to the kuleana parcels is also provided through existing ranch roads. With development of the Project, access to the kuleana parcels will be maintained over internal project roadways.

2.2 Geology/Soils

The topography and geology of the coastal area is divided into two distinct areas, north and south of Pu'u Ohau. Pu'u Ohau, a prominent cinder cone rising to a height of 225 feet above sea level, is centrally located primarily within the Park area. Inland of the Pu'u, the soil is a shallow stony, silty clay loam covering, to some extent, a pahoehoe subsurface. South of the Pu'u, the ground is covered by a thin layer of extremely stony silt loam, with the shoreline consisting of cliffs that range from 25 to 80 feet in height. Erosion from wave action undercutting portions of the cliff area is evident in several areas along this souther portion. In the area north of Pu'u Ohau, the coastal area consists of a more gentle rolling terrain consisting of pahoehoe lava flows with occasional pockets of sand. The sandy pockets along this area are all contained by lava flows and, as such, no sandy beach areas are directly exposed to the ocean.

2.3 Biological Resources

A botanical survey for the overall Villages at Hokuano property was conducted in November 1991. The survey described the vegetation within the coastal area as consisting predominately of Kiawe trees (*Prosopis pallida*) with a mixed grass understory and the occasional noni (*Morinda citrifolia*) and physic nut tree (*Jatropha curcas*). No threatened or endangered plant species were found to be identified on the property.

A faunal survey of the Hokuano project site, including the proposed shoreline Park area, was conducted in October 1991. The survey reported that neither endemic birds nor unique wildlife habitats were found on the property. Common winter migratory shorebirds such as plover, Ruddy Turnstone, and Tattler, were found in coastal areas.

A Quantitative Assessment of Marine Communities and Water Quality was completed in April 1992. The survey found that marine communities fronting the Conservation District are diverse and the fish communities do not show the declines in abundance that have been encountered in other Hawaiian coastal settings. No unusual marine species or communities were noted, nor were green turtles seen, although it is expected that turtles likely pass through waters fronting the proposed Park area.

To quantitatively assess water quality characteristics fronting the Park area, 24 sites were established, including a nearshore brackish water well. Water quality sampling indicated that conditions fronting the project site were typical of well-flushed, undeveloped West Hawai'i coastal settings.

2.4 Archaeological and Cultural Resources

An Archaeological Inventory Survey of the full 1,550-acre Villages at Hokuano project site was performed by Cultural Surveys Hawai'i from August 20, 1991 to January 17, 1992. The survey was designed to meet the requirements of DLNR's SHPD and to identify the cultural resources within the total Villages at Hokuano property, including the Park area. The property inventory survey report covering the full property was approved by SHPD in October 1996.

The Park area contains 94 sites that have a wide array of functions related to traditional Hawaiian and historic-era settlement patterns and land use, habitations, burials and religious sites. This area was a loci for traditional Hawaiian and historic period habitation up until the mid to late 1800s when

most settlement had become focused along the mauka roadway corridor. The sites in the Park area exhibit characteristics that are shared with other documented sites along the Kona coast, however these sites are also different in some aspects. That is, the habitation settlements in the Park area are distinct because they did not develop into a royal center nor were they influenced as heavily by post-contact Euro-American trade and commerce as were other nearby settlements. There are also examples of adaption to historic-era influences on habitation such as walled house lots, mortared tombs or crypts, as well as those influences from the newer market-based economies of commerce and ranching exemplified in part by cattle walls, corrals and even a retail store.

In general, the density of sites is high in the northerly portion of the park area between Keikiwaha Point and Nenua Point and decreases greatly to the south of Pu'u Ohau except for a concentration of sites around Nāwāwā Bay. Thus, the focus of the interpretative program will be on those sites in the northerly portion of the Park area.

Located on the lava bench along the coastline between Keikiwaha Point and Nenua Point are sites 16747, 16755, 16756 and 16758 which are good examples of prehistoric permanent habitation sites that are in good condition within what is thought to have been the locus of activity in the village cluster. Located near these habitation sites are two coastal heiau, sites 16757 and 16762, (probably *ko'a*) that are in good condition and may have functioned in conjunction with each other to locate offshore fishing spots or to denote the distribution and/or procurement of marine resources.

To the south of Pu'u Ohau and above Nāwāwā Bay, is a small cluster of sites including two prehistoric permanent habitation sites, a heiau, and the foundation site of the old Greenwell Store at Wool's Landing on the south side of the bay. This cluster includes Sites 16432 and 16434 which are the habitation sites, Site 16703 which is the *Pali O Niu* heiau overlooking Nāwāwā Bay, and Site 16702, which is the foundation remnant of the old Greenwell Store.

2.5 Hazards

The majority of the Park area is outside the 500-year flood plain. Due to exposure to high wave action, especially during storm periods, the Federal Emergency Management Agency's Flood Insurance Rate Map for Hawai'i County classifies the land adjacent the shoreline as Zones AE and VE, indicating coastal flood areas with potential wave hazards. Although the coastal flood zones generally occur along the entire coastline, these extend further inland near Nenua Point and Keikiwaha Point.

Shoreline Park Management and Public Access Plan

The shoreline Park area lies within lava flow Hazard Zone 3, with Zone 1 being the area of highest risk and Zone 9 being the area of lowest risk. Zone 3 is characterized by lava coverage of about 5 percent in the past 200 years, and 15 - 75 percent within the past 750 years. The general area of the Park is situated on lava flows that occurred between 1,500 and 10,000 years ago. In terms of seismic risk, the entire Island of Hawai'i is designated within Earthquake Zone 3, which is the zone of highest seismic occurrence and danger. In 1951, a 6.9 magnitude earthquake occurred about one mile offshore of the project area, and in 1983, a magnitude 6.6 earthquake occurred at a depth of seven miles midway between Kilauea and Mauna Loa, causing a landslide at Kealahou Bay (2 miles south of the Park) shortly thereafter.

3.0 PARK IMPROVEMENTS

3.1 Access Improvements

Vehicular Access and Parking

Vehicular access to the shoreline, as shown in the Public Access Plan (Figure 4), would be provided through a proposed public road extending from Haleki'i Street at the eastern (mauka) property boundary, and/or from the planned Mamalahoa Bypass Road which will pass through the Project to the inland boundary of the shoreline Park. The public access parking area is located near Keikiwaha Point and the southern boundary of Hokukano Village.

As planned, the road would extend from Haleki'i Street in a mauka-makai direction toward the central portion of the property where it would join with another proposed public road that would lead to the public parking area at the shoreline Park. Initially, the parking area would provide twenty-five (25) public parking stalls, with additional parking for Park employees. The parking lot would be paved and furnished with trash receptacles and appropriate signage indicating pedestrian access routes to the shoreline. A separate parking area will be provided for Villages at Hokukano residents to avoid use of the public parking area. Improvements to the primary shoreline access area, including provisions for parking, are shown in Figure 5.

Pedestrian Access/Trails

A trail network to facilitate pedestrian access through the Park to designated picnic and camping area, to sites of historical and cultural interest and the shore, is planned as part of the Park improvements. These include improvements to existing trails, trail connections and extensions. The trail improvements will consist of four to six feet wide foot-paths with a variety of surfaces, including concrete or grass pavers, paving stones, crushed rock or coral, and a variety of grasses. All materials will be chosen to compliment the passive nature of the Park area. Sections of these trails will be designed to meet appropriate American Disability Act (ADA) specifications to allow barrier free access to portions of the Park.

Trail improvements will be implemented primarily by hand and will include such activities as hand clearing of vegetative cover, removal of small trees (less than six inches in diameter), removal of dead or diseased trees or limbs, removal of overhanging limbs, hand clearing of trail corridors, placement of wood or rock steps, and definition of trail edges with rocks, coral, logs or landscaping. Introduced landscaping will generally consist of native species which are particularly adapted to the climatic conditions of the area.

The intent in the creation of the trails, pathways, and trail connections are to help meet the objectives of the plan as to recreational access, enjoyment, safety, maintenance and management while preserving an unobtrusive and natural feel to the Park area.

3.2 Park Improvements

In keeping with the goal of a more natural character for the Park area, planned improvements would be limited to providing restrooms, signage and park furniture (benches, tables, waste receptacles and fire pits) clearing of trails, protection and stabilization of archaeological sites, and providing areas for picnicking and camping. All clearing work would be carefully implemented, mostly with hand equipment and would generally involve the removal of weeds, dead or diseased trees and limbs, small trees (less than six inches in diameter) and overhanging limbs. Thinning of trees of all sizes will be done to promote the movement of ocean breezes, thereby, making the Park climate more comfortable. The specific improvements planned within the park area include:

- Structural Improvements and Park Facilities
 - Vehicular access and parking improvements for a minimum of 25 public parking stalls and separate project employee and resident parking
 - Information kiosk
 - Restroom facilities with showers and drinking water
 - Rest areas with wood or stone tables and benches
 - Civil Defense warning system
 - Camp sites with tables, benches, barbeque pits and coal disposal bins



LEGEND

-  Public Access Signage
-  Shoreline Access Route

Figure 4: Public Access Plan
 Shoreline Park Plan
 Villages at Hokukano



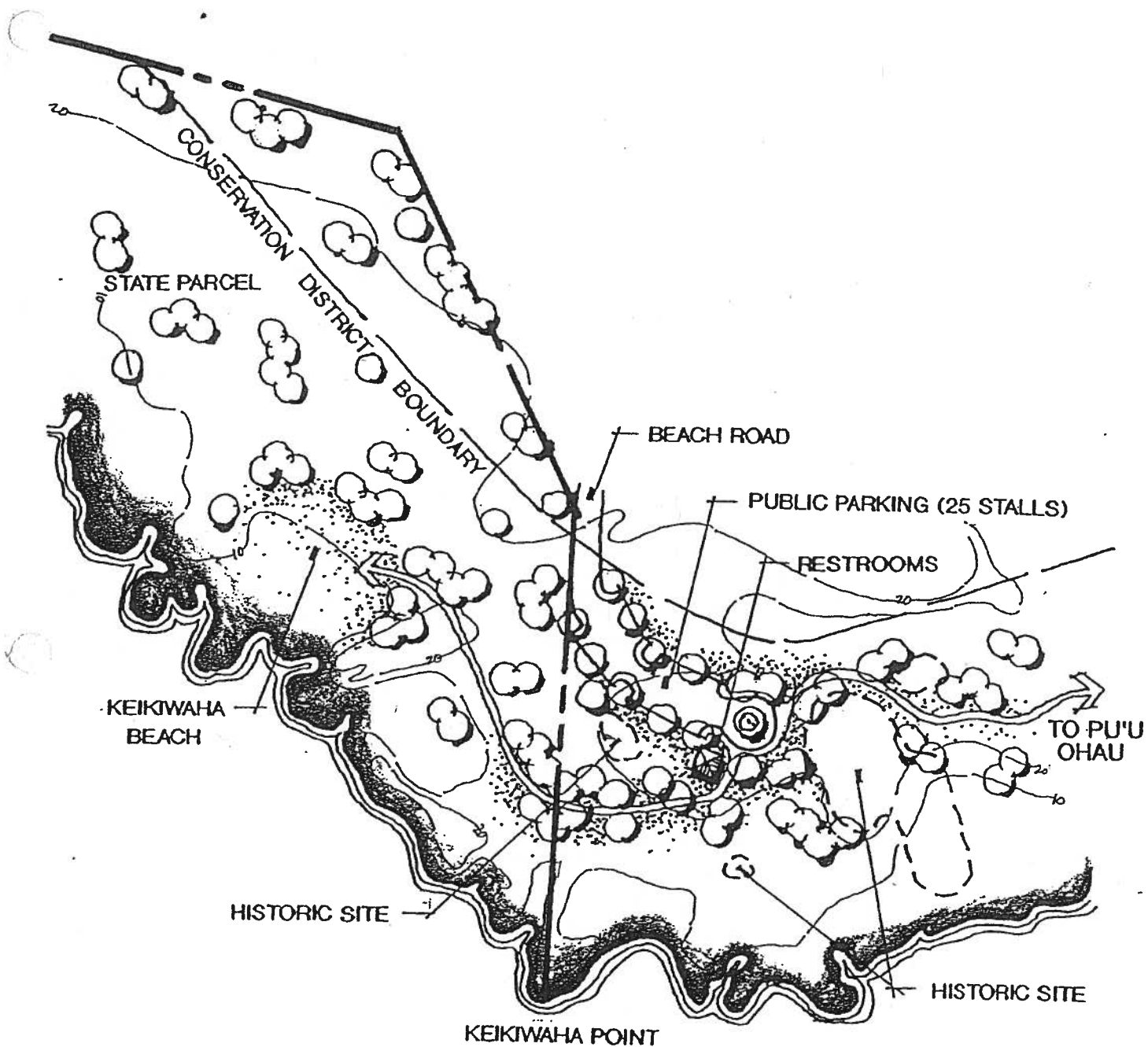
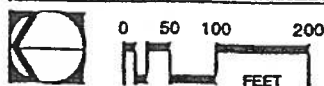


Figure 5: Shoreline Access Area (Detailed)

Shoreline Park Plan
Villages at Hōkukano



Shoreline Park Management and Public Access Plan

- Portable restroom facilities
- Trash receptacles at parking, picnic, and camping areas
- Emergency telephone system
- Landscape Improvements and Landscape
 - Possibly grassing in picnic and camping areas
 - Buffers for restrooms and other structures
 - Shade trees, as appropriate
 - Accent planting of plants which are adaptive to the site conditions
 - Flowering species to add color and variety.
- Landscape Clean-up Remediation
 - Primarily hand-clearing of vegetative cover from trails, archaeological sites, and use areas
 - Removal of weeds, diseased & dead trees and limbs, trees and over hanging limbs
 - Thinning of trees
- Trail Improvements
 - Improvements or extensions to existing trails
 - Trail connections
 - Public shoreline access trails
 - Interpretive trails to selected archaeological sites with interpretive signage

- Signage (Meeting DLNR signage rules)
 - Directional
 - Instructional
 - Interpretive

Initially, the parking area and restroom facilities would be located near the Park boundary. Eventually, as Project related improvements extend utilities to the vicinity of the Park, a permanent restroom facility is planned. The locations of these Park improvements are indicated on the Shoreline Access Area Plan, Figure 5, following Page 12.

All park improvements would be constructed and maintained by a management entity established by Oceanside 1250 and eventually funded by the Villages at Hokukano property owners. Funding prior to that time will be provided by Oceanside 1250 or its assigns. The management entity would also be responsible for all maintenance and operation of the Park.

Signage

- **Public Shoreline Access Route.** Signage would be posted along the public access route at strategic locations and at parking area entrances. Public shoreline access signage would generally be consistent in form and content to the public access signage used by the County of Hawai'i, as shown in Figure 6, however, modifications may be sought with regards to materials and lettering style in order to achieve a consistency with other Project signage.
- **Directional and Informational Signage.** Other directional and informational signs would be proposed at the parking area and various points along pathways, trails and use areas.

All signs within the Park area (Conservation District) would also comply with the signage requirements under Section 13-5-22, P-8 of the DLNR Administrative Rules. These guidelines specify that no sign shall exceed twelve square feet in area, and that signs shall be self-supporting and erected no higher than eight feet above finished grade.

Additionally, interpretive signage would be placed in association with selected archaeological sites, which would be implemented as a component of an approved archaeological mitigation and interpretation plan. The form and content of the interpretive signage would comply with the DLNR signage guidelines.

3.3 Potential Impacts

While the Plan provides for improved access to and use of the shoreline area, among the primary goals is to provide appropriate monitoring and management controls to ensure that the level of use within the Park does not adversely impact the important resources of the area. Some of these resources include the concentration of archaeological resources near the coast, the ocean and nearshore marine resources, biological resources (flora and fauna), and scenic resources. Although the Park area includes no identified rare, endangered or threatened species, management controls are needed to protect the existing natural character of the area. There is a concentration of archaeological sites within the Park area, including heiaus, burials, suspected burial sites, house sites and shelters, agricultural features, petroglyphs and more. Access to sites would need to be monitored to ensure that they are not impacted as a result of improved access. In addition to the cultural and biological resources, the visual resources (view sheds and viewing points) require protection to preserve the natural character of the area and to enhance the enjoyment and appreciation of these resources. A part of the goal for resource management is to prevent any areas within the Park from having a "worn" look.

Properly managed, increased access to the Park will not negatively impact the existing and future uses in and around the area. These uses include shoreline access, the existing and future residential uses within the kuleana lots at Nāwāwā Bay at the "beach lots," north of the Park at Kainaliu, and the house lots within the proposed Villages at Hokukano. Activities within the Park area will be monitored and managed to ensure that park users are neither negatively impacted by, nor have a negative impact on, adjoining uses.

3.4 Safety Considerations

To maintain the continued safe use of the Park area, access to the area will be temporarily suspended in the event of a state of emergency (declared by the appropriate State or County agency) or during periods of adverse weather generating high wave conditions, or to portions of the Park where topographic conditions present particular safety concerns (e.g., loose or unstable ground conditions along the shoreline cliffs).

4.0 IMPLEMENTATION MEASURES

4.1 Phasing Plan

Oceanside 1250 will finance and implement the planned improvements to the Park area in a phased manner, in accordance with phased development of the Hokukano project. The segments of the Park area that correspond with the phased improvements are indicated in the phasing plan shown in Figure 6. The phased improvements would be accomplished as follows:

Phase One

Phase One improvements would generally occur in the area near Keikiwaha Point and the Park's northern boundary as shown on the Phasing Plan (Figure 7). This plan would include improvements on the Hokukano Village parcel under joint sponsorship with the State of Hawaii. To ameliorate degraded conditions which currently exist along the shoreline area, this and other selected areas will undergo a general clean-up and landscape remediation consisting of the limbing of trees, removal of diseased, dead and noxious plant materials, and removal of rubbish. The coastline area vegetation consists of primarily introduced *prosopis* (kiawe) with an understory of introduced pasture grasses and various herbaceous plants. Scrub trees, especially *prosopis* and *leuceana leucocephala* (koa hao)le) that have roots which are damaging historic sites will be trimmed or removed in order to stabilize these sites. There are also large numbers of *jatropha curas* (physic nut) which should be removed since they have seeds that are very toxic. No native plant taxa were found in the proposed Park area. In some locations, plant materials, including climatically appropriate grasses and shade trees, will be introduced to maintain an adequate vegetational cover, help provide erosion control measures and maintain the pleasant landscape setting of the area.

Phase One improvements will include an unpaved dust-controlled public vehicular access from a nearby public roadway and creation of 25 public parking spaces separate from resident and employee parking. The access road will be paved and the number of parking spaces may be increased commensurately with development of subsequent Park phases, and in keeping with protecting the Park from overuse.



Figure 6: Public Access Signage

Shoreline Park Plan
Villages at Hokuukano

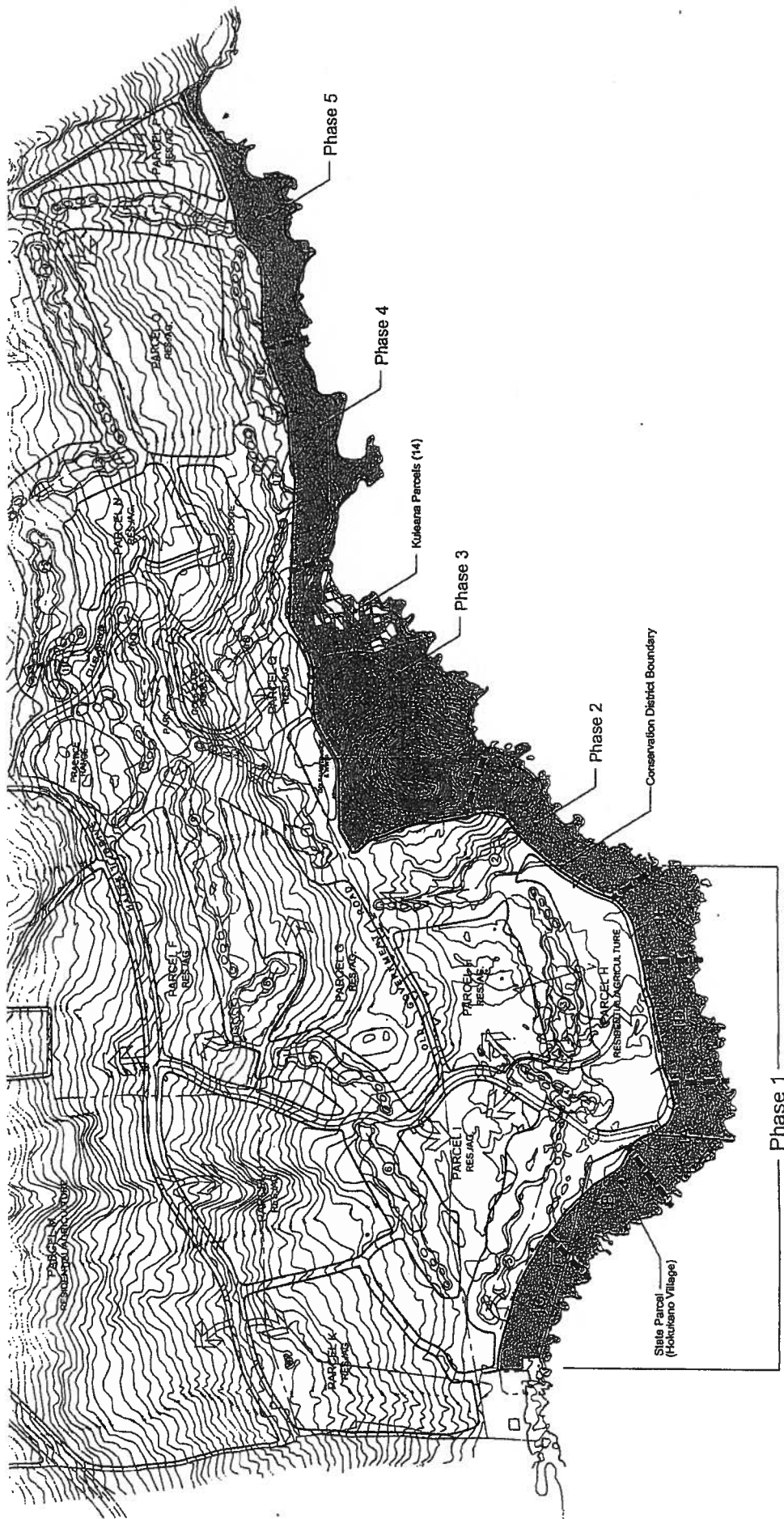


Figure 7: Phasing Plan

Shoreline Park Plan

Villages at Hokukano



Shoreline Park Management and Public Access Plan

At the public access trail head makai of the public parking area, an orientation area will be established for visitors providing drinking water, portable restroom facilities and showers, directional, educational and resources information, along with a resting area to include wood or stone tables and picnic benches.

Phase One improvements will also include development of pedestrian uses and access along a self-guided interpretative trail in the area between the orientation area and Keikiwaha Point. A connector trail between the public shoreline access area and the State-owned "old government road" will be included near the project roadway that provides public access to the shoreline area. Some vegetation will be removed or trimmed to locate these trails in the optimal locations. Kiawe trees that have hazardous thorns will be removed or trimmed to improve walking conditions along the trail.

Campsite with benches and tables would be located within the Village area. Other improvements will include a continuation of the lateral shoreline foot trail into the Village from the public access shoreline area near Keikiwaha Point. On the north side of the Village, a connector trail will link the lateral shoreline trail with the "old government road" at a point south of Kainaliu Beach.

The Park improvements will be integrated into the site to protect view sheds, marine resources and sensitive archaeological sites. All archaeological mitigation measures will follow the recommendations and guidelines of the approved archaeological mitigation, and preservation plans and are expected to be directed toward the stabilization of selected historic sites, limited restoration of selected sites, non-intrusive archaeological study and appropriate interpretive measures.

To provide for notification and preparation for emergencies and hazardous conditions, a civil defense warning system and emergency phone system will be installed within the Park area.

In concert with the regulatory requirements, Phase One improvements, which encompass 25 percent of the total Park area, will be completed incrementally over a five year period. The first increment of improvements (Phase 1A - as shown in Figure 7), which will be focused at the primary use area near Keikiwaha Point, will be completed and open to the public within 30 days of the golf course opening. The remaining Phase 1 increments (1B through 1E) will be completed sequentially over the remaining four to five years. As noted, those improvements within the State owned parcel will be contingent upon entering into an agreement with the State for the use and management of this portion of the Park area.

Phase Two

Phase Two improvements would occur generally in the area between Nenu Point and Pu'u Ohau. It is proposed that improvements in this parcel will be similar in nature to those implemented in Phase 1. To ameliorate degraded conditions which currently exist along the shoreline area, this area will undergo a general clean-up and landscape remediation consisting of the limbing of trees, removal of diseased, dead and noxious plant materials, thinning of trees, and removal of rubbish. These improvements include landscape maintenance and planting of appropriate species such as grasses and shade trees that compliment the passive uses of the shoreline area. In addition, directional and interpretive signage will provide general interpretative information and indicate where access is located within this area.

Phase Three

Phase Three improvements would occur in the area between Pu'u Ohau and Nāwāwā Bay. Additional landscape maintenance activities, which were initiated as part of Phase One, will resume in order to conclude the general landscape remediation in this area. The public access road to the shoreline access parking area at Keikiwaha Point will be paved. Also, the pedestrian access trail will be extended from Keikiwaha Point south to Pu'u Ohau, where the trail will follow an alignment along the State Land Use Conservation Boundary that runs mauka of Pu'u Ohau. In the interest of safety and the protection of sensitive archaeologic sites, trail access onto the makai side of Pu'u Ohau will be carefully restricted. Additional directional and interpretive signage will provide general interpretative information and indicate where access is located within this area.

In order to provide a degree of privacy for the Kuleana parcels located around Nāwāwā Bay, public access in this area will be limited to an extension of the footpath mauka of Pu'u Ohau to the south along the mauka edge of the kuleana parcels within the Conservation District. A connector trail will be provided to link the mauka side of Pu'u Ohau with the "old government road" and the historic park which is centered around the heiau on the hillside, about 70 feet mauka of the Park.

Shoreline Park Management and Public Access Plan

Phase Three improvements will also include additional restroom facilities in the area south of Nenu Point, as well as improvements for passive recreational uses, such as small grassed areas for picnicking and seating. In conjunction with these improvements, additional protective and interpretative measures, such as interpretative signage, site stabilization and/or partial site restoration, will be implemented in accordance with the approved archaeological mitigation plan.

Phase Four

Phase Four improvements would occur in the area between Nāwāwā Bay and Kalukalu Bluffs. Pu'u Ohau represents the transition point between the northern portion and southern portion of the shoreline park. This transition is evident in the steep cliff-like and overhang conditions of the southern shoreline, in contrast to the much lower lava delta and shelf that is predominant along the northern shoreline. Access at or near to the shoreline in these steep areas will be setback from the cliff edge, and the trail through this area will be a continuation of the footpath from the north at Pu'u Ohau. There will also be a short scenic footpath down to a grassy overlook and seating area within an area near Wool's Landing.

Associated landscape maintenance and additional signage will be undertaken in conjunction with trail improvements and stabilization of historical sites in this phase of the Park improvements. To ameliorate degraded conditions which currently exist along the shoreline area, this area will undergo a general clean-up and landscape remediation consisting of the limbing of trees, removal of diseased, dead and noxious plant materials, thinning of trees, and removal of rubbish. Two or three small rest areas will be maintained for bench seating along the trail.

Phase Five

Phase Five improvements would occur in the area between Kalukalu Bluffs and Keawekaheka Bay, at the property's south boundary. Landscape maintenance activities initiated as part of Phase Four will resume to remove dead, diseased and noxious plant materials, thinning of trees and removal of trash and to conclude general landscape remediation. There are limited portions of this area within which trail access along the cliff is neither safe nor suitable. Thus, the extension of the lateral footpath in this area will be setback from the cliff edge. The trail will be a footpath that will continue to the property boundary mauka of Keawekaheka Bay. An additional three to four small rest areas will be provided in this portion of the Park with bench seating for trail users. Also, a small restroom facility with toilets, washbasins and drinking water will be located at the junction of the trail and the "Old Kalukalu Road."

4.2 Phasing Schedule

As outlined in Section 4.1, the Park improvements will be phased in conjunction with the phasing of the Hokukano Project development. Each phase is planned to be coordinated with the overall project development such that improvements can be made in an orderly, economic and efficient manner. In general, phasing of the park improvements is aimed at first implementing the initial improvements proximate to the central portion of shoreline, and then implementing the remaining improvements in the northern and southern sections of the shoreline in latter phases coordinated with lot development activities. The sequence and timing of the Park phases are as follows:

Timing of Improvements

<u>Phase</u>	<u>General Location of Improvements</u>	<u>Timing</u>
Phase 1 - Park improvements	Keikiwaha to Pu'u Ohau	5 years
Phase 2 - Park improvements	Keikiwaha to Kainaliu	3 years
Phase 3 - Park improvements	Keikiwaha to Pu'u Ohau	3 years
Phase 4 - Park improvements	Pu'u Ohau to Wool's Landing	2 years
Phase 5 - Park improvements	Wool's Landing to Keaweakaheka	2 years

The first components of the Phase One Park improvements will be completed and available for public use within 30 days of the official opening of the Project golf course. The unimproved north/south shoreline trail through the Park, with its connection to the Old Government Road will be accessible from the opening of the Park following the initial (Phase 1A) improvements. The State owned "old government road" is a portion of Keauhou - Napo'opo'o Trail which provides alternate lateral access through the Project. Subsequent park improvement phases would be developed and opened to the public within 18 months of the date that future final subdivision approvals are granted by the County for the related lot development. All Park improvements are subject to government approvals including, a Special Management Area Permit, Conservation District Use Permit and approval by the State for improvements within and management of the State's Hokukano Village parcel.

4.3 Operation and Management

Once improvements are implemented, these areas will be managed and maintained by a management association established by Oceanside 1250 and funded by the Property Owners of the Villages at Hokukano in concurrence with applicable regulatory permits and approvals. This managing body would be responsible for all maintenance and operations of the Park. Income for the ongoing management, operation and maintenance would be provided from association dues paid by property owners within the project. The obligation of the property owners to continue to finance the management and maintenance of the Park area would be included within the conditions, covenants and restrictions (CC&Rs) for the Project, such that all property owners would be informed of the obligation of the property owners' association to fund the management operation and maintenance of the park area in perpetuity. A copy of the applicable portions of the draft CC&Rs are included as Appendix B.

4.4 Management Strategies

4.4.1 Management of Marine Resources

With increased public access to the shoreline area there may be greater pressures on the local marine resources. To provide for the ongoing management of the coastal area and the shoreline marine resources, the Management Association would establish a Shoreline Resource Advisory Committee (SRAC). The purpose of this committee would be to develop and oversee a program aimed to protect the nearshore environment from damage resulting from increased shoreline access through proper management and educational activities.

Among the responsibilities of the committee would be to review monitoring reports and presentations by the Park management staff and consulting biologist, to establish policies and guidelines for protection of the marine resources, to review the effectiveness of these policies and guidelines, to coordinate with DLNR's Aquatic Division to ensure compliance with the Department's rules and regulations, and to participate in the development of marine-oriented educational programs.

Shoreline Park Management and Public Access Plan

The committee would consist of representatives of community resource groups, such as fishing, hiking, trails, ocean recreation, ocean resource management and Hawaiian organizations, as well as concerned individuals and the park owner and park management representatives. Although the committee would initially meet on a quarterly basis, it is expected that the group would establish its own schedule, as needed. All meetings would be open to the public and publicized in at least one major West Hawai'i newspaper.

Rather than establishing a comprehensive resource management program as part of this Plan, it is recommended that the SRAC determine the extent of its involvement and develop appropriate management policies to meet its program objectives and to respond to marine-related issues as these arise. Based on discussions with the community advisory group during the preparation of this Plan, it is suggested that the marine resource management program be developed and implemented in the spirit of the traditional Hawaiian (Konohiki) resource management system. It is also recommended that the committee explore the possibility of creating a Fishery Management Area (FMA) or Marine Life Conservation District (MLCD) for those portions of the shoreline park area, where needed. It is worth noting that, through the enactment of Act 306 in 1998, the entire west coast of Hawai'i Island was designated as a Fishery Management Area (FMA). Subsequently, the DLNR established the West Hawai'i Fishery Management Council which serves as a coordinating group for the shoreline resource management activities taking place in West Hawai'i.

An important component of the SRAC's role will be to participate in the development of marine-related educational programs. These programs would be aimed at encouraging a greater awareness and appreciation of the ocean resources and the objectives of the marine resource management program. One measure that is planned to foster a greater public awareness and conservation ethic is the placement of an information kiosk near the entrance(s) of the shoreline park. The kiosk would include information on signage displays, existing fishing regulations and conservation practices, and public safety. The committee would explore other educational forums, such as walking tours, preparation of informational brochures, and presentations by the management staff, local resource persons and other specialists.

The SRAC will also coordinate its activities with the WHFMA Council, through meetings and information sharing, to ensure that they have the full benefit of experience from similar programs in West Hawai'i and to avoid the possible duplication of efforts.

4.4.2 Protection of Historical and Cultural Resources

As noted, the largest concentration of archaeological sites is found near the shore within the park area and includes a wide array of functional types including habitation sites, burials, petroglyphs, and religious sites. Protection of these and the other, widely-varied sites in the Park area will enhance passive and interpretative preservation, and will provide thematic overviews of the two developmental trends that are generally represented by these sites - traditional and historic settlement patterns. Preservation would take the form of simple physical preservation in place, or in some cases, preservation would take the form of appropriate interpretive and restorative activity. To accomplish meaningful preservation and interpretation, the best examples of a wide range of site types and functional varieties will be included. The goals of the Park preservation and interpretation program will be:

- Preservation of sensitive sites of traditional Hawaiian cultural significance,
- Interpretation of significant site types, functions and thematic correlation,
- Other long-term research and protection criteria, and
- Appropriate treatments for all cultural and historical resources.

Since traditional and historic settlement patterns are demonstrated by the sites in the Park, we believe much can be learned about the chronology of traditional and historic settlement and land use especially as they relate to habitation, resource management and perhaps agriculture within the area's ahupua'a. Other interpretative data, educational information and research study could provide detail on the relation between temporary and permanent habitation sites, the socio-political rank of area habitations, or development of other shoreline-related land uses.

As many sites have several levels of cultural significance and have multiple physical features with mixed uses including burials and other sensitive remains, specific preservation plans will be formulated after additional research and planning. Specific recommendations will be part of a comprehensive archaeological and interpretive program for the Park area that will be reviewed and approved by the State and County. This plan will be implemented by Oceanside 1250 and its consulting archaeologist, in consultation with DLNR's SHPD, knowledgeable area residents, Hawaiian organizations and consulting professionals. The preservation program would be implemented according to an overall Archaeological Site Preservation and Interpretive Plan approved by DLNR's SHPD and the County of Hawai'i Planning Director. The interpretive plan would include descriptions of buffer zones, preservation measures, site-specific plans and interpretive signage.

The potential impact of public access to these sites would be evaluated by the Park management, in consultation with its consulting archaeologist, to determine if further mitigation measures are warranted, such as increasing buffer zones, restricting access, or other modifications to protect sites from further disturbance. Should impacts to the archaeological sites within the Hokukano Village parcel be noted, the SHPD and County of Hawai'i Planning Department would be notified and appropriate mitigative measures, as approved by DLNR and the Planning Director, would be taken.

4.4.3 Access Restrictions

The Park management reserves the right to control or prevent access to areas that, in the management's judgement, pose a danger to the public or that requires protection to preserve the area from over use. Access to the public parking area may also be restricted during periods when the public parking area is full. The management would also have the right to control or prevent access to the Park area in the event of a County or State declared emergency.

Additionally the management would also have the right to control or prevent access to persons who, in the management's judgement, present a danger to the safety, character or interest of the property or to the uses of the Park area. However, the management would immediately notify the appropriate public authorities upon occurrences of such actions.

4.5 Uses and Procedures

4.5.1 Hours of Use

Generally, the Park hours of use would be from dawn to dusk, with special provisions for night time fishing, overnight camping, and group functions. Procedures for use of the Park areas at night or group functions, which would include sign in/out requirements and/or issuance of a special permit, camping or night time fishing permit, are described within Section 5 of the Park's Rules and Regulations.

4.5.2 Restricted or Prohibited Activities

Restricted and prohibited activities will be imposed to protect the character of the Park and surrounding area, as well as the safety and enjoyment of the park users. Restricted and prohibited activities are delineated within Sections 2 and 3 of the draft Park Rules and Regulations. These regulations were compiled based on the rules and regulations for State parks (Chapters 13-146, HAR), although modified to reflect the management requirements of a privately-operated park and to reinforce the goals and objectives of the Plan. As noted above, certain activities, such as night fishing, camping, and group activities, are to be regulated through permitting procedures. Prohibited activities include littering, vandalism, soliciting, possession of firearms, alcohol, illegal drugs, loud noise or music and destroying natural, historical or archaeological features. Signage providing a summary of the park regulations would be provided at appropriate locations in the Park.

4.6 Monitoring Procedures

Monitoring of the Park area would be conducted by the Park management, its employees, consultants and agents. Monitoring would be focussed on detecting negative impacts in four areas: vegetation and natural character, archaeological sites, and marine resources (hereafter referred to as "Resources"). The Park management would be directly responsible for monitoring the Park area for evidence of damage to the Resources within the Park and violation other Park rules and regulations. Such occurrences would be reported on a daily basis to the Park management for appropriate corrective action.

The nearshore and marine environment would be monitored on a regular basis by a marine consultant according to the procedures established within the water quality and marine life monitoring and mitigation plan prepared by Richard E. Brock, Ph.D. A copy of the monitoring and mitigation plan is enclosed within Appendix C. Initially, a baseline analysis of the nearshore marine environment was conducted of April 1992 (A Quantitative Assessment of the Marine Communities and Water Quality, Villages at Hokuano, Final EIS, Section II-3). This study described the baseline conditions for the marine communities and water chemistry characteristics along the coastline fronting the property. The study would be updated prior to the first construction or land alteration within the Project, following which, monitoring of the marine environment would be undertaken on a regular basis, as required by the Department of Health's Water Management Division. The Water Quality and Marine Life Monitoring and Mitigation Plan (Appendix C) recommends that monitoring takes place on a quarterly basis throughout the Project construction period. Monitoring would take place annually thereafter, unless statistically significant changes are noted and increased or

decreased monitoring is warranted. The marine monitoring program would adhere to the monitoring protocol guidelines established by the West Hawai'i Coastal Monitoring Program. This program established a set of uniform standards for marine biologists to ensure that a comparable methodology is used for marine monitoring in West Hawai'i. The procedures for reporting monitoring results to the appropriate State and County agencies are described within the monitoring plan. Generally, the Plan recommends a program of quarterly reporting during the period of construction, and annual reporting thereafter. The period of construction for the Project is expected to occur over a fifteen to twenty year period, similar to the phased improvements within the Park area. As described in Section 4.4, the water quality and marine life monitoring reports would also be reviewed with the park advisory group, as part of an ongoing program to manage and protect the Park's nearshore marine resources.

4.7 Reporting Procedures

Oceanside 1250 will submit an annual report to the Board of Land and Natural Resources and the County of Hawai'i Planning Director for the period up to completion of final phase of improvements proposed under the Plan. Currently, the proposed improvements are planned to be implemented over a fifteen to twenty year period. An annual report will be submitted to the State and County within thirty days of the anniversary date of the issuance of the Conservation District Use Permit and SMA Use Permit for the Park Improvements, respectively. The annual report will include a general statement of progress toward implementing the Park improvements and compliance of any conditions imposed by the State or County in meeting the conditions of the Park related permit approvals. The annual report will also contain any proposed changes to the Plan implemented to further meet its objectives.

5.0 JUSTIFICATION

5.1 Consistency with Conditions of Approval

5.1.1 Ordinance 96-7 and Ordinance 96-8

Ordinance 96-7 established the conditional zoning for a portion of the Project lands. Condition "K" and "H" of Ordinance 96-7 and 96-8, respectively requires that:

"A final comprehensive public access plan, to be developed in consultation with community groups, shall be submitted to and approved by the Planning Director prior to final subdivision approval, or any land alteration activity, whichever come first. The final comprehensive public access plan shall be developed in consultation with the Planning Director and the Department of Land and Natural Resources and shall include mauka-makai and lateral shoreline accesses, parking area(s), signage, emergency response considerations, restrictions on use (if any), provision of recreational and restroom facilities at appropriate locations, and related improvements; provided, that the construction of the coastline park and access ways shall be subject to the obtaining of all necessary discretionary permits (e.g., Conservation District Use Approval, Special Management Area Use Permit, etc.); provided, further that the applicant shall be responsible to comply with the following terms and conditions:

1. An area comprising twenty-five percent (25%) of the total park area, as shown on Exhibit "E" attached hereto and made a part hereof, shall be developed and improved by the applicant or its agent in phases within five (5) years from the date Final Subdivision Approval is obtained on the subject property. The first phase shall be completed and open to the public within thirty (30) days following the opening of the golf course;

2. Upon opening the first phase of the park area, a minimum of twenty-five (25) public parking stalls in addition to parking stalls for residents, guests, and employees within the subject property and the applicant's adjacent lands at the principal shoreline access parking area(s), signage and provisions for public access for night fishing and marine food gathering purposes over designated vehicular and pedestrian access routes subject to restriction which limit said uses to recreation uses only, and other restrictions which provide for the health and safety of the general public and residents alike. The number of parking stalls shall be increased commensurately with the approval of additional park phases in accordance with the public access plan: and
3. The public shoreline access plan shall also integrate where appropriate, any public access way(s) to interpretive trail system(s) and to the historical and archaeological sites to be approved by the Planning Director, in consultation with the Department of Land and Natural Resources in conjunction with the detail mitigation plan for the park area situated in the Conservation district."

Additionally, the condition to develop a final comprehensive public access plan is reiterated within Condition 8 of SMA Use Permit No. 345 which states:

"A final comprehensive public access plan, to be developed in consultation with community groups, shall be submitted to the Planning Director in conjunction with golf course plans submitted for plan approval review. The final comprehensive public access plan shall be developed in consultation with the Planning Director and the Department of Land and Natural Resources and shall include mauka-makai and lateral shoreline accesses; parking area(s), signage, emergency response considerations, restrictions on use (if any), provision of recreational and restroom facilities at appropriate locations, and related improvements. Within one (1) year from the date of approval of the final comprehensive public access plan by the Planning Director, the Applicant shall apply for a Conservation District Use Permit, Special Management Area Use Permit and other applicable permits/approvals to allow for the implementation of the recommendations of the approved Plan."

This plan being prepared, in part, to meet the requirements of Conditions "K" and "H" of Ordinances 96-7 and 96-8 and Condition 8 of SMA Use Permit No. 345.

5.2 Consistency with DLNR Regulations

The proposed land use is consistent with the identified land uses within the Limited (L) subzone of the State Conservation District, Section 13-5-23, HAR, which includes the following:

- (L-2), Botanical gardens and private parks
- (L-4), Landscaping and removal of noxious plants
- (L-7), Accessory structures

This Plan is to be submitted to DLNR, with a Board permit application in meeting the management plan requirements for the proposed use within the Conservation District, Limited (L) subzone.

5.3 Consistency with Chapter 205A, HRS

The proposed land use is also consistent with the objectives of the County's SMA, as delineated within Section 9-6 of the County of Hawai'i Planning Commission Rules of Practice and Procedures. The pertinent objectives are as follows:

- 1) Provide coastal recreational opportunities accessible to the public.
- 2) Protect, preserve, and where desirable, restore those natural and manmade historic and prehistoric resources in the coastal zone management area that are significant in Hawaiian and American history and culture.
- 3) Protect, preserve, and where desirable, restore or improve the quality of the coastal scenic and open space resources.
- 4) Protect valuable coastal ecosystems from disruption and minimize adverse impacts on all coastal ecosystems.

In addition to meeting the conditions of regulatory approval listed within Section 5, this Plan is being submitted with an application for an SMA Use Permit to allow for the proposed Park uses within the County SMA. The proposed use is supportive of the County's objectives for the coastal area by implementing a management program that provides for the safe enjoyment of the shoreline area in a manner that is protective of the natural and manmade historic and prehistoric resources that are present within the Park area.

1.0 INTRODUCTION

1.1 Purpose

The purpose of these rules and provisions are to govern the use and protection of all lands and historical and natural resources within the Villages at Hokukano shoreline park (Park) area.

1.2 Definitions

"Abandoned property" means any and all property, including personal property, items, materials, equipment, fixtures, motor vehicles, or vessels, that have been left unattended for a continuous period of more than twenty-four hours without the written permission of the park management (Management) or its authorized representative.

"Animals" mean all animals, wild and domestic.

"Authorized representative" means any person authorized by the Management to act for the Management in the administration of these rules and regulations.

"Camper" means any person engaged in a camping activity.

"Camping" means remaining within a designated camping area during park closing hours or sleeping during nighttime hours on the premises or the use or occupation of the premises by one or more persons who remain or intend to remain on the premises between the hours of twelve midnight and one half hour before sunrise, except persons with special permits or other types or permits or authorization from the management or its authorized representative to remain on the premises for other purposes.

"Motor vehicle" means a motor vehicle of any type, including, but not limited to, automobiles, trucks, go-carts, motorcycles, motor scooters, mopeds, dune buggies, or ATVs, whether the vehicle is licensed or unlicensed.

"Nude" means uncovered post-pubertal human genitals, pubic areas, or the nipple or areola of post-pubertal human female breasts.

"Park area" or *"Villages at Hokuano shoreline park"* means property owned in fee by 1250 Oceanside Partners at North and South Kona, Hawai'i (portion of TMK 8-1-4: 03), which is designated within the State Conservation District and required by the County of Hawai'i under Conditions 8 and 10 of SMA Use Permit No. 345 and Condition H of Ordinance 96-8 and Condition K of Ordinance 96-7, to be established as a privately operated park; and that property owned in fee by the State of Hawai'i, TMK 7-9-12:03.

"Park management" or *"management"* means the management entity established by Oceanside 1250 or its legal designee, which is responsible for the management, maintenance, security, and operation of the shoreline park area.

"Premises" means any lands within the shoreline park area.

"Picnic" means an outing with food provided by members of the group and eaten in the open.

"Reasonable conduct" means behavior or activity that is fair, proper, just, moderate and suitable under the circumstances. Such behavior or activity may fairly, justly and reasonably be required of an individual or group of individuals while in the Park.

"*Recreational trailer*" means a vehicle propelled by its own power or by some independent power and used as a dwelling.

"*Vehide*" means every device in, upon, or by which any person or property is or may be transported or drawn upon a roadway or highway, including mopeds, and other devices moved by human power.

1.3 Hours of Use

The park may be used by the public only between the hours of 7:00 a.m. and 15 minutes after sunset daily; provided, however, that Management may issue night fishing, special use, or camping permits pursuant to Section 5 as specified herein.

1.4 Access

- 1.4.1 Oceanside 1250 shall have the right to control or prevent access to the park by all persons whose presence in Management's judgement shall be adverse to the safety, character, or interests of the park or of users of the park.
- 1.4.2 In case of invasion, mob riot, public excitement, or other commotion, Management reserves the right to prevent access to the park during the continuance of the same for the safety of park users and the protection of the property in the park.
- 1.4.3 Persons violating the park rules and regulations may be denied subsequent use of the park by Management in its sole discretion, and may be subject to expulsion and penalties, as set forth in Section 4 herein described.

1.5 Noise

All activities conducted at the park shall not exceed a reasonable and prudent noise level, and in no event shall such activities exceed 60 DBA sound pressure level.

1.6 Hazardous Activities

No activities shall be conducted in the park that are or may be unsafe or hazardous to any person or property. Management reserves the right to stop any activity within the park that it determines in its sole judgement, has become unsafe or a hazard.

1.7 Obstruction of Passageways

No trails or passages in the park shall be obstructed or used for any purpose other than foot trail within the park, or ingress or egress from the park.

1.8 Lost Articles

Any person finding lost articles shall deposit them at the Management's office, leaving their name and address.

1.9 Intoxication

Management reserves the right to exclude from the park any person who, in Management's judgement, is intoxicated or under the influence of liquor or drugs so as to create a risk to persons or property and said person shall be subject to expulsion and penalties set forth in Section 4 herein.

1.10 Standard of Reasonable Conduct

Without limiting the generality of any of the park rules and regulations, any activities not covered hereby shall be subject to a standard of reasonable conduct.

1.11 No Liability

Neither management nor owner shall be liable for any damage or injury to anyone or anything that may occur as a result of enforcement or failure to enforce these park rules and regulations.

1.12 Nonwaiver

Failure to enforce these park rules and regulations on any occasion shall not be construed as a waiver and shall in no way affect Management's right to subsequently enforce these park rules and regulations.

1.13 Lifeguards

Neither owner nor Management will be responsible for providing lifeguard services.

2.0 REGULATED ACTIVITIES

The following activities are allowed only in designated areas indicated by appropriate signage:

2.1 Picnicking

Picnicking or any outing with food provided by members of the group; provided, however, that a permit is obtained when required pursuant to Section 5 herein.

2.2 Fires

All fires (i) shall be confined in barbeque pits designated and provided by Management; (ii) shall not be allowed to burn in a manner that may threaten surrounding shrubs, grass, trees, or other combustible matter, or endanger structures that could be burned, scorched or damaged; (iii) when no longer needed, shall be completely extinguished and coals shall be deposited in designated ash disposal pits provided by Management; (iv) shall not be left unattended.

2.3 Parking

All parking of motor or other vehicles shall only be in designate Park parking areas provided, however, that Management may direct persons utilizing the park through the issuance of a permit as set forth in Section 5 hereof, to park in areas other than those specifically designated for public parking. In the event of an infraction of this rule, violators shall be subject to expulsion and penalties set forth in Section 4 herein below, and Management shall be entitled to have the offending vehicle towed to the holding area of a towing service and to charge the owner or driver of the vehicle the full amount of the towing cost.

2.4 Access

All vehicular and pedestrian ingress to and egress from the park shall be confined to access ways that have been designated for such purposes; provided, however, that Management may direct persons utilizing portions of the park through the issuance of a permit as set forth in Section 5 hereof, to utilize access ways other than those specifically designated for public use.

3.0 PROHIBITED ACTIVITIES

The following activities are prohibited in the park:

3.1 Alcoholic Beverages

Possessing or drinking any alcoholic beverage, except in connection with public gatherings or special events for which permits have been issued in accordance with Section 5, hereinbelow.

3.2 Illegal Drugs

Possessing or using narcotics, controlled substances, or any illegal drug.

3.3 Disorderly Conduct

Disorderly conduct, including but not limited to, fighting, violent or tumultuous behavior, making unreasonable noise or offensive or abusive or threatening utterances or gestures.

3.4 Audio Devices

Operating or using any electrical or battery powered audio device, including but not limited to, radios, tape recorders, television sets, amplified musical instruments, compact disc players, and noise producing devices such as electrical generating plants, or other equipment driven by motors or engines in a manner and at times that create excessive noise or annoyance to park users or others outside the park (see Section 1.5, Noise, hereof).

3.5 Public Address Systems

Operating or using public address systems, whether fixed or portable, or vehicle mounted, on land, water or roadways, except when the use or operation is in connection with public gatherings or special events for which permits have been issued by Management in accordance with Section 5 hereinbelow, or when the use is in conjunction with emergency or rescue operations.

3.6 Communication Equipment

Installing or operating aerials, antennas, transmitting or radio, telephone, television or other communication equipment (except hand held portable devices, cellular phones or equipment within vehicles).

3.7 Camping

Camping, unless specifically allowed by Management through the issuance of a permit, as set forth in Section 5 hereof. Camping Permits will provide for a maximum of three (3) nights and successive permits for a particular site must be separated by a minimum of one night.

3.8 Recreational Trailers

Using recreational trailers or other camper units.

3.9 Closing Hours

Remaining in the park between the closing hours of 15 minutes after sunset through 7:00 a.m. unless specifically permitted by Management through the issuance of a permit, as set forth in Section 5 hereof.

3.10 Animals

Bringing animals into the park, except properly leashed seeing-eye dogs accompanied by their masters shall be permitted. Running at large, herding, driving across, raising or grazing animals.

3.11 Natural Resources

3.11.1 Molesting, disturbing, injuring, trapping, taking, catching, possessing, poisoning, introducing or killing any wild bird or animal or disturbing the habitat of any such bird or animal.

3.11.2 Gathering or collecting any natural product, including, but not limited to, sea shells, fruits, berries, flowers, seeds, pine cones, driftwood and pebbles for commercial uses or purposes.

3.11.3 Destroying, digging, removing, or possessing any tree, shrub, or plant of any kind.

3.11.4 Destroying, disturbing, or mutilating any geological feature or digging or removing sand, earth, gravel, mineral, rock fossil, coral or any other substance.

3.12 Bicycles, Skateboards, Roller Skates, Roller Blades

Riding bicycles, skateboards, or roller skates/blades.

3.13 Horseback Riding

Riding horses or any other animal.

3.14 Motorized Vehicles

- 3.14.1 Except on park access roads and designated parking areas, driving or riding vehicles or motorized bikes, including, but not limited to, automobiles, trucks, vans, motorcycles, motor bikes, mopeds, scooters, ATVs, motorized go-carts or trail bikes, and in no event unlicensed vehicles other than those vehicles operated by the park management and used for park operation, management or maintenance.
- 3.14.2 Leaving motor vehicles or other property unattended so as to interfere with the safe and orderly management and use of the park.
- 3.14.3 Abandoning motor vehicles (as defined in §290-1 of the Hawai'i Revised Statutes, as amended) or other property (as defined in §171-1 of the Hawai'i Revised statutes, as amended).
- 3.14.4 Operation of motorized hobby crafts such as aircraft, automobiles, and similar motorized vehicles.

3.15 Gambling

Gambling, betting, or wagering money on the outcome of a game or contest or other event.

3.16 Aircraft

- 3.16.1 Landing or launching of aircraft, including, but not limited to, airplanes, airships, balloons, gliders, hang gliders, helicopters, parachutes, dirigibles, and other similar means of conveyance.
- 3.16.2 Kite flying

3.17 Metal Detectors

Possessing or using a mineral or metal detector, magnetometer or other metal detecting device.

3.18 Agricultural Activities

Cultivating soil, planting or producing crops, farming, or any other agricultural activity; provided, however, that Management may conduct landscaping or other ongoing maintenance, cultural, demonstration or educational activities.

3.19 Nudity

Nudity, which shall be defined as the uncovered post-pubertal human genitals, pubic areas, or the nipples or areola of post-pubertal human female breasts.

3.20 Golf

Golfing, hitting or driving golf balls.

3.21 Firearms

Possessing or using firearms, including, but not limited to, bow and arrows, crossbows, firearms, pellet or BB guns, power heads, bang sticks, slingshots, or other implements designed to discharge missiles.

3.22 Soliciting

Soliciting, canvassing, begging or peddling of any kind, including, but not limited to, displaying merchandise, demanding or requesting gifts, money or services, or dispensing information.

3.23 Rubbish

3.23.1 Bringing, carrying or transporting garbage, trash, rubbish, refuse or waste from outside the park for deposit or dumping in the park.

3.23.2 Burning of trash.

3.23.3 Draining or dumping garbage, trash, rubbish, refuse or waste other than in receptacles provided for these purposes.

3.23.4 Littering or scattering rubbish or other materials in places other than trash receptacles provided in the park.

3.24 Electrical Equipment

Using portable motor driven electrical generating plants, pumps, compressors, or other portable motor driven machines, except through the issuance of a permit by Management.

3.25 Explosives

Possessing or using explosives, including, but not limited to, fireworks and firecrackers.

3.26 Lodging

Establishing a temporary or permanent lodging or residence other than that which may be established by Management and permitted by the State and County for the purpose of providing a caretakers' residence.

3.27 Boats

3.27.1 Transporting, bringing or carrying boats (including sailboats, powerboats, canoes, kayaks, jet skis, and/or motorized rafts), or any other aquatic vehicles onto, into or through the park.

3.27.2 Moving, tying, storing, repairing or cleaning any boat, canoe, raft or other vessel, except through the issuance of a permit by Management.

3.28 Water Pollution/Contamination

Polluting or contaminating any water used for drinking purposes, natural body of water, pools, ponds or the ocean.

3.29 Toilet Facilities

Uninating or defecating other than in the designated toilet facilities provided at the park.

3.30 Archaeological/Historical Resources

3.30.1 Appropriating, damaging, removing, excavating, disfiguring, defacing or destroying objects of antiquity, prehistoric ruins and monuments; provided, however, that Management may permit, with the concurrence of the State Department of Land and Natural Resources, qualified persons or institutions to examine ruins, reestablish archaeological sites, excavate archaeological sites or gather objects of antiquity for safe keeping.

3.30.2 Destroying, defacing, or removal of any natural or historical feature or natural or historical resource.

3.31 Monuments

Installing any monument, memorial, tablet, or other commemorative installation.

3.32 Vandalism

Intentionally or wantonly destroying, injuring, defacing, removing, disturbing or possessing in any manner any geologic feature, objects of antiquity, prehistoric ruins, monuments or feature, public or private building, sign, equipment, monument, marker or other structure.

4.0 PENALTIES

4.1 Violation of Rules

Any user or potential user of the park shall be subject to immediate exclusion and/or expulsion from the park if, in Management's sole determination:

- 4.1.1 A violation of the rules and regulations set forth herein has occurred.
- 4.1.2 Such action is necessary to enforce any provision in the rules and regulations set forth in this document.
- 4.1.3 Said user or potential user has failed to obey orders of park management personnel and/or orders of Federal, State or County law enforcement officers.

4.2 Penalties

Any violation of these park rules and regulations shall subject the violator to:

- 4.2.1 Civil and/or criminal liability for damages to public or private property and/or confiscation by appropriate governmental authorities of any prohibited materials, machines, tools, vehicles or equipment.
- 4.2.2 Permanent prohibition from future entry into and use of the park facilities.

5.0 PERMITS

5.1 Classification of Permits

Permits shall be required for the following uses and activities in the manner specified herein below:

5.1.1 Group Use Permit:

Any group larger than twenty-five members that desires to picnic in the park shall be required to obtain a Group Use Permit from Management.

5.1.2 Special Use Permit:

Special uses shall be permitted only with a Special Use Permit issued by Management. Special uses are group functions, other than group picnics, considered compatible with the functions and purposes of each individual area, facility or unit of the park, including, but not limited to, assemblies, celebrations, festivals, gatherings, meetings, pageants, parades, public expressions of views, rallies, shows, weddings, filming or photography sessions and other community events or activities.

5.1.2.1 Before any motion picture film, video recording, television production, or sound track is made that involves the use of professional casts, models, settings, or crews, by any person other than bona fide newsreel or news television personnel, a Special Use Permit must be obtained from Management that shall be subject to terms and conditions set by Management.

5.1.2.2 Before any still photograph may be taken by a commercial photographer for commercial purposes, a special use permit must be obtained from Management that shall be subject to terms and conditions set by Management.

5.1.3 **Camping Permit:**

All persons, groups, organizations, or associations desiring to camp within the park area shall obtain a Camping Permit from the Management authorizing the use of specific camping areas. However, the following provisions shall apply to camping:

5.1.3.1 Use of recreational trailers is prohibited within the park area.

5.1.3.2 The Management shall establish the location and term of the camping activity.

5.1.3.3 Installation or construction of permanent camping facilities is prohibited except by the Management with authorization from the Board of Land and Natural Resources.

5.1.3.4 Digging or leveling of the ground at any campsite is prohibited.

5.1.3.5 Camping equipment shall be completely removed and the campsite cleaned before departure from the site.

5.1.4 Night Fishing Permit:

Access to the park after closing hours (after 15 minutes post sunset) for purposes of night fishing and/or spearing shall be permitted only with a Night Fishing Permit issued by Management.

5.2 Authority to Use Permits

Management shall have the exclusive authority to issue Group Use, Special Use, Camping, and Night Fishing Permits ("Permits"). Management shall be entitled to impose conditions upon the issuance of Permits and/or may impose an administrative fee for requested Permits. The following conditions shall apply to all Permits:

- 5.2.1 Permits shall be issued on a first come, first serve basis.
- 5.2.2 All responsible persons twenty-one years of age or older shall be eligible to secure Permits.
- 5.2.3 Permits shall be obtained by submitting an application in person or by mail to Management.
- 5.2.4 Requests for Group Use Permits and Special Use Permits shall be submitted to Management a maximum of thirty (30) days before the date of the use being requested and shall include the date, time, duration, nature and place of the proposed event, an estimate of the number of persons expected to attend, and a statement of equipment and facilities to be used in connection therewith. If the event is for the purpose of raising funds, a statement of how the profits will be used is required. Requests for Night Fishing Permits shall include the same information, but shall be submitted to Management a minimum of five (5) working days and a maximum of thirty (30) days before the date of the use being requested.

Requests for Camping Permits shall include the same information, and shall be submitted to Management a minimum of five (5) working days and a maximum of thirty (30) days prior to the date of the use being requested.

- 5.2.5 Management shall have fifteen (15) days from receipt of an application for a Group Use Permit or Special Use Permit, five (5) days from receipt of an application for a Camping Permit, and three (3) days from receipt of an application for a Night Fishing Permit, to either grant or deny the application.
- 5.2.6 Permits shall not be transferrable.
- 5.2.7 Persons or organizations to whom permits are issued (the "permittee") are bound by the Permit conditions stipulated on or attached to the permit, and any applicable Federal, State and County laws, ordinances and rules and regulations.
- 5.2.8 All permittees shall, upon request, show the Permit to any law enforcement officer, security personnel, or employee of Management.
- 5.2.9 Other procedures, terms and conditions deemed necessary by Management may be adopted by Management in order to carry out the provisions of this section, or any applicable Federal, State and County laws, ordinances and rules and regulations.
- 5.2.10 As a condition of granting a Permit by Management, the permittee shall agree to hold the owner and Management harmless and indemnify Oceanside 1250 from any liability or damages resulting from the use of the park by the permittee or by any of the permittee's guests. Each Permit shall specifically provide the following:

"The permittee shall indemnify, defend and hold harmless owner and Management, its officers, directors, stockholders, attorneys, agents, servants, representatives, employees, corporate affiliates, predecessors and successors interest (collectively, the "indemnitees") from and against any and all past, present and future claims, actions, causes of action, suits at law or inequity, liabilities, demands, losses, decrees, judgements, awards, liens, costs, fees, damages, expenses (including attorneys' fees) and compensation of whatsoever kind or nature, resulting from, arising out of, connected with, or traceable either directly or indirectly to any and all matters relating to the use of the park by the permittee or by an of the permittee's guests. The permittee shall reimburse indemnitees or pay over to indemnitees immediately when due all judgements and claims for damages that indemnitees shall pay or become liable to pay by reason of such use of the park by the permittee or by any of the permittee's guests, and will make such payment to indemnitees as soon as indemnitees become liable therefore, whether or not indemnitees shall have paid out such or any part thereof."

- 5.2.11 Permits shall set forth the day and time the permittee shall be allowed to remain in the park.
- 5.2.12 Management may require the permittee at the permittee's own cost, to provide licensed security services, in the interest of public safety and welfare and for the protection of property.
- 5.2.13 Requests for Permits shall each be considered on their own merits, including their effect on the park, facilities, and the public's use and enjoyment thereof.

- 5.2.14 The Permit may contain conditions relating to protection and use of the park area for the purposes for which it is maintained, and reasonable limitations on the size of the group, time and area within which the event is being permitted.
- 5.2.15 The Permit may contain conditions relating to parking and access for the use being permitted.

5.3 Denial of Permit Applications

An application for a Permit may be denied when:

- 5.3.1 The Park or Park facilities are closed or will be closed because of damages, or because of scheduled or ongoing construction, repairs or maintenance activities, dangerous weather conditions; County or State declared emergency or because of other reasons.
- 5.3.2 Natural or civil disturbances occur or threaten to occur, including, but not limited to, tsunamis, floods, earthquakes, storms, riots, and demonstrations.
- 5.3.3 There are inadequate facilities or space to accommodate the needs of the applicant for the permit.
- 5.3.4 The applicant has a prior record of noncompliance with permit conditions or violations of park rules and regulations.
- 5.3.5 The event will present a clear and present danger to public health and safety.
- 5.3.6 A prior permit for the same time and place has been or will be granted.

- 5.3.7 The event will significantly interfere or conflict with the public's general use and enjoyment of the park.
- 5.3.8 The event will threaten, endanger, or disturb natural and historical resources of the park.
- 5.3.9 Applications or requests for permits are not received by Management within the time periods specified in Section 5.2.4 herein.
- 5.3.10 The proposed event includes activities that may be a violation of any Federal, State or County law or ordinance.

5.4 Cancellation of Permit

A Permit may be canceled or terminated at any time without advance notice when:

- 5.4.1 A state of emergency is declared by Management or governmental authorities.
- 5.4.2 Natural or civil disturbances occur or threaten to occur, including, but not limited to, tsunamis, floods, earthquakes, storms, riots, demonstrations and employee strikes.
- 5.4.3 A permittee creates a clear and present danger to public health and safety.
- 5.4.4 A permittee violates permit conditions, provisions of these park rules and regulations, or any Federal, State or County law or ordinances.

Draft Covenants, Conditions and Restrictions

1. Introduction to the Park
 1. Recitals
2. Creation of the Park
 1. Intent
 2. Duration
 3. Governing Documents
3. Concepts and Definitions
4. Association
 1. Purpose
 2. Membership
 3. Voting
 4. Board of Directors
 5. Duties
 6. Approval of Members
 7. Non-Liability of Officers
5. Easements
 1. Blanket Easement
 2. Easements of Encroachment
 3. Easements for Utilities
 4. Easements to Serve Additional Property
 5. Right of Entry
 6. Easements for Maintenance and Enforcement
 7. Rights to Stormwater Runoff, Effluent and Water Reclamation
 8. Easements for Floodwater
 9. Easements for Use of Private Streets
 10. Easements for Tax Exempt Organizations

6. Assessments

1. Budgets and Allocations
2. Reserves
3. Authority to Assess Owners
4. Time of Payment
5. Certificate of Payment
6. Declarant's Option to Fund Deficits
7. Regular Assessments
8. Uniform Assessments
9. Special Assessments
10. Revegetation & Restoration Easements
11. Historic Sites Easements
12. Failure to Assess
13. Exempt Property
14. Capitalization of Property
15. Personal Obligation
16. Lien for Assessments
17. Date of Commencement of Assessment Obligations

7. Insurance

1. Authority to Purchase
2. Association Responsibility
3. Non-Liability of Association, Board and Officers
4. Premiums
5. Claims
6. Benefit

8. Maintenance and Repair

1. Level of Maintenance Required
2. Association Responsibility
3. Responsibility for Repair and Replacement
4. Right of Access
5. Revegetation and Restoration

9. Landscape
 1. General Requirements for Prior Approval
 2. Review
 3. Design Guidelines and Procedures
 4. No Waiver of Future Approvals
 5. Variances
 6. Limitation of Liability
 7. Enforcement
10. Use and Conduct
 1. Framework for Regulation
 2. Rule Making Authority
 3. Owners Acknowledgment
 4. Delegation of Use
 5. Waiver of Use
 6. Enforcement
 7. Modification
11. Expansion/Annexation of the Park
 1. Expansion by Declarant
 2. Expansion by the Association
 3. Additional Covenants and Easements
 4. Effect of Filing Supplemental Declaration
12. Remedies
 1. General Remedies
 2. Agreement to Avoid Litigation
 3. Claims
 4. Mandatory Procedures
 5. Enforcement of Resolution
 6. Legal Action
 7. Limitation on Owner's Liability

Draft Covenants, Conditions and Restrictions

13. Amendment
 1. Amendment of Declaration
 2. Effect of Amendment
 3. Required Approvals
 4. Owner's Right to Amend
 5. Validity and Effective Date of Amendments

14. Rights Reserved to Declarant
 1. Construction of Improvements
 2. Right to Use Common Area
 3. Other Covenants Prohibited
 4. Right to Approve Changes in Park Standards
 5. Use of the Phrase "The Villages at Hokukano"
 6. Right to Transfer or Assign Declarant Rights

15. Protection of Mortgagees
 1. Notices of Action
 2. No Priority
 3. Notice to Association
 4. No Personal Liability

16. Relationships with Other Entities
 1. Relationship with Tax-Exempt Organizations
 2. Cost Sharing with Non-Residential Properties
 3. Conflicts

17. General Provisions
 1. Notices
 2. Captions and Exhibits
 3. Severability

Draft Covenants, Conditions and Restrictions

18. Changes in Common Area
 1. Condemnation
 2. No Partition
 3. Dedication of Common Area

19. General Provisions
 1. Power of Attorney
 2. Gender
 3. Public Dedication
 4. Assignment
 5. Force Majeure
 6. Counterparts

20. Owner's Disclaimer of Representations

WATER QUALITY AND MARINE LIFE MONITORING AND
MITIGATION PLAN - HOKUKANO PROJECT SITE

R.E. Brock

1.1 Introduction

With any coastal development there exists the potential for negative impacts to occur to resident aquatic biota. These may be direct impacts, such as those that occur during coastal construction or they may be more indirect resulting from gradual, long-term disturbances, as may occur with non-point source discharges causing gradual but chronic impacts to the aquatic community. Short-term impacts and potential mitigation measures are often addressed in detail through the EIS process, however, the long-term impacts can be overlooked.

The County of Hawaii, recognizing the potential for long-term negative impacts to the nearshore marine environment resulting from coastal development, has required developers to prepare and initiate monitoring and mitigation programs aimed at averting these potentially chronic impacts. Recently, permit agencies, developers and concerned citizens have come together and are in the process of outlining a protocol to be used in monitoring water quality and marine biota of the West Hawaii coast to insure (1) standardization of methods thus allowing comparison of results across projects and (2) use of the best and most cost effective available technology and techniques to insure the best protection possible for the resources.

This resource management and protection plan has been developed utilizing the information and methodologies in the above draft protocol; these methods are generally accepted in the scientific community at the time this document was written. As techniques and methods improve and become accepted, they will be incorporated into the monitoring and management strategy herein. The implementation of this plan cannot guarantee total resource protection and parties involved in the preparation of this plan shall not be held liable for any problem arising in the future with respect to plan implementation, the resource or to any individual, corporation or other entity.

It is expected that the developer, his assigns or owner/operator(s) will employ only competent, professionally trained personnel to carry out the duties of the monitoring program.

1.2 Objectives

The objectives of the water quality and marine life monitoring and mitigation plan are to meet conditions as may be stipulated in the County of Hawaii SMA permits that would be issued if this project proceeds. Specifically, this plan develops a water quality and marine life monitoring program that should insure the continued viability of the nearshore marine resources and water quality conditions as they presently exist on the Hokuano coastline.

The intent of the program is to avoid and prevent any activity that would result in negative impact to ground and marine water quality as well as to nearshore marine biota. Because the marine waters fronting the Hokuano project site are Class AA waters as defined by the State Department of Health, they are to remain "...in their natural pristine state with an absolute minimum of pollution or alteration of water quality from any human-caused source or action" (Hawaii Administrative Rules, Chapter 11-54-01). Thus the objective of the monitoring program is to insure that these waters are not impacted by the proposed construction and subsequent maintenance of the improvements that the project proposes to develop.

The maintenance of existing marine communities and water quality is a major goal of the program. To meet this goal and the above objectives, three activities must be completed. These activities are (a) acquisition of comprehensive baseline information, (b) carrying out a monitoring program through the period of construction and for a period of five years following completion of construction and (c) having an approved mitigation plan in place to be used if problems arise.

Quantitative baseline studies have been completed for both the water quality characteristics and the marine biota (see companion document). Monitoring will focus on selected chemical and biological parameters as stipulated by the Board of Health and the draft West Hawaii Water Quality and Marine Life Monitoring Protocol document. Water quality parameters to be routinely measured include nitrate nitrogen, ammonia nitrogen, total nitrogen, orthophosphate, total phosphorus, silica, salinity, temperature, pH, oxygen, turbidity as well as the biological characteristics of chlorophyll-a and bacteria (total coliform, fecal coliform, streptococcus). Marine community monitoring will include for fish determinations of the numbers of individuals of each species and estimates of biomass by species, coverage of all exposed macrobenthos (corals, sponges, tunicates, sessile polychaetes, algae, etc.) as well as counts of all diurnally exposed macroinvertebrates. All sampling will be conducted at permanently marked stations as stipulated in the State of Hawaii Depart-

ment of Health Chapter 54 of Title 11 Administrative Rules.

Insecticide and herbicides are monitored on an annual basis in sediments and possibly in the tissues of specific species (as yet to be determined). Sampling will focus on those specific compounds that have been previously used on the project site. Since the project site is undeveloped, baseline information on pesticides in sediments fronting the project site will be developed by use of organochlorine and organophosphorus screens (useful for determining the presence of more than 30 different pesticides).

In general, monitoring of water quality parameters will be carried out on a quarterly basis and the marine life studies will be done twice a year. Monitoring schedules may change depending on the activities occurring (see below). Schedules as provided here should provide timely information regarding any change that may adversely impact the nearshore waters and communities resident to them. Early detection of change afforded by the monitoring program will allow for timely implementation of appropriate mitigation measures to correct the problem(s).

1.3 Monitoring Plan

Following completion of baseline studies, the monitoring program will focus on delineating any change that may occur in measured water quality or marine community parameters. If statistically significant changes are noted, the mitigation plan is implemented.

The monitoring program will use the same methods as employed in the baseline thus all data can be comparatively analyzed. Following the acquisition of baseline information, the monitoring program during construction will monitor water quality parameters on a quarterly basis at a minimum; this schedule may be increased as determined by permit agencies working with the monitoring program personnel. Unless a significant problem is encountered requiring prompt attention, reporting will be annually with a report developed to meet permit agency requirements.

If a degradative problem is discovered through routine monitoring, permit agencies (County of Hawaii, Department of Land and Natural Resources, Department of Health, US Corps of Engineers, National Marine Fisheries Service and the US Fish and Wildlife Service) will be notified and corrective actions implemented. Degradative problems that will trigger notification of permit agencies and prompt corrective action include (1) the finding of any herbicide or insecticide used on the premises in nearshore marine waters, (2) a statistically significant increase (over

baseline data) of inorganic nutrient concentrations in nearshore marine waters, (3) a statistically significant decline in the quantitative measures of dominant marine species (such as coral coverage) that cannot be unequivocally related to natural events such as storms, or (4) any other change in the nearshore marine communities fronting the Hokuano project site that in the professional opinion of the monitoring program personnel warrants such notification. Notification will be made within 48 hours from the time of first detection.

Notification of a problem to the developer and/or subsequent owner/operator(s) as well as permit agencies will trigger appropriate corrective measures. The cost of any corrective action(s) will be borne by the developer, his assigns and/or the owner/operator(s).

As stated previously, only scientifically accepted methods for sampling and reporting will be used as now given in the draft West Hawaii Water Quality and Marine Life Monitoring Protocol; these may be subject to change as required by the County of Hawaii and other permit agencies. The environmental monitor will have the authority to modify techniques and protocols to meet changing resource protection needs. Any change to the present program and protocol must be approved by the Planning Director, County of Hawaii prior to implementation.

2.3.a Phases in the Monitoring Program

The water quality and marine life monitoring and mitigation plan will be undertaken in three phases that are related to the construction activities of the development. These are detailed below:

Preconstruction Phase

During the preconstruction phase which is in effect until commencement of construction, baseline information is assembled. The demarcation of a quantitative baseline allows one to identify impacts or measure change that may subsequently occur with development. The first step in developing the baseline information has been accomplished (see companion document).

During Construction Phase

The developer will employ management practices as to avoid impacts to the quality of the groundwater or biota. Temporary settlement basins will be used where needed to reduce the possibility of runoff occurring as during a storm event. Permanent drainage systems will be developed to maximize percolation and

minimize stormwater runoff to the ocean.

During construction, water quality monitoring will continue at a minimum quarterly schedule and the marine life monitoring will be semiannual; this schedule may be increased if deemed necessary. It is probable that water quality monitoring could be increased to a monthly monitoring (for specific criteria) and the monitoring of marine communities may remain at on a semiannual schedule. It is expected that pesticide sampling will remain on an annual schedule. The rationale for this approach is related to the findings to date on coastal development and impacts to aquatic communities on the West Hawaii coast. As noted in the companion baseline document, data from the large-scale, long-term development at Waikoloa suggests that the first detectable changes to occur are with changes in the chemistry of the groundwater. These changes are apparent well in advance of any change in the biota; thus an appropriate strategy in monitoring during construction is to focus first on statistically significant change in chemical parameters. If changes in water chemistry are noted, a search for quantitative change in the aquatic biota is made. The methods used in the monitoring will be identical to those used in the baseline studies. If discernible impacts are evident, the mitigation plan is put into effect (see Section 1.4).

Post Construction

Following the termination of construction, the level of monitoring will be reduced to a quarterly sampling effort for water quality parameters and semiannually for marine communities. Pesticide sampling will continue on an annual cycle. All sampling should continue for a period of five years following the termination of all construction in the area within 1km of the shoreline. At the end of five years, the program will be reviewed by the permit agencies and a determination made as to the scale and frequency at which the program should continue. The goal of the post construction monitoring is to insure that no long-term change(s) in water quality and marine communities occur that are attributable to the development.

Reporting

All monitoring activities will be presented in an annual report to be submitted to interested permit agencies (Hawaii County Planning Department, Department of Health, Department of Land and Natural Resources, US Corps of Engineers, National Marine Fisheries Service and the US. Fish and Wildlife Service). The frequency of reporting will be modified only if a change in

water quality or biota is noted as described in Section 1.3 and corrective measures are implemented. Under those circumstances, reporting may be variable, occurring on an "as need" basis (probably no greater than monthly). Reports will be written with as much statistical and/or quantitative interpretation as is possible with the extant data. Reports will be made available to any interest group, county, state or federal agency wishing to develop a regional or comprehensive database.

1.4 Mitigation Plan

If significant change occurs in water quality parameters and/or marine biota offshore of the project site, the mitigation plan would be implemented. The objective of this plan is to reverse detrimental impacts to aquatic communities; as discussed above, negative impacts to marine communities will probably be mediated through changes in water quality. Thus the mitigation plan focuses first on reversing detrimental water quality characteristics if problems have arisen. The monitoring program will identify the problem (using comparative analysis of baseline information); the mitigation plan will attempt to reverse the problem and subsequently, the monitoring program will determine if the mitigation plan has been successful. If not, the process is reiterated. Monitoring schedules during the process of mitigation are expected to be increased until the problem(s) is solved. This approach has been successfully used in the Waikoloa Anchialine Pond Preserve Program.

During the construction phase, the water quality monitoring will be on a quarterly schedule at a minimum; this level of effort will continue over into the post construction phase. Biological resource monitoring will be on a semiannual basis. If a problem is encountered which triggers a mitigative action, monitoring will be increased to reflect a level consistent with understanding the changes occurring. The costs of these increased efforts will be borne by the developer, his assigns or the owner/operator(s). The steps to be followed in this plan include the identification of the problem, locating the source of the problem, and lastly, halting or modifying the activity at the source to alleviate the problem. The monitoring program will determine if the effort has been successful.

A key to success in the mitigation plan lies with the cooperation of all parties concerned; personnel in the monitoring and management program must cooperate with the construction and later the grounds and maintenance personnel. This is particularly true for problems mediated by change in inorganic nutrient levels in the groundwater. A close working relationship between the monitoring program and construction and/or maintenance personnel pro-

vides the ingredients for a rapid response to environmental problems as they arise. Rapid response serves to protect the environmental integrity of the site and nearshore waters fronting the project. Responsibility for the success of the mitigation program must ultimately lie with the developer and this responsibility should be included in the covenants if ownership changes. Similarly, costs incurred in any mitigative action must be borne by the developer.

Some change to marine communities is anticipated with the development of the Hokukano parcel. Today access is limited and the structure (i.e., species richness, biomass, etc.) of the nearshore fish communities reflect that. Fishing pressure in the area is presently light but will increase with easy public access. The cause and effect relationship between exploitation and condition of the resource is difficult to quantitatively determine but is assumed to occur. Qualitatively these changes have been encountered at numerous areas of the West Hawaii coast (Brock, personal observations); they have not been linked with changes in the groundwater chemistry but rather with the ease of access and thus increased resource exploitation. Because the monitoring program is quantitatively assessing both groundwater characteristics as well as fish community structure, the impact of exploitation may be quantitatively divisible in the dataset.

1.5 Funding

The cost of water quality and marine life monitoring program will be carried by the developer, his assigns or owner/operator(s). These costs shall include but not limited to those associated with routine monitoring and reporting as well as providing funds for mitigative action on an "as need" basis. All monies shall be provided to the monitoring program on a timely basis such that the sampling schedule of the program is not jeopardized.

Exhibit C



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

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

NOV 22 2000

Ref.:PB:EAH

File No.:CDUA HA-2977B

Mr. Richard Frye, Vice President
1250 Oceanside Partners
78-6831 Alii Dr., Suite K-15
Kailua-Kona, HI 96740

Dear Mr. Frye,

Subject: Hokulia Shoreline Park – Conservation District Use Application (CDUA) No. HA-2977 and Management Plan for the Set Aside of State Land, and an Approximately 157 Acre, Publicly Accessible, Private Shoreline Park, Landscaping, Trail and Related Improvements to be Implemented Over Fifteen Years at North and South Kona, Island of Hawaii

I am pleased to inform you that on November 17, 2000, the Board of Land and Natural Resources (Board) approved your CDUA for the Hokulia Shoreline Park at North and South Kona, Island of Hawaii, TMKs (3)7-9-12:3 and (3)8-1-04:3, subject to the following conditions provided that all of the conditions applicable to state lands shall be subject to the applicant obtaining a lease from the state:

1. The applicant shall comply with all applicable statutes, ordinances, rules, and regulations of the federal, state, and county governments, and applicable parts of Chapter 13-5, Hawaii Administrative Rules (HAR), including the standard conditions listed in 13-5-42, HAR;
2. The applicant, its successors and assigns, shall indemnify and hold the State of Hawaii harmless from and against any loss, liability, claim, or demand for property damage, personal injury, and death arising out of any act or omission of the applicant, its successors, assigns, officers, employees, contractors, and agents under this permit or relating to or connected with the granting of this permit;
3. The applicant shall comply with all applicable Department of Health administrative rules. The waste water from restrooms shall be handled by the Hokulia Waste Water Treatment Plant. Except during the construction period, the use of portable wastewater systems, such as porta-potties, vaults or chemical toilets, shall not be acceptable;

4. The applicant shall provide documentation (e.g. book and page or document number) that this permit approval has been placed in recordable form as a part of the deed instrument of the legal lot of record, prior to submission for approval of subsequent construction plans;
5. Before proceeding with any work authorized by the department or the board, the applicant shall submit four copies of the construction plans and specifications to the chairperson or his authorized representative for approval for consistency with the conditions of the permit and the declarations set forth in the permit application. Three of the copies will be returned to the applicant. Plan approval by the chairperson does not constitute approval required from other agencies. Erosion, polluted runoff control, and revegetation landscaping plans and descriptions shall be approved prior to any clearing of the land or prior to other park work. This plan approval shall be in addition to and separate from preservation plan approval. Approval may be sought for relevant portions of the park when needed or required;
6. Any work or construction to be done on the land shall be initiated within one year of the approval of such use, in accordance with construction plans that have been signed by the Chairperson, and shall continue indefinitely pursuant to the approved management plan. The one year period shall not commence until the other approvals as set forth in conditions no. 5, 18 and 19 are obtained. Changes to the approved use shall require additional Conservation District Use Application. Any work or construction to be done on the land in accordance with construction plans that have been signed by the Chairperson, and unless otherwise authorized, shall be completed within fifteen (15) years of the approval of such use. The applicant shall notify the department in writing when work is initiated and when it is completed;
7. The applicant understands and agrees that the permit does not convey any vested rights or exclusive privilege;
8. In issuing the permit, the department and board have relied on the information and data which the applicant has provided in connection with the permit application. If, subsequent to the issuance of the permit such information and data prove to be false, incomplete, or inaccurate, this permit may be modified, suspended, or revoked, in whole or in part, and the department may, in addition, institute appropriate legal proceedings;
9. When provided or required, potable water supply and sanitation facilities shall have the approval of the department of health and the board of water supply;
10. Provisions for access, parking, drainage, fire protection, safety, signs, lighting, and changes on the landscape shall be provided;
11. Where any interference, nuisance, or harm may be caused, or hazard established by the use, the applicant shall be required to take measures to minimize or eliminate the

interference, nuisance, harm, or hazard;

12. Obstruction of public roads, trails, and pathways shall be minimized. If obstruction is unavoidable, the applicant shall provide roads, trails, or pathways acceptable to the department. The Na Ala Hele program shall approve/disapprove any changes or disposition of the alignment of the Cart Road, Government Road and the Coastal Trail;
13. During construction, appropriate mitigation measures shall be implemented to minimize impacts to off-site roadways, utilities, and public facilities;
14. Cleared areas shall be revegetated as soon as possible and within thirty days unless otherwise provided for in a plan on file with and approved by the department;
15. Use of the area shall conform with the program of the appropriate soil and water conservation district or plan approved by and on file with the department, where applicable;
16. The applicant shall provide access to the shoreline park to departmental conservation enforcement officers as determined by the Division of Conservation and Resource Enforcement;
17. All signs incorporated in any preservation plan and concern fishing or trail use shall be reviewed by DOCARE or the department's Na Ala Hele program prior to any Historic Preservation Division approval. Any park signs not included in any preservation plan approved by the Historic Preservation Division shall be subject to site plan approval;
18. The 9.42 acre Hokukano Village state land parcel at TMK (3)7-9-12:3 shall be set aside to the Department of Land and Natural Resources, Historic Preservation Division for historic park use or otherwise acquired by the applicant. The applicant, his successors and assigns shall obtain and maintain a lease or otherwise acquire, for park purposes, the use of this state land parcel;
19. The applicant shall complete an acceptable preservation plan for all of the sites in the proposed shoreline park, including the state owned parcel. The preservation plan may be done in phases. The plan should contain long-term preservation measures for all of the sites, landscaping plans for all sites, and signage, etc., for sites selected for public interpretation. No ground alteration or interpretive development (e.g. trails) should take place within the proposed shoreline park until the preservation plan, for that

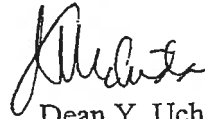
area, has been accepted. The Historic Preservation Division shall verify in writing to the County when the preservation plan is completed prior to ground alteration or interpretive development. The preservation plan shall be implemented prior to the opening of the park, however, the interpretive plan may be implemented by the applicant in phases;

20. The applicant's quarterly water quality monitoring reports shall be submitted to the department for review;
21. The applicant shall not prohibit pedestrian access to the park for the purposes of engaging in traditional and customary practices and shall not require any permit for such activity;
22. That walls shall be developed within the conservation district only in accordance with an approved preservation plan, approved burial treatment plan or an erosion and public safety plan approved by the Chairperson;
23. That the applicant may implement public safety and erosion control measures, in addition to the requirements of condition number 5, pursuant to an erosion and public safety plan approved by the Chairperson only;
24. Other terms and conditions as prescribed by the Chairperson;
25. Failure to comply with any of these conditions shall render this permit void; and
26. The applicant shall provide for public access to the park at no charge, provided that reasonable restrictions may be imposed on such access to protect the park from overuse and activities prohibited by law. Public access to the park shall be available from dawn to dusk; provided that, after dusk and before dawn, access shall be available on a controlled basis and allowed by permit unless otherwise provided for in this approval.

Please acknowledge receipt of this permit and acceptance of the above conditions by signing in the space provided below and returning a copy to us within thirty (30) days.

Should you have any questions on this matter please contact our Planning Branch at (808) 587-0380.

Aloha,



Dean Y. Uchida, Administrator

Receipt acknowledged:


Applicant Authorized Signature

8 Nov 2000
Date

c: Hawaii Board Member
DOCARE/SP/HPD/DAR/Na Ala Hele/LD(HDLO)
DOH/OEQC/OHA
County of Hawaii, Department of Planning
Mr. James Leonard, PBR Hawaii, 101 Aupuni St., Suite 310, Hilo, HI 96720

DRAFT
9/20/2017

LAND COURT

REGULAR SYSTEM

AFTER RECORDATION: RETURN BY MAIL () PICK UP ()

David Wong
Carlsmith Ball LLP
2100 ASB Tower, 1001 Bishop Street
Honolulu, HI 96813

TITLE OF DOCUMENT:

MEMORANDUM OF AGREEMENT
(HOKUKANO VILLAGE HISTORIC SITE)

PARTIES TO DOCUMENT:

**STATE OF HAWAI'I, DEPARTMENT OF LAND AND NATURAL RESOURCES,
STATE HISTORIC PRESERVATION DIVISION**

601 Kamokila Blvd., Rm. 555
Kapolei, Hawaii 96707

1250 OCEANSIDE, LLC

2260 Douglas Boulevard, Suite 240
Roseville, CA 95661

HOKULI'A PARK AND CULTURAL SITES ASSOCIATION, INC.

P.O. Box 247
Kealahou, HI 96750-0247

(This document consists of ____ pages)

Tax Map Key: (3) 7-9-012:003

This Memorandum of Agreement ("Agreement"), is made and entered into on _____, 2016, by and among 1250 Oceanside, LLC, a Delaware limited liability company, successor (by conversion) to 1250 Oceanside Partners, a Hawai'i limited partnership ("Oceanside"), Hokuli'a Park and Cultural Sites Association, Inc., a Hawai'i nonprofit corporation ("PCSA") and the State of Hawai'i, Board of Land and Natural Resources ("Board"), by its Department of Land and Natural Resources, State Historic Preservation Division ("SHPD").

WITNESSETH:

WHEREAS, pursuant to section 6E-3, Hawaii Revised Statutes ("HRS"), the SHPD is a division within the State of Hawai'i Department of Land and Natural Resources ("DLNR"), charged with the responsibility of control and management of historic properties located on lands or under waters owned or controlled by the State; and

WHEREAS, the SHPD is also charged with the responsibility to engage in a comprehensive program of historic preservation to conduct activities, plans and programs that will preserve, restore and maintain historic and cultural property in a spirit of stewardship for future generations; and

WHEREAS, the State of Hawai'i owns real property sometimes referred to as the "Hokukano Village Historic Site," situated within Hokukano 1st Ahupua'a, North Kona, Island and County of Hawai'i, State of Hawai'i, Tax Map Key No. (3) 7-9-012:003 and more fully described in "Exhibit A" attached hereto and made a part hereof (the "Property"); and

WHEREAS, the Hokukano Village Historic Site is of public value for cultural, educational and recreational purposes, due to its location and cultural history; and

WHEREAS, Oceanside owns real property that borders the Property to the north and to the south, described as TMK Nos. (3) 8-1-004:003 and :079 (the "Shoreline Park Property"); and

WHEREAS, Oceanside is developing the Shoreline Park Property into a publicly accessible shoreline park, sometimes referred to as the "Hokuli'a Shoreline Park;" and

WHEREAS, the Shoreline Park Property is located in the State Land Use Conservation District; and

WHEREAS, on November 22, 2000, the Board of Land and Natural Resources approved Oceanside's Conservation District Use Application ("CDUA") for the Hokuli'a Shoreline Park; and

WHEREAS, the CDUA contemplated that the Property would be set aside to the SHPD for historic park use in conjunction with the Hokuli'a Shoreline Park; and

WHEREAS, on May 10, 2002, the Board of Land and Natural Resources approved the set aside of the Property to the SHPD; and

WHEREAS, as contemplated by the CDUA, Oceanside commissioned and paid for an archaeological inventory survey (“AIS”) for the Property and the AIS, prepared by Davis et al. (2007), was accepted by the SHPD on April 18, 2007 (LOG NO. 2008.1318, DOC NO. 0804MD25); and

WHEREAS, the SHPD determined that the 16 historic site complexes recorded within the AIS for the Property are considered to be eligible for the Hawai‘i Register of Historic Places under multiple significance criteria, and recommended all 16 site complexes for preservation; and

WHEREAS, there has been no historic preservation plan prepared to meet the standards of Hawai‘i Administrative Rules (HAR) Chapter 13-277 for the 16 historic properties located on the Property; and

WHEREAS, the Property is currently covered in dense invasive vegetation that not only prohibits public access and impairs the ability of archaeologists to create an adequate historic preservation plan, but also poses a direct threat to the integrity and condition of the historic properties located on Property; and

WHEREAS, the clearing, removal, maintenance and suppression of invasive vegetation on the Property is in the public interest and will help to maintain the integrity and condition of the historic properties located on the Property; and

WHEREAS, Oceanside has agreed to prepare a historic preservation plan and implement the limited responsibilities that may be assigned to Oceanside in the historic preservation plan, including the initial clearing and removal of invasive vegetation and initial design and construction of the Hokuli‘a Shoreline Park improvements, such as but not limited to trails, picnic benches, rest facilities, trash receptacles and signage to be located on the Property, pursuant to the Shoreline Park Management and Public Access Plan for the Hokuli‘a Shoreline Park (PBR Hawaii, November 1998) a copy of which is attached hereto as Exhibit “B,” as the same may be amended from time to time with the approval of the requisite governmental authorities (the “Shoreline Park Plan”); and

WHEREAS, Oceanside will be transferring ownership of the Shoreline Park Property to PCSA; and

WHEREAS, PCSA is responsible for the management, operation and maintenance of the Hokuli‘a Shoreline Park; and

WHEREAS, PCSA’s responsibilities with respect to the Hokuli‘a Shoreline Park will include the ongoing suppression of invasive vegetation and maintenance of improvements on the Property and the management of public access to the Property for cultural, educational, and recreational use; and

WHEREAS, SHPD, Oceanside and PCSA desire to work together to protect the historic sites on the Property and preserve the Property for public educational, cultural and recreational use as part of the Hokuli‘a Shoreline Park;

WHEREAS, condition 18 of the CDUA provides that Oceanside or its successors or assigns shall obtain and maintain a lease or otherwise acquire, the use of the Property for park purposes; and

WHEREAS, the SHPD believes that it is in the best interest of the public that a historic preservation plan for the Property be prepared, that invasive vegetation be cleared, removed and suppressed, recreational improvements be constructed and maintained, and that the Property be managed so as to provide public access to the Property for cultural, educational, and recreational use as part of the Hokuli'a Shoreline Park, consistent with the Shoreline Park Plan and Oceanside and PCSA are willing to undertake these responsibilities and commitments on the terms and conditions set forth below;

NOW, THEREFORE, it is mutually agreed by the parties as follows:

- A. **Right of Entry.** The SHPD grants to Oceanside, PCSA and their respective agents, employees and contractors and permitted assigns, a license and right of entry to enter upon the Property, to manage the Property and perform and engage in the activities described in this Agreement.
- B. **Oceanside and PCSA Responsibilities:**
 - 1. **Clearing and Maintenance.**
 - a. **Initial Clearing.** Oceanside shall have the right to clear and remove invasive vegetation from the Property, provided that Oceanside shall have the discretion to determine where and when the initial vegetation clearing and removal activities will occur from time to time. Oceanside shall consult with the SHPD prior to any clearing or removal activities that may affect known historic properties, such as, but not limited to, walls or terraces.
 - b. **Ongoing Maintenance.** Following the initial vegetation clearing by Oceanside, PCSA shall be responsible for the ongoing maintenance, removal and suppression of invasive vegetation to prevent regrowth ("vegetation maintenance"), provided that PCSA shall have the discretion to determine where and when the vegetation maintenance activities will occur from time to time. PCSA shall consult with SHPD prior to any maintenance activities that may affect known historic properties, such as, but not limited to, walls or terraces.
 - c. **Reporting.** By March 31 following the end of each year until the initial clearing has been completed, Oceanside will provide the SHPD with a written report of any vegetation clearing completed during the prior year that is not otherwise described in an archaeological monitoring report.
 - d. **Conditions.** All vegetation clearing and maintenance activities shall be in accordance with the conditions established in the Amended Archaeological Monitoring Plan for Vegetation Clearing at Hokuli'a Shoreline Preservation Park (PCSI 2006) which was accepted by SHPD on April 27, 2006, a copy of which is attached hereto as Exhibit "C" and made a part hereof, as the same may be

amended from time to time with the SHPD's written approval. Oceanside and PCSA shall be responsible for obtaining any necessary approvals from the DLNR Office of Conservation and Coastal Lands ("OCCL") before commencing their respective clearing and/or maintenance operations.

2. Historic Preservation Plan. After the initial vegetation clearing has been completed and the historic properties identified in the AIS are visible and accessible, Oceanside shall prepare and submit to SHPD for review and acceptance a historic preservation plan (the "HPP") for the Hokukano Village Historic Site that meets the standards of HAR Chapter 13-277. The HPP shall take into account the Shoreline Park Plan and shall include a description of all planned improvements, such as trails, benches, picnic tables, waste receptacles, recreational improvements and signage to be located on the Property. The use of any trails within the Property shall be limited to pedestrian travel only and equestrian, bicycle and motorized vehicular use shall be prohibited (except for maintenance vehicles and certain wheelchairs for the mobility impaired that may be able to traverse the trail). Except for the trails, signage and other park improvements, neither Oceanside nor PCSA shall be responsible for or obligated to implement any mitigation measures for the historic sites covered by the HPP, except as may be agreed by them in their sole discretion.
3. Following acceptance of the HPP by SHPD, Oceanside shall construct on the Property the trails and other park improvements described in the HPP and install on the Property appropriate signs and displays (collectively "Signage") and PCSA shall make available to the public brochures approved by SHPD as provided in the HPP. The Signage and brochures shall offer information that:
 - a. Incorporates the DLNR logo and identifies DLNR or SHPD jurisdiction over the Property;
 - b. Informs users that public access to the Property is provided through a cooperative agreement between Oceanside, PCSA and the SHPD;
 - c. Warns users and prospective users of the Property about the historic significance of the Property, penalties for impacting historic sites pursuant to HRS §6E-11, and known and inherent risks associated with the Property;
 - d. Advises the public of any restrictions on the use of the Property as may be prescribed by the SHPD and the Shoreline Park Plan, such as access hours, limitation of trail use to pedestrian travel only (other than certain wheelchairs for the mobility impaired that may be able to traverse the trail), and the prohibition of fires and overnight camping;
 - e. Provides a historical background of the Property; and
 - f. Includes a map depicting the Property and describing the locations of trails, interpretive sites and cultural/historical and recreational elements.

4. Subject to SHPD's ownership and control of the Property, PCSA shall manage, maintain and operate the Property as part of the Hokuili`a Shoreline Park in accordance with the Shoreline Park Plan.
 - a. PCSA shall be responsible for the ongoing suppression of invasive vegetation.
 - b. PCSA shall be responsible for the cleanup and removal of all trash and refuse resulting from public use of the Property.
 - c. PCSA shall be responsible for maintenance of the trails, Signage and other park improvements within the Property.
 - d. PCSA shall be responsible for management of public access to the Property.
5. PCSA (or Oceanside, as the case may be), shall notify SHPD by telephone (to be followed in writing), fax or e-mail within two (2) working days of any of the following:
 - a. Oceanside's temporary closure of portions of the Property to public access as may be necessary for safety reasons during its vegetation clearing and removal operations.
 - b. The reporting of hazardous conditions (other than natural conditions such as high surf or conditions inherent to the Property) at the Property to PCSA or Oceanside by the public.
 - c. The discovery by PCSA (or Oceanside) representatives of vandalism or damage to the Property or any signage or historic sites on the Property, or the reporting of any such vandalism or damage to PCSA (or Oceanside) by the public.
 - d. Any injuries to persons or property reported to PCSA (or Oceanside) that may have occurred on the Property.
 - e. PCSA's temporary closure of the Property to public access as may be permitted by the Shoreline Park Plan.
6. Oceanside and PCSA acknowledge that SHPD has the authority to close public access to the Property upon SHPD's assessment that the Property conditions are considered too hazardous and dangerous for continued public access, or for any other management related function.
7. Oceanside and PCSA shall not bring onto or in the Property any "hazardous substances," "hazardous wastes," "extremely hazardous wastes," "hazardous materials," or "toxic substances," as such terms are defined in any federal, state or local laws, ordinances, regulations, rules or governmental guidance documents relating to the protection of human health or the environment, including without limitation, laws relating to releases, discharges or emissions to air, water, land or groundwater, to the use, handling, storage and transportation of such hazardous materials or substances, provided that the foregoing limitation shall not apply to small amounts of fuel or oil related to the operation of

equipment used in vegetation clearing, or removal or any herbicides used for vegetation maintenance or suppression. If any such substances, materials, or wastes are placed in or on the Property, including the subsurface soils or water, by Oceanside, PCSA or their respective employees, contractors, licensees or invitees, Oceanside or PCSA, whichever was responsible, shall at its sole cost and expense remove any such substances, materials, or wastes.

C. SHPD Responsibilities:

1. The SHPD shall work with Oceanside in Oceanside's preparation of the historic preservation plan for the Property and in connection therewith shall assist Oceanside with Oceanside's planning for the design of park improvements, such as trails, within the Property, identification of needed maintenance of the Property and the design and content of the Signage for the Property. The SHPD shall have final approval rights with respect to the design and content of such Signage. The SHPD shall process and review the HPP and provide comments to Oceanside so that the HPP can be accepted within a reasonable time after submission.
2. If requested by Oceanside or PCSA, the SHPD will work with Oceanside and/or PCSA to explore and if feasible implement a public-private partnership with the University of Hawaii and/or mutually acceptable non-profit community stewardship group(s) for the study, preservation and interpretation of historic sites on the Property.
3. The SHPD shall provide technical assistance by monitoring the infrastructure improvements and by periodically inspecting the condition of the Property, and by providing written recommendations to PCSA regarding the maintenance and management of the Property.
4. The SHPD shall maintain ownership and control of the Property and SHPD staff or designated representatives shall inspect the Property as needed. The SHPD shall work with DOCARE to investigate and address any violations by Oceanside, PCSA or the public of rules applicable to the conservation district generally or the Property specifically.

D. Limitation of Liability.

1. Notwithstanding Oceanside's and PCSA's obligations under this Agreement, Oceanside and PCSA shall be entitled to the protection of Hawaii Revised Statutes Chapter 520, including without limitation HRS §520-4(a), or any successor law, which provides in relevant part as follows:
 - (a) Except as specifically recognized by or provided in section 520-6, an owner of land who either directly or indirectly invites or permits without charge any person to use the property for recreational purposes does not:

- (1) Extend any assurance that the premises are safe for any purpose;

(2) Confer upon the person the legal status of an invitee or licensee to whom a duty of care is owed;

(3) Assume responsibility for, or incur liability for, any injury to person or property caused by an act of omission or commission of such persons; and

(4) Assume responsibility for, or incur liability for, any injury to person or persons who enter the premises in response to an injured recreational user.

2. In cases of injuries resulting from the gross negligence of the State, the State will be liable for damages or claims resulting from public use of the Property, except for damages and claims resulting from the willful failure of PCSA, to maintain the Property in the manner approved by SHPD, and/or the willful failure of the PCSA or Oceanside, as applicable, to comply with their duties and responsibilities under this Agreement.
3. This Agreement does not absolve Oceanside from:
 - a. Damages or claims resulting from Oceanside's willful or malicious failure to guard or warn against a dangerous condition, use, or structure which Oceanside knowingly creates or perpetuates;
 - b. Damages or claims resulting from Oceanside's willful or malicious failure to guard or warn against a dangerous activity which Oceanside knowingly pursues or perpetuates; or
 - c. Any responsibility or liability Oceanside may otherwise have under HRS Chapter 6E in the event its activities damage or destroy a historic property.
4. This Agreement does not absolve PCSA from:
 - a. Damages or claims resulting from PCSA's willful or malicious failure to guard or warn against a dangerous condition, use, or structure which PCSA knowingly creates or perpetuates;
 - b. Damages or claims resulting from PCSA's willful or malicious failure to guard or warn against a dangerous activity which PCSA knowingly pursues or perpetuates; or
 - c. Any responsibility or liability PCSA may otherwise have under HRS Chapter 6E in the event its activities damage or destroy a historic property.

E. Miscellaneous

1. Notices. Notices under this Agreement shall be in writing and delivered to the parties to the address set forth below, or to such other address as a party may notify the other party from time to time. Notices shall be deemed to have been given (i) upon hand delivery; (ii) two days after being deposited in the U.S. Mail, postage prepaid, or (iii) upon sending by fax or e-mail with a confirmation copy sent by U.S. Mail:

a. To Oceanside:

1250 Oceanside, LLC
2260 Douglas Boulevard, Suite 240
Roseville, CA 95661

Attn: Duane Grimsman

Fax: (916) 773-4930

E-mail: dgrimsman@sunchase.com

b. To PCSA

Hokuli'a Park and Cultural Sites Association, Inc.
Post Office Box 247
Kealahou, Hawaii 96750-0247

Attn: Greg Ogin

Fax: (808) 930-4120

E-mail: mbutler@hokuliacub.com

c. To SHPD

State of Hawai'i
Department of Land and Natural Resources
State Historic Preservation Division
601 Kamokila Blvd., Rm. 555
Kapolei, Hawai'i 96707

Attn: Administrator

Fax: (808) 692-8020

E-mail: Alan.S.Downer@hawaii.gov

2. Further Cooperation. Each of the parties will execute and deliver such further instruments and will take such other actions as any other party may reasonably request in order to effectuate the purposes of this Agreement and to carry out the terms hereof, including, without limitation, obtaining all necessary or desirable consents and approvals and making all necessary or desirable filings, applications and recordings.

3. Termination of the Agreement.

a. Upon completion of the initial clearing of the Property, acceptance of the HPP by SHPD and installation of the park improvements described in the HPP, Oceanside may terminate this agreement upon written notice to SHPD and PCSA. Upon such notice, Oceanside shall be released from any further obligations and liability under this Agreement, except with respect to obligations or liability with respect to acts or omissions prior to the date of the notice. Termination of this Agreement

as to Oceanside shall not affect PCSA's rights or responsibilities under this Agreement and this Agreement shall continue in full force and effect as between SHPD and PCSA.

- b. This Agreement may be terminated by Oceanside or the SHPD, insofar as such party's future rights and obligations hereunder are concerned, upon six (6) months written notification to the other party, provided that except as provided in paragraph E.3.c below SHPD may not terminate this Agreement until after the park improvements described in the HPP have been installed.
 - c. This Agreement may be terminated upon written notice by SHPD if Oceanside or PCSA fails to comply with its obligations under this Agreement and such failure continues for a period of forty-five (45) days after written notice of such failure is given by SHPD to Oceanside.
- 4. **Incorporation by Reference.** The Exhibits attached hereto are made a part hereof and incorporated by reference.
 - 5. **Entire Agreement.** This writing constitutes the entire agreement among the parties with respect to the subject matter hereof, and no modification of this Agreement shall be valid unless executed in writing by all parties.
 - 6. **Severability.** In the event that any provision or portion of a provision of this Agreement shall be determined to be illegal, invalid or unenforceable by a court of competent jurisdiction, the remainder of this Agreement shall be enforced to the fullest extent possible and the illegal, invalid or unenforceable provision or portion of a provision will be deemed amended or otherwise thereafter shall be interpreted, to reflect as nearly as possible without being illegal, invalid or unenforceable the parties' intent. If such amendment or interpretation is not possible, the illegal, invalid or unenforceable provision or portion of a provision will be severed from the remainder of this Agreement and the remainder of this Agreement shall be enforced to the fullest extent possible as if such illegal, invalid or unenforceable provision or portion of a provision was not included.
 - 7. **Counterparts.** This Agreement may be executed in one or more counterparts, and all the counterparts shall constitute but one and the same Agreement, notwithstanding that the parties are not signatories to the same or original counterpart.

IN WITNESS WHEREOF, Oceanside and the State of Hawai'i have executed this Agreement as of the date first above written,

1250 OCEANSIDE, LLC

By: Sun Kona Finance I, LLC,
Its Sole Member

By: _____
Duane Grimsman
Senior Vice President

STATE OF HAWAI'I, DEPARTMENT OF
LAND AND NATURAL RESOURCES

By: _____
Suzanne Case, Chairperson

HOKULI'A PARK AND CULTURAL SITES
ASSOCIATION, INC.

By: _____
Greg Ogin
President

APPROVED AS TO FORM:

Deputy Attorney General

Date: _____

[Notary Page to be attached]

[Exhibits to be Attached]

[Exhibit A - Property Description]

[Exhibit B - Shoreline Park Plan]

[Exhibit C - 2006 AMP]

Exhibit A

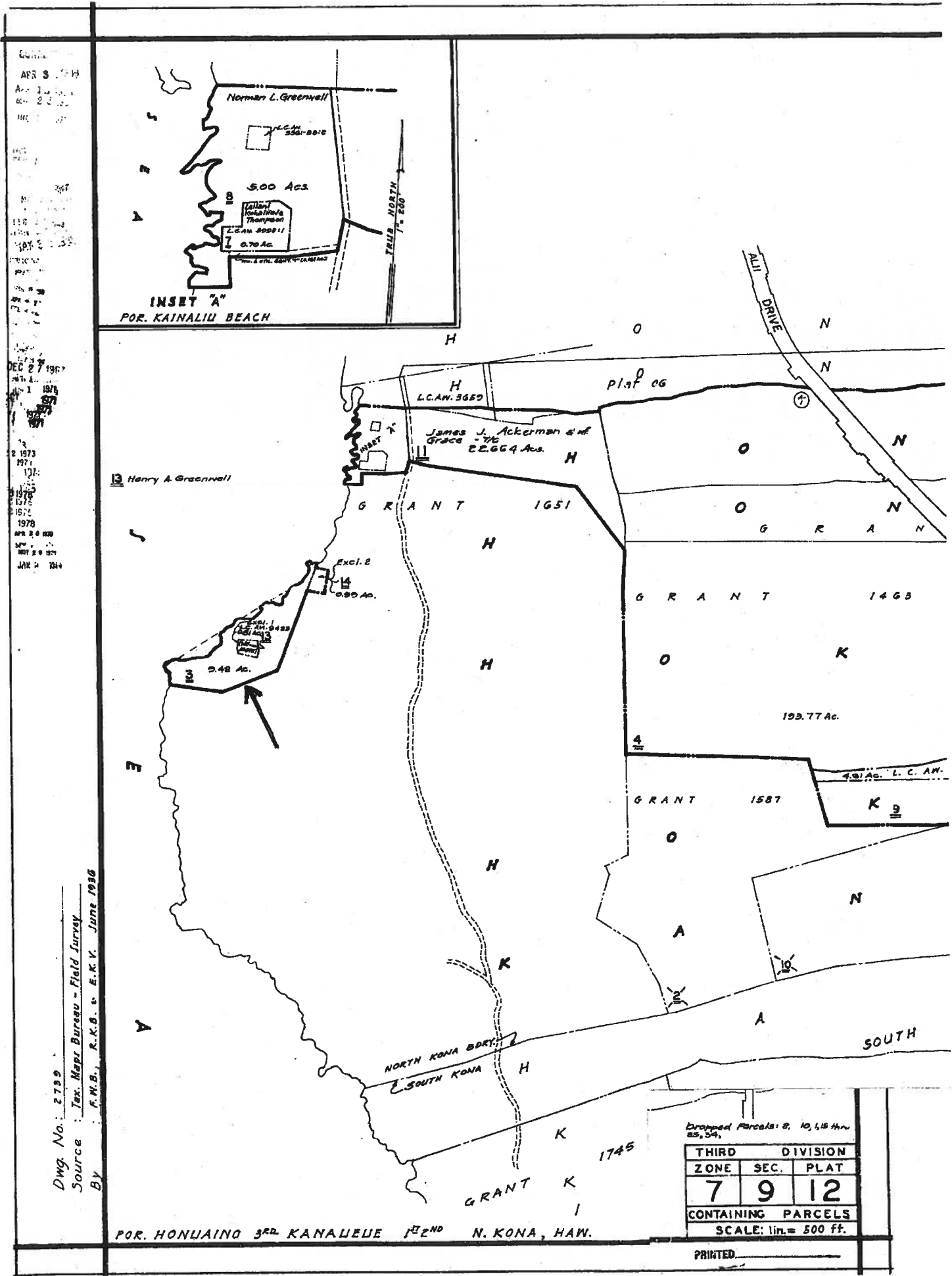


Exhibit B

*Shoreline Park Management
and Public Access Plan*

The Villages at Hokukano

Prepared for: Oceanside 1250

Prepared by: PBR HAWAII

NOVEMBER 1998

TABLE OF CONTENTS

	Page
1.0 Introduction	1
1.1 Background	1
1.2 Purpose	2
1.3 Overview of the Park Plan	5
2.0 Existing Conditions	8
2.1 Property Ownership and Access	8
2.2 Geology/Soils	8
2.3 Biological Resources	9
2.4 Archaeological and Cultural Resources	9
2.5 Hazards	10
3.0 Park Improvements	12
3.1 Access Improvements	12
3.2 Park Improvements	13
3.3 Potential Impacts	16
3.4 Safety Considerations	16
4.0 Implementation Measures	17
4.1 Phasing Plan	17
4.2 Phase Schedule	21
4.3 Operation and Management	21
4.4 Management Strategies	22
4.4.1 Management of Marine Resources	22
4.4.2 Protection of Historical and Cultural Resources	23
4.4.3 Access Restrictions	24
4.5 Uses and Procedures	25
4.5.1 Hours of Use	25
4.5.2 Restricted or Prohibited Activities	25
4.6 Monitoring Procedures	25
4.7 Reporting Procedures	26

5.0	Justification	27
5.1	Consistency with Conditions of Approval	27
5.1.1	Ordinance 96-7 and Ordinance 96-8	27
5.2	Consistency with DLNR Regulations	28
5.3	Consistency with Chapter 205A	29

LIST OF FIGURES

<u>Figure Number</u>	<u>Figure Description</u>	<u>Follows Page</u>
1	Location Map	5
2	Project Site Map	5
3	Shoreline Park Concept	5
4	Public Access Plan	12
5	Shoreline Access Area	12
6	Public Access Signage	17
7	Phasing Plan	17

LIST OF APPENDICES

Appendix A:	Park Rules and Regulations
Appendix B:	Draft Outline of Conditions, Covenants and Restrictions
Appendix C:	Water Quality and Marine Life Monitoring and Mitigation Plan, The Villages at Hokukano, Richard E. Brock, Ph.D., 1992.

At the onset, we would like to acknowledge those members of the Community Advisory Group and representatives of State and County agencies, whose input and insights were instrumental to the formulation of this Plan. Those individuals who have been a part of this process include:

Community Advisory Group

Skip and Rita Cowell
Maile David, *Ka Lahui*
Zachary and Shirley Kanuha, *Ka Lahui*
Gordon Leslie
Larry Mitchell, *TORCH*
Sara Peck, *Sea Grant*
Jerry Rothstein, *PASH*
John Spencer
Michael Tomich, *Na Ala Hele*
Charlie Young, *Ka Lahui*

State Department of Land and Natural Resources

Ross Cordy, Ph. D., *Director, State Historic Preservation Division*
Curt Cottrell, *Na Ala Hele Program*
Ralston H. Nagata, *Administrator, State Parks Division*
Robert Nishimoto, *Aquatic Resources Division*
Sherrie Samuels, *Planner, State Parks Division*
Bill Walsh, Ph. D., *Biologist, Aquatic Resources Division*
Martha Yent, *Interpretive Program Manager, State Parks Division*
Dean Y. Uchida, *Administrator, Land Division*

County of Hawai'i

Virginia Goldstein, *Director, Planning Department (Hilo)*
Alice Kawaha, *Planning Program Manager, Planning Department (Hilo)*
Rodney Nakano, *Planning Program Manager, Planning Department (Hilo)*
Royden Yamasato, *Planning Program Manager, Planning Department (Kona)*

Consultants

Doug Borthwick, *Cultural Surveys Hawai'i (Archaeologist)*
Richard Brock, *Ph.D. (Marine Biologist)*
Hallett Hammatt, *Cultural Surveys Hawai'i (Archaeologist)*
James Leonard, *AICP, PBR Hawai'i (Planner)*

Oceanside 1250

R.T. "Dick" Frye, *Project Manager*
Robert Stuit, *Director of Planning*
Linda L. Sutherland, *Administrative Assistant*

1.0 INTRODUCTION

1.1 Background

The Villages at Hokuano is a Master Planned Development of approximately 730 private homesites, a private golf course and an 80-unit members' lodge on the 1,550-acre Hokuano property in North and South Kona, Hawaii. The approximately 140-acre coastal portion of the development has been planned as a public oceanfront park with the intent of encouraging public use and enjoyment of the recreational and cultural attributes of this rural stretch of the shoreline. The shoreline park is envisioned as a passive park, encouraging uses such as hiking, picnicking, swimming, recreational fishing (non-commercial), snorkeling, and to some extent, camping, within appropriate use areas. Although proposed as a public park, the cost of the park improvements, maintenance, and management would be assumed by the Villages at Hokuano property owners.

Since its initial conception, the establishment of a coastal park and the preparation of a management plan for the park has also been included as "conditions of approval" for the various permits and approvals for the Villages at Hokuano project. These include:

Ordinance 96-7, Conditions (K) and (L)

Ordinance 96-8, Conditions (H) and (I)

SMA Use Permit No. 345, Conditions 8 and 10

For reference, a summary of the regulatory requirements pertaining to the establishment of a coastal park and the Shoreline Park Management and Public Access Plan is included within Section 5.1 of this report. Additionally, in that the park area is situated within both the State Conservation District and County Special Management Area, a Conservation District Use Permit and a SMA Use Permit related to the park use will be required from the State and County, respectively. This plan is also intended to supplement the submittal requirements for those applications.

1.2 Purpose

This *Shoreline Park Management and Public Access Plan* (hereafter referred to as the "Plan"), for the planned 140-acre shoreline park at the Villages at Hokukano was prepared by Oceanside 1250, in consultation with representatives of the Department of Land and Natural Resources (DLNR), the County of Hawaii Planning Department, and an advisory group consisting of concerned individuals and representatives of various community groups and resource organizations. In addition to meeting the regulatory requirements of various State and County approvals related to the Villages at Hokukano development, the Plan serves as a guide for the implementation of park improvements and the management of the shoreline park area (hereafter referred to as the "Park").

Early in the planning process, Oceanside 1250 and members of its advisory group met on several occasions to identify areas of concern and prepare a set of goals and objectives that would serve as a basis for formulating the Plan. These goals and objectives are as follows:

Goals

- To preserve and enhance the natural, historical and cultural resources of the park area.
- To preserve and protect the park's scenic resources, including important view points, landscapes and topographic features.
- To increase public awareness of the park area's natural, cultural and historic resources.
- To provide, improve and protect public shoreline access opportunities in the park area.
- To provide for the proper and safe use of the Park area.

Objectives

- Comply with applicable laws, rules and regulations.
- Designate and maintain appropriate public access routes and parking.
- Establish dedicated easements providing for continued public access to and over the coastline park area.

Shoreline Park Management and Public Access Plan

- Implement management controls to help protect the safety and enjoyment of those using the park area.
- Implement management procedures to help prevent inappropriate access into culturally or environmentally sensitive areas and near shore resources.
- Implement monitoring and management controls to help protect potentially sensitive cultural and historic resources.
- Implement monitoring and management procedures to help protect shoreline area from over use.
- Upgrade and enhance previously unattended or neglected areas.
- Implement cooperative programs aimed at public education for the protection of the Park's natural and cultural resources.
- Implement improvements that enhance the overall appearance of the area that is in keeping with the natural character of the area.

This Plan includes a description of the planned improvements at the Park, including the phasing and timing of these improvements. The Plan also provides structure for the management of the Park area, including monitoring and reporting procedures to the appropriate State and County agencies.

Additionally, a set of Park Rules and Provisions is also included as part of this report (Appendix A). These regulations, which are based in part on the rules and regulations for State parks, have been formulated to address the special needs of this privately operated park and to reinforce the Plan's overall goals and objectives.

As noted above, permit approvals for the proposed Park use will be required from both the State and County prior to implementation of the planned Park improvements. As such, some modification to the Plan may be necessary as part of the regulatory approval process.

1.3 Overview of the Plan

The 140-acre shoreline Park area is a portion of the Villages at Hokukano (hereafter referred to as the "Project"), an approximately 1,550-acre master planned community in North and South Kona (Figures 1 and 2). The Park property is owned in fee by Oceanside 1250. However, included within the Park area (subject to State approval) is a portion of State-owned land known as the "Hokukano Village" parcel. There are also several kuleana parcels located just south of Pu'u Ohau, in the area of Nāwāwā Bay, which are adjacent to but excluded from the Park area as they are not owned by Oceanside 1250.

Existing Conditions

The Park area, shown in Figure 3, is topographically divided into two distinctive areas: the area south of Pu'u Ohau, where the shoreline consists of cliffs that range from 25 to 80 feet in height and are undercut in several areas by erosion; and the area extending north of Pu'u Ohau, which has a more gentle terrain, allowing greater access to the shoreline and open areas for passive recreational uses. Throughout the Park area are concentrations of important archaeological sites, including house sites, heiau, agricultural features, salt bowls, game boards, and petroglyphs.

While trail access would be provided to the southern portion of the Park, the major focus of the management program is aimed at the northern area between Pu'u Ohau and the northern Park boundary, where a greater concentration of activity is expected. The terrain in this area provides significant opportunities to access important archaeological sites, the shoreline, and small, open, sandy areas, and areas for picnicking and limited camping. Additionally, along the shoreline are several coastal features of interest, including blow-holes, geologic features, tide pools and coastal views.

Located near the northern portion of the Park, just north of Keikiwaha Point, are the remains of a prehistoric fishing village known as Hokukano Village (hereafter referred to as the "Village"). A large portion of the Village site, comprising of approximately 11.7-acres, is owned by the State of Hawai'i, with portions of the Village extending into the adjacent Oceanside 1250 property. Oceanside 1250 is working with the State to include the Village as part of the Park management program, through a "management lease" or similar agreement with the State, although ownership of the parcel would likely remain with the State.

Shoreline Park Management and Public Access Plan

Located in the area south of Pu'u Ohau and overlooking Nāwāwā Bay, are 14 privately-owned "kuleana" parcels, none of which are owned by Oceanside 1250. Access to these parcels is currently provided by way of the existing ranch roads leading from the top of the Oceanside 1250 property, at the current terminus of Haleki'i Street, to the area of the Park.

Public Access

A public road would provide direct access from the mauka property boundary at Haleki'i Street or from the planned Mamalahoa Bypass Road to a parking area at the Park. The parking area is planned in the central portion near Keikiwaha Point where there is the greatest potential for recreational use and shoreline access. There are also portions of foot trails and ranch jeep roads on adjacent properties near the Park area that can provide lateral shoreline access from these properties to the north and south of the Park. Mauka of the Park area is the State-owned Ala Loa Trail, also referred to as the Old Government Road, or Ala Aupuni Trail. As shown in Figure 3, the Plan provides for potential links to this trail, as well as another mauka-makai trail linking the shoreline area to a planned historic park at the 275 foot elevation and to the abandoned railroad bed in the upper elevations of the property. Shorter connector trails would provide access between the shoreline area and historic sites within the Park. In all, several miles of trails and trail loops of varying difficulty are planned for public use.

Along the shoreline, some sandy tide pools are found which are suitable for wading during certain times of the day, however, because of the rocky shoreline conditions, opportunities for safe access to the ocean are limited to just a few locations.

Park Improvements and Management

Park visitors would be asked to comply with the regulations established under this management program and detailed within the Park's rules and regulations. Any restrictions on uses are guided by the goals and objectives for the Park area, which are aimed at protecting the land and marine resources and the general welfare, safety and enjoyment of park visitors. Although the hours of operation would generally be between dawn and dusk, extended hours for activities, such as overnight camping and night fishing, are provided under the management program.

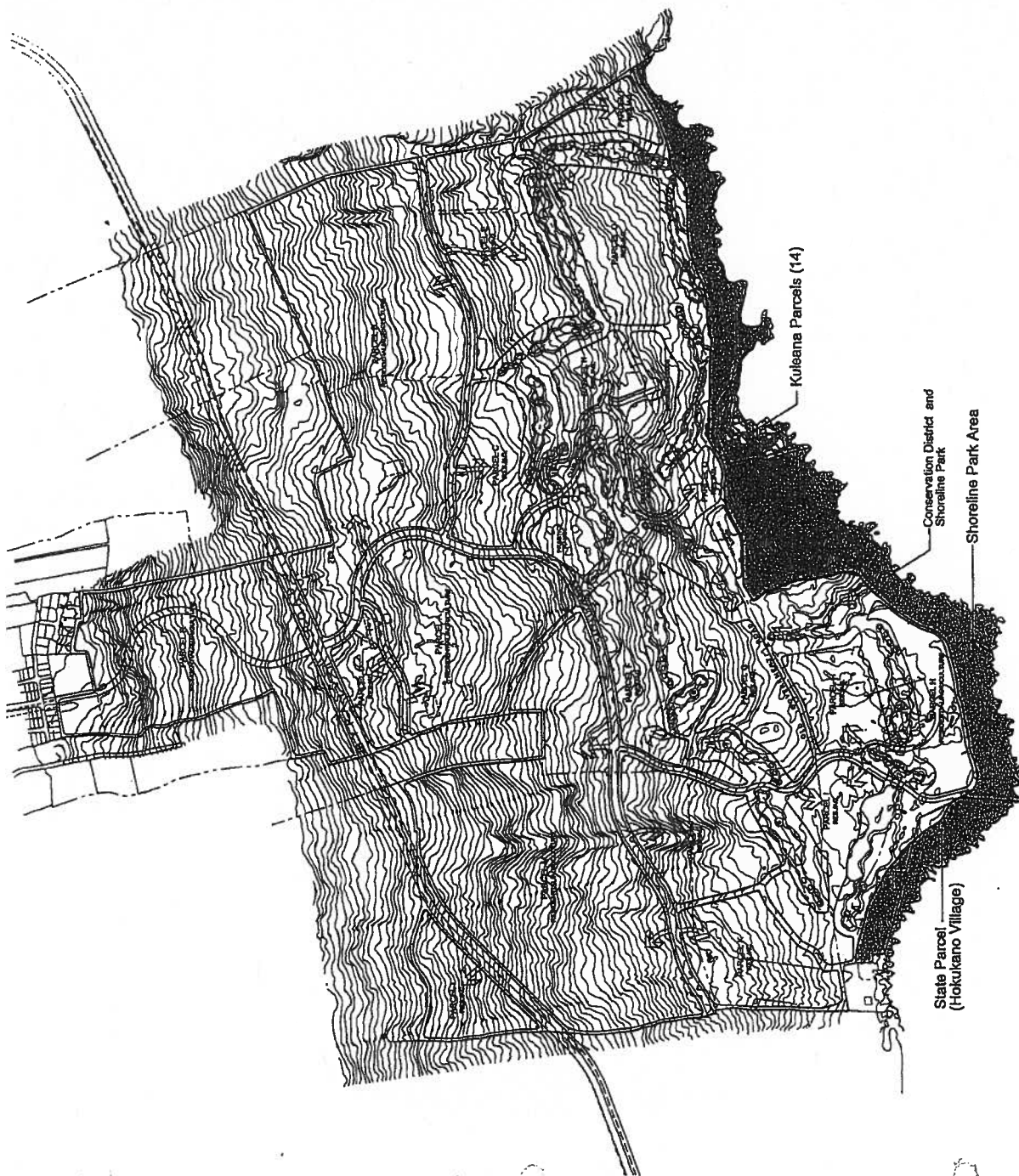


Figure 2: Project Site Map
 Shoreline Park Plan
 Villages at Hokukano



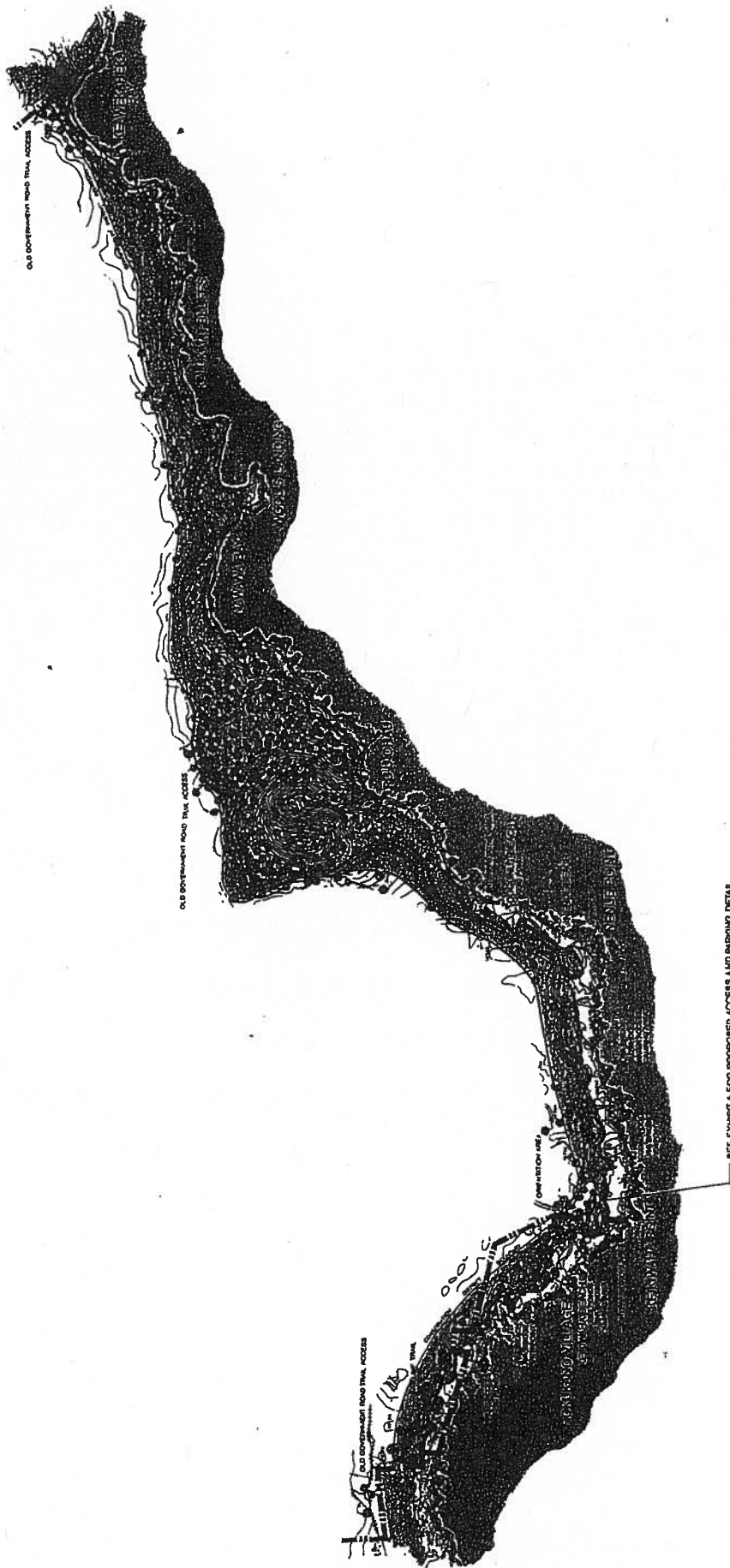


Figure 3: Shoreline Park Concept
 Shoreline Park Plan
 Villages at Hukukani



Not to Scale



11/08

Shoreline Park Management and Public Access Plan

Oceanside 1250 would implement the Park improvements in phases, with the first increment of improvement concentrated near the primary access and use area, between Keikiwaha Point and Pu'u Ohau. Included with these initial improvements would be a parking area, portable restroom facilities, showers, rest areas, tables and benches, signage, and debris clean-up and landscape remediation. Trails from the parking area to the shoreline would be improved and some historic sites in the area would be cleaned and identified with appropriate signage as part of an overall interpretive program.

The overall cost of improvements and the maintenance and management of the Park would be assumed by a management entity eventually funded by the Villages at Hokuano property owners. No fees would be charged to the public for use of the Park. The management entity for the Park would be comprised of representatives of the developer and property owners.

2.0 EXISTING CONDITIONS

2.1 Property Ownership and Access

The Park area encompasses approximately 140 acres and is comprised of the Tax Map Keys (TMK) 7-9-12:03 and a makai portion of 8-1-4:03. TMK 7-9-12:03 is an approximately 9.42 acre parcel referred to as Hokukano Village owned by the State of Hawai'i, and TMK 8-1-04:03 is owned by Oceanside 1250. In the area of Nāwāwā Bay, just south of Pu'u Ohau, are fourteen kuleana parcels of various ownership, none of which are owned by Oceanside 1250. Immediately north of the park and outside the Project area is the Kainaliu Beach area with its associated beach lots and homes, which are owned by others and are not included in the Park.

Access to the Conservation District is currently provided from an old private ranch road extending through the Villages at Hokukano property, from Haleki'i Street next to Kona Scenic Park to the shoreline just south of Nenu Point. This approximately 9-foot wide road, which is accessed through a locked ranch gate at the Haleki'i end, was recently paved by Oceanside 1250. Currently, Oceanside 1250 allows access to the shoreline for fishing, camping or other recreational uses with written liability waivers. The current procedures for access are intended to inform guests of the property conditions, promote protection of resources and to address concerns of owner liability. The provisions for continued public shoreline access as part of the Project development is further delineated within this plan. Private access to the kuleana parcels is also provided through existing ranch roads. With development of the Project, access to the kuleana parcels will be maintained over internal project roadways.

2.2 Geology/Soils

The topography and geology of the coastal area is divided into two distinct areas, north and south of Pu'u Ohau. Pu'u Ohau, a prominent cinder cone rising to a height of 225 feet above sea level, is centrally located primarily within the Park area. Inland of the Pu'u, the soil is a shallow stony, silty clay loam covering, to some extent, a pahoehoe subsurface. South of the Pu'u, the ground is covered by a thin layer of extremely stony silt loam, with the shoreline consisting of cliffs that range from 25 to 80 feet in height. Erosion from wave action undercutting portions of the cliff area is evident in several areas along this souther portion. In the area north of Pu'u Ohau, the coastal area consists of a more gentle rolling terrain consisting of pahoehoe lava flows with occasional pockets of sand. The sandy pockets along this area are all contained by lava flows and, as such, no sandy beach areas are directly exposed to the ocean.

2.3 Biological Resources

A botanical survey for the overall Villages at Hokukano property was conducted in November 1991. The survey described the vegetation within the coastal area as consisting predominately of Kiawe trees (*Prosopis pallida*) with a mixed grass understory and the occasional noni (*Morinda citrifolia*) and physic nut tree (*Jatropha curcas*). No threatened or endangered plant species were found to be identified on the property.

A faunal survey of the Hokukano project site, including the proposed shoreline Park area, was conducted in October 1991. The survey reported that neither endemic birds nor unique wildlife habitats were found on the property. Common winter migratory shorebirds such as plover, Ruddy Turnstone, and Tattler, were found in coastal areas.

A Quantitative Assessment of Marine Communities and Water Quality was completed in April 1992. The survey found that marine communities fronting the Conservation District are diverse and the fish communities do not show the declines in abundance that have been encountered in other Hawaiian coastal settings. No unusual marine species or communities were noted, nor were green turtles seen, although it is expected that turtles likely pass through waters fronting the proposed Park area.

To quantitatively assess water quality characteristics fronting the Park area, 24 sites were established, including a nearshore brackish water well. Water quality sampling indicated that conditions fronting the project site were typical of well-flushed, undeveloped West Hawai'i coastal settings.

2.4 Archaeological and Cultural Resources

An Archaeological Inventory Survey of the full 1,550-acre Villages at Hokukano project site was performed by Cultural Surveys Hawai'i from August 20, 1991 to January 17, 1992. The survey was designed to meet the requirements of DLNR's SHPD and to identify the cultural resources within the total Villages at Hokukano property, including the Park area. The property inventory survey report covering the full property was approved by SHPD in October 1996.

The Park area contains 94 sites that have a wide array of functions related to traditional Hawaiian and historic-era settlement patterns and land use, habitations, burials and religious sites. This area was a loci for traditional Hawaiian and historic period habitation up until the mid to late 1800s when

most settlement had become focused along the mauka roadway corridor. The sites in the Park area exhibit characteristics that are shared with other documented sites along the Kona coast, however these sites are also different in some aspects. That is, the habitation settlements in the Park area are distinct because they did not develop into a royal center nor were they influenced as heavily by post-contact Euro-American trade and commerce as were other nearby settlements. There are also examples of adaption to historic-era influences on habitation such as walled house lots, mortared tombs or crypts, as well as those influences from the newer market-based economies of commerce and ranching exemplified in part by cattle walls, corrals and even a retail store.

In general, the density of sites is high in the northerly portion of the park area between Keikiwaha Point and Nenu Point and decreases greatly to the south of Pu'u Ohau except for a concentration of sites around Nāwāwā Bay. Thus, the focus of the interpretative program will be on those sites in the northerly portion of the Park area.

Located on the lava bench along the coastline between Keikiwaha Point and Nenu Point are sites 16747, 16755, 16756 and 16758 which are good examples of prehistoric permanent habitation sites that are in good condition within what is thought to have been the locus of activity in the village cluster. Located near these habitation sites are two coastal heiau, sites 16757 and 16762, (probably *ko'a*) that are in good condition and may have functioned in conjunction with each other to locate offshore fishing spots or to denote the distribution and/or procurement of marine resources.

To the south of Pu'u Ohau and above Nāwāwā Bay, is a small cluster of sites including two prehistoric permanent habitation sites, a heiau, and the foundation site of the old Greenwell Store at Wool's Landing on the south side of the bay. This cluster includes Sites 16432 and 16434 which are the habitation sites, Site 16703 which is the *Pali O Niu* heiau overlooking Nāwāwā Bay, and Site 16702, which is the foundation remnant of the old Greenwell Store.

2.5 Hazards

The majority of the Park area is outside the 500-year flood plain. Due to exposure to high wave action, especially during storm periods, the Federal Emergency Management Agency's Flood Insurance Rate Map for Hawai'i County classifies the land adjacent the shoreline as Zones AE and VE, indicating coastal flood areas with potential wave hazards. Although the coastal flood zones generally occur along the entire coastline, these extend further inland near Nenu Point and Keikiwaha Point.

Shoreline Park Management and Public Access Plan

The shoreline Park area lies within lava flow Hazard Zone 3, with Zone 1 being the area of highest risk and Zone 9 being the area of lowest risk. Zone 3 is characterized by lava coverage of about 5 percent in the past 200 years, and 15 - 75 percent within the past 750 years. The general area of the Park is situated on lava flows that occurred between 1,500 and 10,000 years ago. In terms of seismic risk, the entire Island of Hawai'i is designated within Earthquake Zone 3, which is the zone of highest seismic occurrence and danger. In 1951, a 6.9 magnitude earthquake occurred about one mile offshore of the project area, and in 1983, a magnitude 6.6 earthquake occurred at a depth of seven miles midway between Kilauea and Mauna Loa, causing a landslide at Kealakekua Bay (2 miles south of the Park) shortly thereafter.

3.0 PARK IMPROVEMENTS

3.1 Access Improvements

Vehicular Access and Parking

Vehicular access to the shoreline, as shown in the Public Access Plan (Figure 4), would be provided through a proposed public road extending from Haleki'i Street at the eastern (mauka) property boundary, and/or from the planned Mamalahoa Bypass Road which will pass through the Project to the inland boundary of the shoreline Park. The public access parking area is located near Keikiwaha Point and the southern boundary of Hokukano Village.

As planned, the road would extend from Haleki'i Street in a mauka-makai direction toward the central portion of the property where it would join with another proposed public road that would lead to the public parking area at the shoreline Park. Initially, the parking area would provide twenty-five (25) public parking stalls, with additional parking for Park employees. The parking lot would be paved and furnished with trash receptacles and appropriate signage indicating pedestrian access routes to the shoreline. A separate parking area will be provided for Villages at Hokukano residents to avoid use of the public parking area. Improvements to the primary shoreline access area, including provisions for parking, are shown in Figure 5.

Pedestrian Access/Trails

A trail network to facilitate pedestrian access through the Park to designated picnic and camping area, to sites of historical and cultural interest and the shore, is planned as part of the Park improvements. These include improvements to existing trails, trail connections and extensions. The trail improvements will consist of four to six feet wide foot-paths with a variety of surfaces, including concrete or grass pavers, paving stones, crushed rock or coral, and a variety of grasses. All materials will be chosen to compliment the passive nature of the Park area. Sections of these trails will be designed to meet appropriate American Disability Act (ADA) specifications to allow barrier free access to portions of the Park.

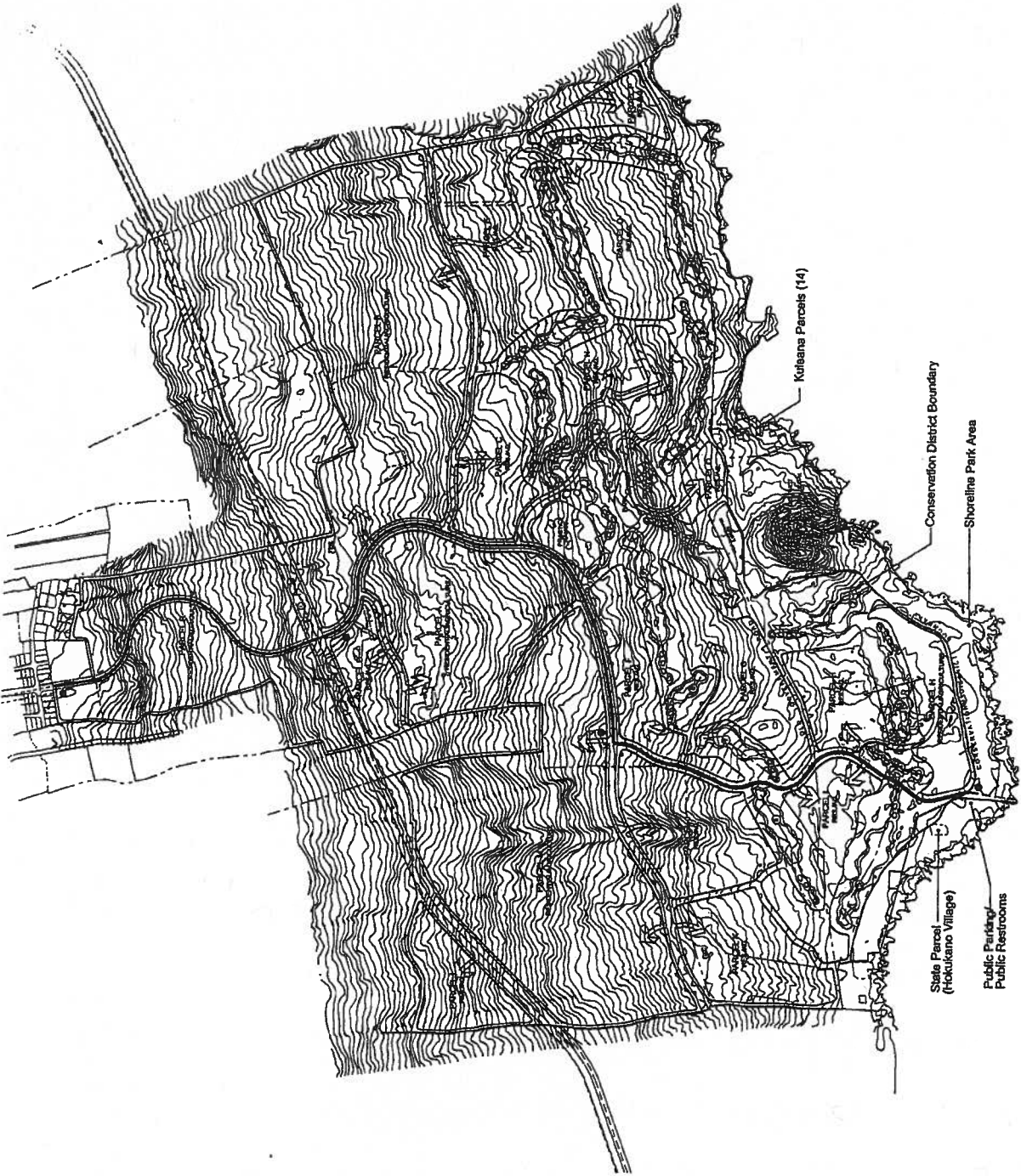
Trail improvements will be implemented primarily by hand and will include such activities as hand clearing of vegetative cover, removal of small trees (less than six inches in diameter), removal of dead or diseased trees or limbs, removal of overhanging limbs, hand clearing of trail corridors, placement of wood or rock steps, and definition of trail edges with rocks, coral, logs or landscaping. Introduced landscaping will generally consist of native species which are particularly adapted to the climatic conditions of the area.

The intent in the creation of the trails, pathways, and trail connections are to help meet the objectives of the plan as to recreational access, enjoyment, safety, maintenance and management while preserving an unobtrusive and natural feel to the Park area.

3.2 Park Improvements

In keeping with the goal of a more natural character for the Park area, planned improvements would be limited to providing restrooms, signage and park furniture (benches, tables, waste receptacles and fire pits) clearing of trails, protection and stabilization of archaeological sites, and providing areas for picnicking and camping. All clearing work would be carefully implemented, mostly with hand equipment and would generally involve the removal of weeds, dead or diseased trees and limbs, small trees (less than six inches in diameter) and overhanging limbs. Thinning of trees of all sizes will be done to promote the movement of ocean breezes, thereby, making the Park climate more comfortable. The specific improvements planned within the park area include:

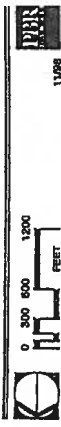
- Structural Improvements and Park Facilities
 - Vehicular access and parking improvements for a minimum of 25 public parking stalls and separate project employee and resident parking
 - Information kiosk
 - Restroom facilities with showers and drinking water
 - Rest areas with wood or stone tables and benches
 - Civil Defense warning system
 - Camp sites with tables, benches, barbeque pits and coal disposal bins



LEGEND

- Public Access Signage
- ▬ Shoreline Access Route

Figure 4: Public Access Plan
Shoreline Park Plan
Villages at Hokukano



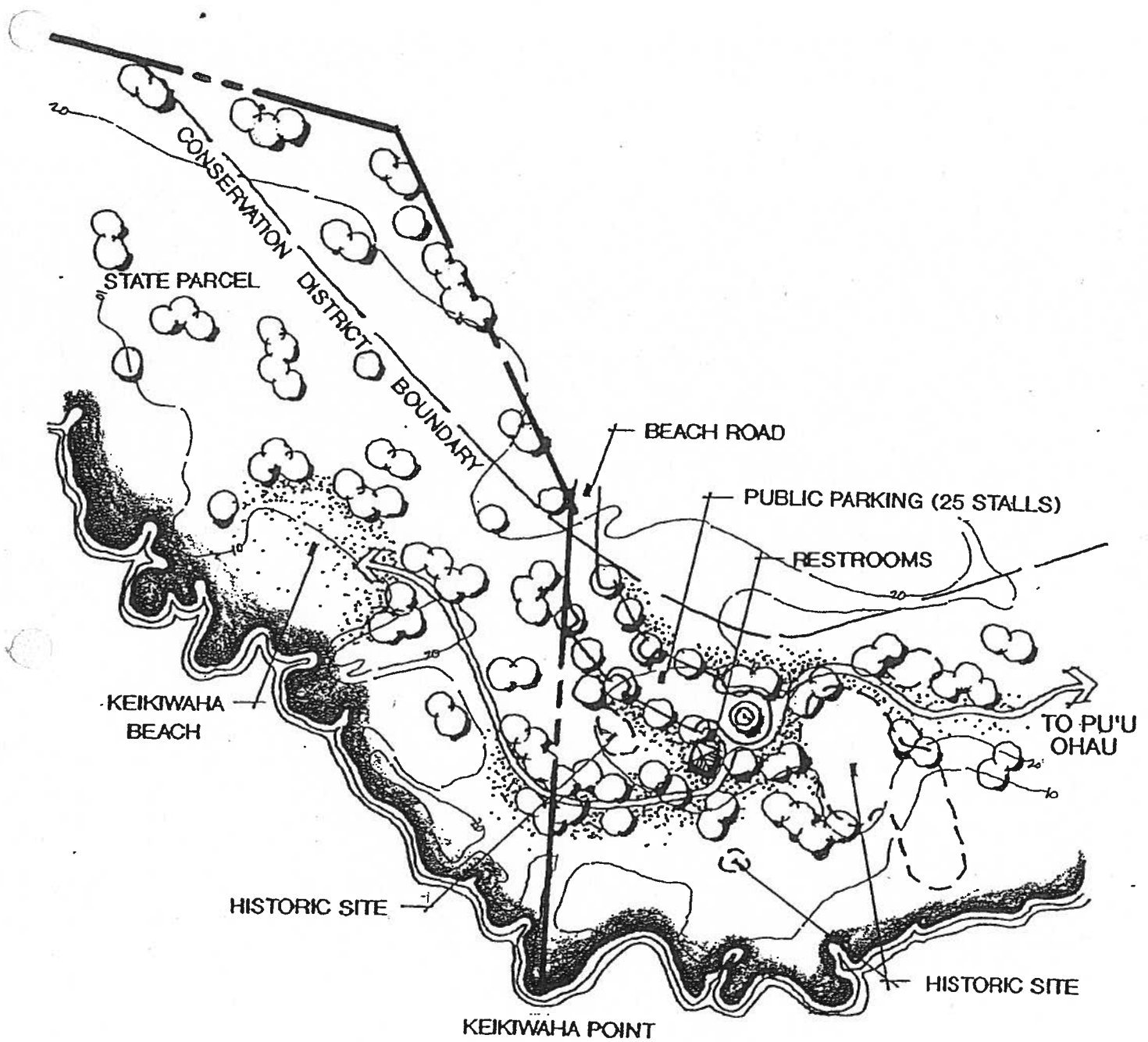
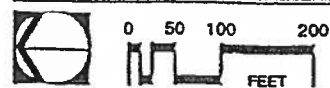


Figure 5: Shoreline Access Area (Detailed)

Shoreline Park Plan
Villages at Hōkukano



Shoreline Park Management and Public Access Plan

- Portable restroom facilities
- Trash receptacles at parking, picnic, and camping areas
- Emergency telephone system
- Landscape Improvements and Landscape
 - Possibly grassing in picnic and camping areas
 - Buffers for restrooms and other structures
 - Shade trees, as appropriate
 - Accent planting of plants which are adaptive to the site conditions
 - Flowering species to add color and variety.
- Landscape Clean-up Remediation
 - Primarily hand-clearing of vegetative cover from trails, archaeological sites, and use areas
 - Removal of weeds, diseased & dead trees and limbs, trees and over hanging limbs
 - Thinning of trees
- Trail Improvements
 - Improvements or extensions to existing trails
 - Trail connections
 - Public shoreline access trails
 - Interpretive trails to selected archaeological sites with interpretive signage

- Signage (Meeting DLNR signage rules)
 - Directional
 - Instructional
 - Interpretive

Initially, the parking area and restroom facilities would be located near the Park boundary. Eventually, as Project related improvements extend utilities to the vicinity of the Park, a permanent restroom facility is planned. The locations of these Park improvements are indicated on the Shoreline Access Area Plan, Figure 5, following Page 12.

All park improvements would be constructed and maintained by a management entity established by Oceanside 1250 and eventually funded by the Villages at Hokukano property owners. Funding prior to that time will be provided by Oceanside 1250 or its assigns. The management entity would also be responsible for all maintenance and operation of the Park.

Signage

- **Public Shoreline Access Route.** Signage would be posted along the public access route at strategic locations and at parking area entrances. Public shoreline access signage would generally be consistent in form and content to the public access signage used by the County of Hawai'i, as shown in Figure 6, however, modifications may be sought with regards to materials and lettering style in order to achieve a consistency with other Project signage.
- **Directional and Informational Signage.** Other directional and informational signs would be proposed at the parking area and various points along pathways, trails and use areas.

All signs within the Park area (Conservation District) would also comply with the signage requirements under Section 13-5-22, P-8 of the DLNR Administrative Rules. These guidelines specify that no sign shall exceed twelve square feet in area, and that signs shall be self-supporting and erected no higher than eight feet above finished grade.

Additionally, interpretive signage would be placed in association with selected archaeological sites, which would be implemented as a component of an approved archaeological mitigation and interpretation plan. The form and content of the interpretive signage would comply with the DLNR signage guidelines.

3.3 Potential Impacts

While the Plan provides for improved access to and use of the shoreline area, among the primary goals is to provide appropriate monitoring and management controls to ensure that the level of use within the Park does not adversely impact the important resources of the area. Some of these resources include the concentration of archaeological resources near the coast, the ocean and nearshore marine resources, biological resources (flora and fauna), and scenic resources. Although the Park area includes no identified rare, endangered or threatened species, management controls are needed to protect the existing natural character of the area. There is a concentration of archaeological sites within the Park area, including heiaus, burials, suspected burial sites, house sites and shelters, agricultural features, petroglyphs and more. Access to sites would need to be monitored to ensure that they are not impacted as a result of improved access. In addition to the cultural and biological resources, the visual resources (view sheds and viewing points) require protection to preserve the natural character of the area and to enhance the enjoyment and appreciation of these resources. A part of the goal for resource management is to prevent any areas within the Park from having a "worn" look.

Properly managed, increased access to the Park will not negatively impact the existing and future uses in and around the area. These uses include shoreline access, the existing and future residential uses within the kuleana lots at Nāwāwā Bay at the "beach lots," north of the Park at Kainaliu, and the house lots within the proposed Villages at Hokukano. Activities within the Park area will be monitored and managed to ensure that park users are neither negatively impacted by, nor have a negative impact on, adjoining uses.

3.4 Safety Considerations

To maintain the continued safe use of the Park area, access to the area will be temporarily suspended in the event of a state of emergency (declared by the appropriate State or County agency) or during periods of adverse weather generating high wave conditions, or to portions of the Park where topographic conditions present particular safety concerns (e.g., loose or unstable ground conditions along the shoreline cliffs).

4.0 IMPLEMENTATION MEASURES

4.1 Phasing Plan

Oceanside 1250 will finance and implement the planned improvements to the Park area in a phased manner, in accordance with phased development of the Hokukano project. The segments of the Park area that correspond with the phased improvements are indicated in the phasing plan shown in Figure 6. The phased improvements would be accomplished as follows:

Phase One

Phase One improvements would generally occur in the area near Keikiwaha Point and the Park's northern boundary as shown on the Phasing Plan (Figure 7). This plan would include improvements on the Hokukano Village parcel under joint sponsorship with the State of Hawaii. To ameliorate degraded conditions which currently exist along the shoreline area, this and other selected areas will undergo a general clean-up and landscape remediation consisting of the limbing of trees, removal of diseased, dead and noxious plant materials, and removal of rubbish. The coastline area vegetation consists of primarily introduced *prosopis* (kiawe) with an understory of introduced pasture grasses and various herbaceous plants. Scrub trees, especially *prosopis* and *leuceana leucocephala* (koa haole) that have roots which are damaging historic sites will be trimmed or removed in order to stabilize these sites. There are also large numbers of *jatropha curas* (physic nut) which should be removed since they have seeds that are very toxic. No native plant taxa were found in the proposed Park area. In some locations, plant materials, including climatically appropriate grasses and shade trees, will be introduced to maintain an adequate vegetational cover, help provide erosion control measures and maintain the pleasant landscape setting of the area.

Phase One improvements will include an unpaved dust-controlled public vehicular access from a nearby public roadway and creation of 25 public parking spaces separate from resident and employee parking. The access road will be paved and the number of parking spaces may be increased commensurately with development of subsequent Park phases, and in keeping with protecting the Park from overuse.



Figure 6: Public Access Signage

Shoreline Park Plan
Villages at Hōkukano

Shoreline Park Management and Public Access Plan

At the public access trail head makai of the public parking area, an orientation area will be established for visitors providing drinking water, portable restroom facilities and showers, directional, educational and resources information, along with a resting area to include wood or stone tables and picnic benches.

Phase One improvements will also include development of pedestrian uses and access along a self-guided interpretative trail in the area between the orientation area and Keikiwaha Point. A connector trail between the public shoreline access area and the State-owned "old government road" will be included near the project roadway that provides public access to the shoreline area. Some vegetation will be removed or trimmed to locate these trails in the optimal locations. Kiawe trees that have hazardous thorns will be removed or trimmed to improve walking conditions along the trail.

Campsite with benches and tables would be located within the Village area. Other improvements will include a continuation of the lateral shoreline foot trail into the Village from the public access shoreline area near Keikiwaha Point. On the north side of the Village, a connector trail will link the lateral shoreline trail with the "old government road" at a point south of Kainaliu Beach.

The Park improvements will be integrated into the site to protect view sheds, marine resources and sensitive archaeological sites. All archaeological mitigation measures will follow the recommendations and guidelines of the approved archaeological mitigation, and preservation plans and are expected to be directed toward the stabilization of selected historic sites, limited restoration of selected sites, non-intrusive archaeological study and appropriate interpretive measures.

To provide for notification and preparation for emergencies and hazardous conditions, a civil defense warning system and emergency phone system will be installed within the Park area.

In concert with the regulatory requirements, Phase One improvements, which encompass 25 percent of the total Park area, will be completed incrementally over a five year period. The first increment of improvements (Phase 1A - as shown in Figure 7), which will be focused at the primary use area near Keikiwaha Point, will be completed and open to the public within 30 days of the golf course opening. The remaining Phase 1 increments (1B through 1E) will be completed sequentially over the remaining four to five years. As noted, those improvements within the State owned parcel will be contingent upon entering into an agreement with the State for the use and management of this portion of the Park area.

Phase Two

Phase Two improvements would occur generally in the area between Nenu Point and Pu'u Ohau. It is proposed that improvements in this parcel will be similar in nature to those implemented in Phase 1. To ameliorate degraded conditions which currently exist along the shoreline area, this area will undergo a general clean-up and landscape remediation consisting of the limbing of trees, removal of diseased, dead and noxious plant materials, thinning of trees, and removal of rubbish. These improvements include landscape maintenance and planting of appropriate species such as grasses and shade trees that compliment the passive uses of the shoreline area. In addition, directional and interpretive signage will provide general interpretative information and indicate where access is located within this area.

Phase Three

Phase Three improvements would occur in the area between Pu'u Ohau and Nāwāwā Bay. Additional landscape maintenance activities, which were initiated as part of Phase One, will resume in order to conclude the general landscape remediation in this area. The public access road to the shoreline access parking area at Keikiwaha Point will be paved. Also, the pedestrian access trail will be extended from Keikiwaha Point south to Pu'u Ohau, where the trail will follow an alignment along the State Land Use Conservation Boundary that runs mauka of Pu'u Ohau. In the interest of safety and the protection of sensitive archaeologic sites, trail access onto the makai side of Pu'u Ohau will be carefully restricted. Additional directional and interpretive signage will provide general interpretative information and indicate where access is located within this area.

In order to provide a degree of privacy for the Kuleana parcels located around Nāwāwā Bay, public access in this area will be limited to an extension of the footpath mauka of Pu'u Ohau to the south along the mauka edge of the kuleana parcels within the Conservation District. A connector trail will be provided to link the mauka side of Pu'u Ohau with the "old government road" and the historic park which is centered around the heiau on the hillside, about 70 feet mauka of the Park.

Shoreline Park Management and Public Access Plan

Phase Three improvements will also include additional restroom facilities in the area south of Nenu Point, as well as improvements for passive recreational uses, such as small grassed areas for picnicking and seating. In conjunction with these improvements, additional protective and interpretative measures, such as interpretative signage, site stabilization and/or partial site restoration, will be implemented in accordance with the approved archaeological mitigation plan.

Phase Four

Phase Four improvements would occur in the area between Nāwāwā Bay and Kalukalu Bluffs. Pu'u Ohau represents the transition point between the northern portion and southern portion of the shoreline park. This transition is evident in the steep cliff-like and overhang conditions of the southern shoreline, in contrast to the much lower lava delta and shelf that is predominant along the northern shoreline. Access at or near to the shoreline in these steep areas will be setback from the cliff edge, and the trail through this area will be a continuation of the footpath from the north at Pu'u Ohau. There will also be a short scenic footpath down to a grassy overlook and seating area within an area near Wool's Landing.

Associated landscape maintenance and additional signage will be undertaken in conjunction with trail improvements and stabilization of historical sites in this phase of the Park improvements. To ameliorate degraded conditions which currently exist along the shoreline area, this area will undergo a general clean-up and landscape remediation consisting of the limbing of trees, removal of diseased, dead and noxious plant materials, thinning of trees, and removal of rubbish. Two or three small rest areas will be maintained for bench seating along the trail.

Phase Five

Phase Five improvements would occur in the area between Kalukalu Bluffs and Keawekaheka Bay, at the property's south boundary. Landscape maintenance activities initiated as part of Phase Four will resume to remove dead, diseased and noxious plant materials, thinning of trees and removal of trash and to conclude general landscape remediation. There are limited portions of this area within which trail access along the cliff is neither safe nor suitable. Thus, the extension of the lateral footpath in this area will be setback from the cliff edge. The trail will be a footpath that will continue to the property boundary mauka of Keawekaheka Bay. An additional three to four small rest areas will be provided in this portion of the Park with bench seating for trail users. Also, a small restroom facility with toilets, washbasins and drinking water will be located at the junction of the trail and the "Old Kalukalu Road."

4.2 Phasing Schedule

As outlined in Section 4.1, the Park improvements will be phased in conjunction with the phasing of the Hokukano Project development. Each phase is planned to be coordinated with the overall project development such that improvements can be made in an orderly, economic and efficient manner. In general, phasing of the park improvements is aimed at first implementing the initial improvements proximate to the central portion of shoreline, and then implementing the remaining improvements in the northern and southern sections of the shoreline in latter phases coordinated with lot development activities. The sequence and timing of the Park phases are as follows:

Timing of Improvements

<u>Phase</u>	<u>General Location of Improvements</u>	<u>Timing</u>
Phase 1 - Park improvements	Keikiwaha to Pu'u Ohau	5 years
Phase 2 - Park improvements	Keikiwaha to Kainaliu	3 years
Phase 3 - Park improvements	Keikiwaha to Pu'u Ohau	3 years
Phase 4 - Park improvements	Pu'u Ohau to Wool's Landing	2 years
Phase 5 - Park improvements	Wool's Landing to Keawekaheka	2 years

The first components of the Phase One Park improvements will be completed and available for public use within 30 days of the official opening of the Project golf course. The unimproved north/south shoreline trail through the Park, with its connection to the Old Government Road will be accessible from the opening of the Park following the initial (Phase 1A) improvements. The State owned "old government road" is a portion of Keauhou - Napo'opo'o Trail which provides alternate lateral access through the Project. Subsequent park improvement phases would be developed and opened to the public within 18 months of the date that future final subdivision approvals are granted by the County for the related lot development. All Park improvements are subject to government approvals including, a Special Management Area Permit, Conservation District Use Permit and approval by the State for improvements within and management of the State's Hokukano Village parcel.

4.3 Operation and Management

Once improvements are implemented, these areas will be managed and maintained by a management association established by Oceanside 1250 and funded by the Property Owners of the Villages at Hokukano in concurrence with applicable regulatory permits and approvals. This managing body would be responsible for all maintenance and operations of the Park. Income for the ongoing management, operation and maintenance would be provided from association dues paid by property owners within the project. The obligation of the property owners to continue to finance the management and maintenance of the Park area would be included within the conditions, covenants and restrictions (CC&Rs) for the Project, such that all property owners would be informed of the obligation of the property owners' association to fund the management operation and maintenance of the park area in perpetuity. A copy of the applicable portions of the draft CC&Rs are included as Appendix B.

4.4 Management Strategies

4.4.1 Management of Marine Resources

With increased public access to the shoreline area there may be greater pressures on the local marine resources. To provide for the ongoing management of the coastal area and the shoreline marine resources, the Management Association would establish a Shoreline Resource Advisory Committee (SRAC). The purpose of this committee would be to develop and oversee a program aimed to protect the nearshore environment from damage resulting from increased shoreline access through proper management and educational activities.

Among the responsibilities of the committee would be to review monitoring reports and presentations by the Park management staff and consulting biologist, to establish policies and guidelines for protection of the marine resources, to review the effectiveness of these policies and guidelines, to coordinate with DLNR's Aquatic Division to ensure compliance with the Department's rules and regulations, and to participate in the development of marine-oriented educational programs.

Shoreline Park Management and Public Access Plan

The committee would consist of representatives of community resource groups, such as fishing, hiking, trails, ocean recreation, ocean resource management and Hawaiian organizations, as well as concerned individuals and the park owner and park management representatives. Although the committee would initially meet on a quarterly basis, it is expected that the group would establish its own schedule, as needed. All meetings would be open to the public and publicized in at least one major West Hawai'i newspaper.

Rather than establishing a comprehensive resource management program as part of this Plan, it is recommended that the SRAC determine the extent of its involvement and develop appropriate management policies to meet its program objectives and to respond to marine-related issues as these arise. Based on discussions with the community advisory group during the preparation of this Plan, it is suggested that the marine resource management program be developed and implemented in the spirit of the traditional Hawaiian (Konohiki) resource management system. It is also recommended that the committee explore the possibility of creating a Fishery Management Area (FMA) or Marine Life Conservation District (MLCD) for those portions of the shoreline park area, where needed. It is worth noting that, through the enactment of Act 306 in 1998, the entire west coast of Hawai'i Island was designated as a Fishery Management Area (FMA). Subsequently, the DLNR established the West Hawai'i Fishery Management Council which serves as a coordinating group for the shoreline resource management activities taking place in West Hawai'i.

An important component of the SRAC's role will be to participate in the development of marine-related educational programs. These programs would be aimed at encouraging a greater awareness and appreciation of the ocean resources and the objectives of the marine resource management program. One measure that is planned to foster a greater public awareness and conservation ethic is the placement of an information kiosk near the entrance(s) of the shoreline park. The kiosk would include information on signage displays, existing fishing regulations and conservation practices, and public safety. The committee would explore other educational forums, such as walking tours, preparation of informational brochures, and presentations by the management staff, local resource persons and other specialists.

The SRAC will also coordinate its activities with the WHFMA Council, through meetings and information sharing, to ensure that they have the full benefit of experience from similar programs in West Hawai'i and to avoid the possible duplication of efforts.

4.4.2 Protection of Historical and Cultural Resources

As noted, the largest concentration of archaeological sites is found near the shore within the park area and includes a wide array of functional types including habitation sites, burials, petroglyphs, and religious sites. Protection of these and the other, widely-varied sites in the Park area will enhance passive and interpretative preservation, and will provide thematic overviews of the two developmental trends that are generally represented by these sites - traditional and historic settlement patterns. Preservation would take the form of simple physical preservation in place, or in some cases, preservation would take the form of appropriate interpretive and restorative activity. To accomplish meaningful preservation and interpretation, the best examples of a wide range of site types and functional varieties will be included. The goals of the Park preservation and interpretation program will be:

- Preservation of sensitive sites of traditional Hawaiian cultural significance,
- Interpretation of significant site types, functions and thematic correlation,
- Other long-term research and protection criteria, and
- Appropriate treatments for all cultural and historical resources.

Since traditional and historic settlement patterns are demonstrated by the sites in the Park, we believe much can be learned about the chronology of traditional and historic settlement and land use especially as they relate to habitation, resource management and perhaps agriculture within the area's ahupua'a. Other interpretative data, educational information and research study could provide detail on the relation between temporary and permanent habitation sites, the socio-political rank of area habitations, or development of other shoreline-related land uses.

As many sites have several levels of cultural significance and have multiple physical features with mixed uses including burials and other sensitive remains, specific preservation plans will be formulated after additional research and planning. Specific recommendations will be part of a comprehensive archaeological and interpretive program for the Park area that will be reviewed and approved by the State and County. This plan will be implemented by Oceanside 1250 and its consulting archaeologist, in consultation with DLNR's SHPD, knowledgeable area residents, Hawaiian organizations and consulting professionals. The preservation program would be implemented according to an overall Archaeological Site Preservation and Interpretive Plan approved by DLNR's SHPD and the County of Hawai'i Planning Director. The interpretive plan would include descriptions of buffer zones, preservation measures, site-specific plans and interpretive signage.

The potential impact of public access to these sites would be evaluated by the Park management, in consultation with its consulting archaeologist, to determine if further mitigation measures are warranted, such as increasing buffer zones, restricting access, or other modifications to protect sites from further disturbance. Should impacts to the archaeological sites within the Hokukano Village parcel be noted, the SHPD and County of Hawai'i Planning Department would be notified and appropriate mitigative measures, as approved by DLNR and the Planning Director, would be taken.

4.4.3 Access Restrictions

The Park management reserves the right to control or prevent access to areas that, in the management's judgement, pose a danger to the public or that requires protection to preserve the area from over use. Access to the public parking area may also be restricted during periods when the public parking area is full. The management would also have the right to control or prevent access to the Park area in the event of a County or State declared emergency.

Additionally the management would also have the right to control or prevent access to persons who, in the management's judgement, present a danger to the safety, character or interest of the property or to the uses of the Park area. However, the management would immediately notify the appropriate public authorities upon occurrences of such actions.

4.5 Uses and Procedures

4.5.1 Hours of Use

Generally, the Park hours of use would be from dawn to dusk, with special provisions for night time fishing, overnight camping, and group functions. Procedures for use of the Park areas at night or group functions, which would include sign in/out requirements and/or issuance of a special permit, camping or night time fishing permit, are described within Section 5 of the Park's Rules and Regulations.

4.5.2 Restricted or Prohibited Activities

Restricted and prohibited activities will be imposed to protect the character of the Park and surrounding area, as well as the safety and enjoyment of the park users. Restricted and prohibited activities are delineated within Sections 2 and 3 of the draft Park Rules and Regulations. These regulations were compiled based on the rules and regulations for State parks (Chapters 13-146, HAR), although modified to reflect the management requirements of a privately-operated park and to reinforce the goals and objectives of the Plan. As noted above, certain activities, such as night fishing, camping, and group activities, are to be regulated through permitting procedures. Prohibited activities include littering, vandalism, soliciting, possession of firearms, alcohol, illegal drugs, loud noise or music and destroying natural, historical or archaeological features. Signage providing a summary of the park regulations would be provided at appropriate locations in the Park.

4.6 Monitoring Procedures

Monitoring of the Park area would be conducted by the Park management, its employees, consultants and agents. Monitoring would be focussed on detecting negative impacts in four areas: vegetation and natural character, archaeological sites, and marine resources (hereafter referred to as "Resources"). The Park management would be directly responsible for monitoring the Park area for evidence of damage to the Resources within the Park and violation other Park rules and regulations. Such occurrences would be reported on a daily basis to the Park management for appropriate corrective action.

The nearshore and marine environment would be monitored on a regular basis by a marine consultant according to the procedures established within the water quality and marine life monitoring and mitigation plan prepared by Richard E. Brock, Ph.D. A copy of the monitoring and mitigation plan is enclosed within Appendix C. Initially, a baseline analysis of the nearshore marine environment was conducted of April 1992 (A Quantitative Assessment of the Marine Communities and Water Quality, Villages at Hokukano, Final EIS, Section II-3). This study described the baseline conditions for the marine communities and water chemistry characteristics along the coastline fronting the property. The study would be updated prior to the first construction or land alteration within the Project, following which, monitoring of the marine environment would be undertaken on a regular basis, as required by the Department of Health's Water Management Division. The Water Quality and Marine Life Monitoring and Mitigation Plan (Appendix C) recommends that monitoring takes place on a quarterly basis throughout the Project construction period. Monitoring would take place annually thereafter, unless statistically significant changes are noted and increased or

decreased monitoring is warranted. The marine monitoring program would adhere to the monitoring protocol guidelines established by the West Hawai'i Coastal Monitoring Program. This program established a set of uniform standards for marine biologists to ensure that a comparable methodology is used for marine monitoring in West Hawai'i. The procedures for reporting monitoring results to the appropriate State and County agencies are described within the monitoring plan. Generally, the Plan recommends a program of quarterly reporting during the period of construction, and annual reporting thereafter. The period of construction for the Project is expected to occur over a fifteen to twenty year period, similar to the phased improvements within the Park area. As described in Section 4.4, the water quality and marine life monitoring reports would also be reviewed with the park advisory group, as part of an ongoing program to manage and protect the Park's nearshore marine resources.

4.7 Reporting Procedures

Oceanside 1250 will submit an annual report to the Board of Land and Natural Resources and the County of Hawai'i Planning Director for the period up to completion of final phase of improvements proposed under the Plan. Currently, the proposed improvements are planned to be implemented over a fifteen to twenty year period. An annual report will be submitted to the State and County within thirty days of the anniversary date of the issuance of the Conservation District Use Permit and SMA Use Permit for the Park Improvements, respectively. The annual report will include a general statement of progress toward implementing the Park improvements and compliance of any conditions imposed by the State or County in meeting the conditions of the Park related permit approvals. The annual report will also contain any proposed changes to the Plan implemented to further meet its objectives.

5.0 JUSTIFICATION

5.1 Consistency with Conditions of Approval

5.1.1 Ordinance 96-7 and Ordinance 96-8

Ordinance 96-7 established the conditional zoning for a portion of the Project lands. Condition "K" and "H" of Ordinance 96-7 and 96-8, respectively requires that:

"A final comprehensive public access plan, to be developed in consultation with community groups, shall be submitted to and approved by the Planning Director prior to final subdivision approval, or any land alteration activity, whichever come first. The final comprehensive public access plan shall be developed in consultation with the Planning Director and the Department of Land and Natural Resources and shall include mauka-makai and lateral shoreline accesses, parking area(s), signage, emergency response considerations, restrictions on use (if any), provision of recreational and restroom facilities at appropriate locations, and related improvements; provided, that the construction of the coastline park and access ways shall be subject to the obtaining of all necessary discretionary permits (e.g., Conservation District Use Approval, Special Management Area Use Permit, etc.); provided, further that the applicant shall be responsible to comply with the following terms and conditions:

1. An area comprising twenty-five percent (25%) of the total park area, as shown on Exhibit "E" attached hereto and made a part hereof, shall be developed and improved by the applicant or its agent in phases within five (5) years from the date Final Subdivision Approval is obtained on the subject property. The first phase shall be completed and open to the public within thirty (30) days following the opening of the golf course;

2. Upon opening the first phase of the park area, a minimum of twenty-five (25) public parking stalls in addition to parking stalls for residents, guests, and employees within the subject property and the applicant's adjacent lands at the principal shoreline access parking area(s), signage and provisions for public access for night fishing and marine food gathering purposes over designated vehicular and pedestrian access routes subject to restriction which limit said uses to recreation uses only, and other restrictions which provide for the health and safety of the general public and residents alike. The number of parking stalls shall be increased commensurately with the approval of additional park phases in accordance with the public access plan; and
3. The public shoreline access plan shall also integrate where appropriate, any public access way(s) to interpretive trail system(s) and to the historical and archaeological sites to be approved by the Planning Director, in consultation with the Department of Land and Natural Resources in conjunction with the detail mitigation plan for the park area situated in the Conservation district."

Additionally, the condition to develop a final comprehensive public access plan is reiterated within Condition 8 of SMA Use Permit No. 345 which states:

"A final comprehensive public access plan, to be developed in consultation with community groups, shall be submitted to the Planning Director in conjunction with golf course plans submitted for plan approval review. The final comprehensive public access plan shall be developed in consultation with the Planning Director and the Department of Land and Natural Resources and shall include mauka-makai and lateral shoreline accesses; parking area(s), signage, emergency response considerations, restrictions on use (if any), provision of recreational and restroom facilities at appropriate locations, and related improvements. Within one (1) year from the date of approval of the final comprehensive public access plan by the Planning Director, the Applicant shall apply for a Conservation District Use Permit, Special Management Area Use Permit and other applicable permits/approvals to allow for the implementation of the recommendations of the approved Plan."

This plan being prepared, in part, to meet the requirements of Conditions "K" and "H" of Ordinances 96-7 and 96-8 and Condition 8 of SMA Use Permit No. 345.

5.2 Consistency with DLNR Regulations

The proposed land use is consistent with the identified land uses within the Limited (L) subzone of the State Conservation District, Section 13-5-23, HAR, which includes the following:

- (L-2), Botanical gardens and private parks
- (L-4), Landscaping and removal of noxious plants
- (L-7), Accessory structures

This Plan is to be submitted to DLNR, with a Board permit application in meeting the management plan requirements for the proposed use within the Conservation District, Limited (L) subzone.

5.3 Consistency with Chapter 205A, HRS

The proposed land use is also consistent with the objectives of the County's SMA, as delineated within Section 9-6 of the County of Hawai'i Planning Commission Rules of Practice and Procedures. The pertinent objectives are as follows:

- 1) Provide coastal recreational opportunities accessible to the public.
- 2) Protect, preserve, and where desirable, restore those natural and manmade historic and prehistoric resources in the coastal zone management area that are significant in Hawaiian and American history and culture.
- 3) Protect, preserve, and where desirable, restore or improve the quality of the coastal scenic and open space resources.
- 4) Protect valuable coastal ecosystems from disruption and minimize adverse impacts on all coastal ecosystems.

In addition to meeting the conditions of regulatory approval listed within Section 5, this Plan is being submitted with an application for an SMA Use Permit to allow for the proposed Park uses within the County SMA. The proposed use is supportive of the County's objectives for the coastal area by implementing a management program that provides for the safe enjoyment of the shoreline area in a manner that is protective of the natural and manmade historic and prehistoric resources that are present within the Park area.

1.0 INTRODUCTION

1.1 Purpose

The purpose of these rules and provisions are to govern the use and protection of all lands and historical and natural resources within the Villages at Hokukano shoreline park (Park) area.

1.2 Definitions

"Abandoned property" means any and all property, including personal property, items, materials, equipment, fixtures, motor vehicles, or vessels, that have been left unattended for a continuous period of more than twenty-four hours without the written permission of the park management (Management) or its authorized representative.

"Animals" mean all animals, wild and domestic.

"Authorized representative" means any person authorized by the Management to act for the Management in the administration of these rules and regulations.

"Camper" means any person engaged in a camping activity.

"Camping" means remaining within a designated camping area during park closing hours or sleeping during nighttime hours on the premises or the use or occupation of the premises by one or more persons who remain or intend to remain on the premises between the hours of twelve midnight and one half hour before sunrise, except persons with special permits or other types or permits or authorization from the management or its authorized representative to remain on the premises for other purposes.

"Motor vehicle" means a motor vehicle of any type, including, but not limited to, automobiles, trucks, go-carts, motorcycles, motor scooters, mopeds, dune buggies, or ATVs, whether the vehicle is licensed or unlicensed.

"Nude" means uncovered post-pubertal human genitals, pubic areas, or the nipple or areola of post-pubertal human female breasts.

"Park area" or "Villages at Hokukano shoreline park" means property owned in fee by 1250 Oceanside Partners at North and South Kona, Hawai'i (portion of TMK 8-1-4: 03), which is designated within the State Conservation District and required by the County of Hawai'i under Conditions 8 and 10 of SMA Use Permit No. 345 and Condition H of Ordinance 96-8 and Condition K of Ordinance 96-7, to be established as a privately operated park; and that property owned in fee by the State of Hawai'i, TMK 7-9-12:03.

"Park management" or "management" means the management entity established by Oceanside 1250 or its legal designee, which is responsible for the management, maintenance, security, and operation of the shoreline park area.

"Premises" means any lands within the shoreline park area.

"Picnic" means an outing with food provided by members of the group and eaten in the open.

"Reasonable conduct" means behavior or activity that is fair, proper, just, moderate and suitable under the circumstances. Such behavior or activity may fairly, justly and reasonably be required of an individual or group of individuals while in the Park.

"*Recreational trailer*" means a vehicle propelled by its own power or by some independent power and used as a dwelling.

"*Vehide*" means every device in, upon, or by which any person or property is or may be transported or drawn upon a roadway or highway, including mopeds, and other devices moved by human power.

1.3 Hours of Use

The park may be used by the public only between the hours of 7:00 a.m. and 15 minutes after sunset daily; provided, however, that Management may issue night fishing, special use, or camping permits pursuant to Section 5 as specified herein.

1.4 Access

- 1.4.1 Oceanside 1250 shall have the right to control or prevent access to the park by all persons whose presence in Management's judgement shall be adverse to the safety, character, or interests of the park or of users of the park.
- 1.4.2 In case of invasion, mob riot, public excitement, or other commotion, Management reserves the right to prevent access to the park during the continuance of the same for the safety of park users and the protection of the property in the park.
- 1.4.3 Persons violating the park rules and regulations may be denied subsequent use of the park by Management in its sole discretion, and may be subject to expulsion and penalties, as set forth in Section 4 herein described.

1.5 Noise

All activities conducted at the park shall not exceed a reasonable and prudent noise level, and in no event shall such activities exceed 60 DBA sound pressure level.

1.6 Hazardous Activities

No activities shall be conducted in the park that are or may be unsafe or hazardous to any person or property. Management reserves the right to stop any activity within the park that it determines in its sole judgement, has become unsafe or a hazard.

1.7 Obstruction of Passageways

No trails or passages in the park shall be obstructed or used for any purpose other than foot trail within the park, or ingress or egress from the park.

1.8 Lost Articles

Any person finding lost articles shall deposit them at the Management's office, leaving their name and address.

1.9 Intoxication

Management reserves the right to exclude from the park any person who, in Management's judgement, is intoxicated or under the influence of liquor or drugs so as to create a risk to persons or property and said person shall be subject to expulsion and penalties set forth in Section 4 herein.

1.10 Standard of Reasonable Conduct

Without limiting the generality of any of the park rules and regulations, any activities not covered hereby shall be subject to a standard of reasonable conduct.

1.11 No Liability

Neither management nor owner shall be liable for any damage or injury to anyone or anything that may occur as a result of enforcement or failure to enforce these park rules and regulations.

1.12 Nonwaiver

Failure to enforce these park rules and regulations on any occasion shall not be construed as a waiver and shall in no way affect Management's right to subsequently enforce these park rules and regulations.

1.13 Lifeguards

Neither owner nor Management will be responsible for providing lifeguard services.

2.0 REGULATED ACTIVITIES

The following activities are allowed only in designated areas indicated by appropriate signage:

2.1 Picnicking

Picnicking or any outing with food provided by members of the group; provided, however, that a permit is obtained when required pursuant to Section 5 herein.

2.2 Fires

All fires (i) shall be confined in barbeque pits designated and provided by Management; (ii) shall not be allowed to burn in a manner that may threaten surrounding shrubs, grass, trees, or other combustible matter, or endanger structures that could be burned, scorched or damaged; (iii) when no longer needed, shall be completely extinguished and coals shall be deposited in designated ash disposal pits provided by Management; (iv) shall not be left unattended.

2.3 Parking

All parking of motor or other vehicles shall only be in designate Park parking areas provided, however, that Management may direct persons utilizing the park through the issuance of a permit as set forth in Section 5 hereof, to park in areas other than those specifically designated for public parking. In the event of an infraction of this rule, violators shall be subject to expulsion and penalties set forth in Section 4 herein below, and Management shall be entitled to have the offending vehicle towed to the holding area of a towing service and to charge the owner or driver of the vehicle the full amount of the towing cost.

2.4 Access

All vehicular and pedestrian ingress to and egress from the park shall be confined to access ways that have been designated for such purposes; provided, however, that Management may direct persons utilizing portions of the park through the issuance of a permit as set forth in Section 5 hereof, to utilize access ways other than those specifically designated for public use.

3.0 PROHIBITED ACTIVITIES

The following activities are prohibited in the park:

3.1 Alcoholic Beverages

Possessing or drinking any alcoholic beverage, except in connection with public gatherings or special events for which permits have been issued in accordance with Section 5, hereinbelow.

3.2 Illegal Drugs

Possessing or using narcotics, controlled substances, or any illegal drug.

3.3 Disorderly Conduct

Disorderly conduct, including but not limited to, fighting, violent or tumultuous behavior, making unreasonable noise or offensive or abusive or threatening utterances or gestures.

3.4 Audio Devices

Operating or using any electrical or battery powered audio device, including but not limited to, radios, tape recorders, television sets, amplified musical instruments, compact disc players, and noise producing devices such as electrical generating plants, or other equipment driven by motors or engines in a manner and at times that create excessive noise or annoyance to park users or others outside the park (see Section 1.5, Noise, hereof).

3.5 Public Address Systems

Operating or using public address systems, whether fixed or portable, or vehicle mounted, on land, water or roadways, except when the use or operation is in connection with public gatherings or special events for which permits have been issued by Management in accordance with Section 5 hereinbelow, or when the use is in conjunction with emergency or rescue operations.

3.6 Communication Equipment

Installing or operating aerials, antennas, transmitting or radio, telephone, television or other communication equipment (except hand held portable devices, cellular phones or equipment within vehicles).

3.7 Camping

Camping, unless specifically allowed by Management through the issuance of a permit, as set forth in Section 5 hereof. Camping Permits will provide for a maximum of three (3) nights and successive permits for a particular site must be separated by a minimum of one night.

3.8 Recreational Trailers

Using recreational trailers or other camper units.

3.9 Closing Hours

Remaining in the park between the closing hours of 15 minutes after sunset through 7:00 a.m. unless specifically permitted by Management through the issuance of a permit, as set forth in Section 5 hereof.

3.10 Animals

Bringing animals into the park, except properly leashed seeing-eye dogs accompanied by their masters shall be permitted. Running at large, herding, driving across, raising or grazing animals.

3.11 Natural Resources

3.11.1 Molesting, disturbing, injuring, trapping, taking, catching, possessing, poisoning, introducing or killing any wild bird or animal or disturbing the habitat of any such bird or animal.

3.11.2 Gathering or collecting any natural product, including, but not limited to, sea shells, fruits, berries, flowers, seeds, pine cones, driftwood and pebbles for commercial uses or purposes.

3.11.3 Destroying, digging, removing, or possessing any tree, shrub, or plant of any kind.

3.11.4 Destroying, disturbing, or mutilating any geological feature or digging or removing sand, earth, gravel, mineral, rock fossil, coral or any other substance.

3.12 Bicycles, Skateboards, Roller Skates, Roller Blades

Riding bicycles, skateboards, or roller skates/blades.

3.13 Horseback Riding

Riding horses or any other animal.

3.14 Motorized Vehicles

- 3.14.1 Except on park access roads and designated parking areas, driving or riding vehicles or motorized bikes, including, but not limited to, automobiles, trucks, vans, motorcycles, motor bikes, mopeds, scooters, ATVs, motorized go-carts or trail bikes, and in no event unlicensed vehicles other than those vehicles operated by the park management and used for park operation, management or maintenance.
- 3.14.2 Leaving motor vehicles or other property unattended so as to interfere with the safe and orderly management and use of the park.
- 3.14.3 Abandoning motor vehicles (as defined in §290-1 of the Hawai'i Revised Statutes, as amended) or other property (as defined in §171-1 of the Hawai'i Revised statutes, as amended).
- 3.14.4 Operation of motorized hobby crafts such as aircraft, automobiles, and similar motorized vehicles.

3.15 Gambling

Gambling, betting, or wagering money on the outcome of a game or contest or other event.

3.16 Aircraft

- 3.16.1 Landing or launching of aircraft, including, but not limited to, airplanes, airships, balloons, gliders, hang gliders, helicopters, parachutes, dirigibles, and other similar means of conveyance.

- 3.16.2 Kite flying

3.17 Metal Detectors

Possessing or using a mineral or metal detector, magnetometer or other metal detecting device.

3.18 Agricultural Activities

Cultivating soil, planting or producing crops, farming, or any other agricultural activity; provided, however, that Management may conduct landscaping or other ongoing maintenance, cultural, demonstration or educational activities.

3.19 Nudity

Nudity, which shall be defined as the uncovered post-pubertal human genitals, pubic areas, or the nipples or areola of post-pubertal human female breasts.

3.20 Golf

Golfing, hitting or driving golf balls.

3.21 Firearms

Possessing or using firearms, including, but not limited to, bow and arrows, crossbows, firearms, pellet or BB guns, power heads, bang sticks, slingshots, or other implements designed to discharge missiles.

3.22 Soliciting

Soliciting, canvassing, begging or peddling of any kind, including, but not limited to, displaying merchandise, demanding or requesting gifts, money or services, or dispensing information.

3.23 Rubbish

3.23.1 Bringing, carrying or transporting garbage, trash, rubbish, refuse or waste from outside the park for deposit or dumping in the park.

3.23.2 Burning of trash.

3.23.3 Draining or dumping garbage, trash, rubbish, refuse or waste other than in receptacles provided for these purposes.

3.23.4 Littering or scattering rubbish or other materials in places other than trash receptacles provided in the park.

3.24 Electrical Equipment

Using portable motor driven electrical generating plants, pumps, compressors, or other portable motor driven machines, except through the issuance of a permit by Management.

3.25 Explosives

Possessing or using explosives, including, but not limited to, fireworks and firecrackers.

3.26 Lodging

Establishing a temporary or permanent lodging or residence other than that which may be established by Management and permitted by the State and County for the purpose of providing a caretakers' residence.

3.27 Boats

3.27.1 Transporting, bringing or carrying boats (including sailboats, powerboats, canoes, kayaks, jet skis, and/or motorized rafts), or any other aquatic vehicles onto, into or through the park.

3.27.2 Moving, tying, storing, repairing or cleaning any boat, canoe, raft or other vessel, except through the issuance of a permit by Management.

3.28 Water Pollution/Contamination

Polluting or contaminating any water used for drinking purposes, natural body of water, pools, ponds or the ocean.

3.29 Toilet Facilities

Urinating or defecating other than in the designated toilet facilities provided at the park.

3.30 Archaeological/Historical Resources

3.30.1 Appropriating, damaging, removing, excavating, disfiguring, defacing or destroying objects of antiquity, prehistoric ruins and monuments; provided, however, that Management may permit, with the concurrence of the State Department of Land and Natural Resources, qualified persons or institutions to examine ruins, reestablish archaeological sites, excavate archaeological sites or gather objects of antiquity for safe keeping.

3.30.2 Destroying, defacing, or removal of any natural or historical feature or natural or historical resource.

3.31 Monuments

Installing any monument, memorial, tablet, or other commemorative installation.

3.32 Vandalism

Intentionally or wantonly destroying, injuring, defacing, removing, disturbing or possessing in any manner any geologic feature, objects of antiquity, prehistoric ruins, monuments or feature, public or private building, sign, equipment, monument, marker or other structure.

4.0 PENALTIES

4.1 Violation of Rules

Any user or potential user of the park shall be subject to immediate exclusion and/or expulsion from the park if, in Management's sole determination:

- 4.1.1 A violation of the rules and regulations set forth herein has occurred.
- 4.1.2 Such action is necessary to enforce any provision in the rules and regulations set forth in this document.
- 4.1.3 Said user or potential user has failed to obey orders of park management personnel and/or orders of Federal, State or County law enforcement officers.

4.2 Penalties

Any violation of these park rules and regulations shall subject the violator to:

- 4.2.1 Civil and/or criminal liability for damages to public or private property and/or confiscation by appropriate governmental authorities of any prohibited materials, machines, tools, vehicles or equipment.
- 4.2.2 Permanent prohibition from future entry into and use of the park facilities.

5.0 PERMITS

5.1 Classification of Permits

Permits shall be required for the following uses and activities in the manner specified herein below:

5.1.1 Group Use Permit:

Any group larger than twenty-five members that desires to picnic in the park shall be required to obtain a Group Use Permit from Management.

5.1.2 Special Use Permit:

Special uses shall be permitted only with a Special Use Permit issued by Management. Special uses are group functions, other than group picnics, considered compatible with the functions and purposes of each individual area, facility or unit of the park, including, but not limited to, assemblies, celebrations, festivals, gatherings, meetings, pageants, parades, public expressions of views, rallies, shows, weddings, filming or photography sessions and other community events or activities.

5.1.2.1 Before any motion picture film, video recording, television production, or sound track is made that involves the use of professional casts, models, settings, or crews, by any person other than bona fide newsreel or news television personnel, a Special Use Permit must be obtained from Management that shall be subject to terms and conditions set by Management.

5.1.2.2 Before any still photograph may be taken by a commercial photographer for commercial purposes, a special use permit must be obtained from Management that shall be subject to terms and conditions set by Management.

5.1.3 Camping Permit:

All persons, groups, organizations, or associations desiring to camp within the park area shall obtain a Camping Permit from the Management authorizing the use of specific camping areas. However, the following provisions shall apply to camping:

5.1.3.1 Use of recreational trailers is prohibited within the park area.

5.1.3.2 The Management shall establish the location and term of the camping activity.

5.1.3.3 Installation or construction of permanent camping facilities is prohibited except by the Management with authorization from the Board of Land and Natural Resources.

5.1.3.4 Digging or leveling of the ground at any campsite is prohibited.

5.1.3.5 Camping equipment shall be completely removed and the campsite cleaned before departure from the site.

5.1.4 Night Fishing Permit:

Access to the park after closing hours (after 15 minutes post sunset) for purposes of night fishing and/or spearing shall be permitted only with a Night Fishing Permit issued by Management.

5.2 Authority to Use Permits

Management shall have the exclusive authority to issue Group Use, Special Use, Camping, and Night Fishing Permits ("Permits"). Management shall be entitled to impose conditions upon the issuance of Permits and/or may impose an administrative fee for requested Permits. The following conditions shall apply to all Permits:

- 5.2.1 Permits shall be issued on a first come, first serve basis.
- 5.2.2 All responsible persons twenty-one years of age or older shall be eligible to secure Permits.
- 5.2.3 Permits shall be obtained by submitting an application in person or by mail to Management.
- 5.2.4 Requests for Group Use Permits and Special Use Permits shall be submitted to Management a maximum of thirty (30) days before the date of the use being requested and shall include the date, time, duration, nature and place of the proposed event, an estimate of the number of persons expected to attend, and a statement of equipment and facilities to be used in connection therewith. If the event is for the purpose of raising funds, a statement of how the profits will be used is required. Requests for Night Fishing Permits shall include the same information, but shall be submitted to Management a minimum of five (5) working days and a maximum of thirty (30) days before the date of the use being requested.

Requests for Camping Permits shall include the same information, and shall be submitted to Management a minimum of five (5) working days and a maximum of thirty (30) days prior to the date of the use being requested.

- 5.2.5 Management shall have fifteen (15) days from receipt of an application for a Group Use Permit or Special Use Permit, five (5) days from receipt of an application for a Camping Permit, and three (3) days from receipt of an application for a Night Fishing Permit, to either grant or deny the application.
- 5.2.6 Permits shall not be transferrable.
- 5.2.7 Persons or organizations to whom permits are issued (the "permittee") are bound by the Permit conditions stipulated on or attached to the permit, and any applicable Federal, State and County laws, ordinances and rules and regulations.
- 5.2.8 All permittees shall, upon request, show the Permit to any law enforcement officer, security personnel, or employee of Management.
- 5.2.9 Other procedures, terms and conditions deemed necessary by Management may be adopted by Management in order to carry out the provisions of this section, or any applicable Federal, State and County laws, ordinances and rules and regulations.
- 5.2.10 As a condition of granting a Permit by Management, the permittee shall agree to hold the owner and Management harmless and indemnify Oceanside 1250 from any liability or damages resulting from the use of the park by the permittee or by any of the permittee's guests. Each Permit shall specifically provide the following:

"The permittee shall indemnify, defend and hold harmless owner and Management, its officers, directors, stockholders, attorneys, agents, servants, representatives, employees, corporate affiliates, predecessors and successors interest (collectively, the "indemnitees") from and against any and all past, present and future claims, actions, causes of action, suits at law or inequity, liabilities, demands, losses, decrees, judgements, awards, liens, costs, fees, damages, expenses (including attorneys' fees) and compensation of whatsoever kind or nature, resulting from, arising out of, connected with, or traceable either directly or indirectly to any and all matters relating to the use of the park by the permittee or by an of the permittee's guests. The permittee shall reimburse indemnitees or pay over to indemnitees immediately when due all judgements and claims for damages that indemnitees shall pay or become liable to pay by reason of such use of the park by the permittee or by any of the permittee's guests, and will make such payment to indemnitees as soon as indemnitees become liable therefore, whether or not indemnitees shall have paid out such or any part thereof."

- 5.2.11 Permits shall set forth the day and time the permittee shall be allowed to remain in the park.
- 5.2.12 Management may require the permittee at the permittee's own cost, to provide licensed security services, in the interest of public safety and welfare and for the protection of property.
- 5.2.13 Requests for Permits shall each be considered on their own merits, including their effect on the park, facilities, and the public's use and enjoyment thereof.

5.2.14 The Permit may contain conditions relating to protection and use of the park area for the purposes for which it is maintained, and reasonable limitations on the size of the group, time and area within which the event is being permitted.

5.2.15 The Permit may contain conditions relating to parking and access for the use being permitted.

5.3 Denial of Permit Applications

An application for a Permit may be denied when:

5.3.1 The Park or Park facilities are closed or will be closed because of damages, or because of scheduled or ongoing construction, repairs or maintenance activities, dangerous weather conditions; County or State declared emergency or because of other reasons.

5.3.2 Natural or civil disturbances occur or threaten to occur, including, but not limited to, tsunamis, floods, earthquakes, storms, riots, and demonstrations.

5.3.3 There are inadequate facilities or space to accommodate the needs of the applicant for the permit.

5.3.4 The applicant has a prior record of noncompliance with permit conditions or violations of park rules and regulations.

5.3.5 The event will present a clear and present danger to public health and safety.

5.3.6 A prior permit for the same time and place has been or will be granted.

- 5.3.7 The event will significantly interfere or conflict with the public's general use and enjoyment of the park.
- 5.3.8 The event will threaten, endanger, or disturb natural and historical resources of the park.
- 5.3.9 Applications or requests for permits are not received by Management within the time periods specified in Section 5.2.4 herein.
- 5.3.10 The proposed event includes activities that may be a violation of any Federal, State or County law or ordinance.

5.4 Cancellation of Permit

A Permit may be canceled or terminated at any time without advance notice when:

- 5.4.1 A state of emergency is declared by Management or governmental authorities.
- 5.4.2 Natural or civil disturbances occur or threaten to occur, including, but not limited to, tsunamis, floods, earthquakes, storms, riots, demonstrations and employee strikes.
- 5.4.3 A permittee creates a clear and present danger to public health and safety.
- 5.4.4 A permittee violates permit conditions, provisions of these park rules and regulations, or any Federal, State or County law or ordinances.

Draft Covenants, Conditions and Restrictions

1. Introduction to the Park
 1. Recitals
2. Creation of the Park
 1. Intent
 2. Duration
 3. Governing Documents
3. Concepts and Definitions
4. Association
 1. Purpose
 2. Membership
 3. Voting
 4. Board of Directors
 5. Duties
 6. Approval of Members
 7. Non-Liability of Officers
5. Easements
 1. Blanket Easement
 2. Easements of Encroachment
 3. Easements for Utilities
 4. Easements to Serve Additional Property
 5. Right of Entry
 6. Easements for Maintenance and Enforcement
 7. Rights to Stormwater Runoff, Effluent and Water Reclamation
 8. Easements for Floodwater
 9. Easements for Use of Private Streets
 10. Easements for Tax Exempt Organizations

6. Assessments

1. Budgets and Allocations
2. Reserves
3. Authority to Assess Owners
4. Time of Payment
5. Certificate of Payment
6. Declarant's Option to Fund Deficits
7. Regular Assessments
8. Uniform Assessments
9. Special Assessments
10. Revegetation & Restoration Easements
11. Historic Sites Easements
12. Failure to Assess
13. Exempt Property
14. Capitalization of Property
15. Personal Obligation
16. Lien for Assessments
17. Date of Commencement of Assessment Obligations

7. Insurance

1. Authority to Purchase
2. Association Responsibility
3. Non-Liability of Association, Board and Officers
4. Premiums
5. Claims
6. Benefit

8. Maintenance and Repair

1. Level of Maintenance Required
2. Association Responsibility
3. Responsibility for Repair and Replacement
4. Right of Access
5. Revegetation and Restoration

Draft Covenants, Conditions and Restrictions

9. Landscape
 1. General Requirements for Prior Approval
 2. Review
 3. Design Guidelines and Procedures
 4. No Waiver of Future Approvals
 5. Variances
 6. Limitation of Liability
 7. Enforcement
10. Use and Conduct
 1. Framework for Regulation
 2. Rule Making Authority
 3. Owners Acknowledgment
 4. Delegation of Use
 5. Waiver of Use
 6. Enforcement
 7. Modification
11. Expansion/Annexation of the Park
 1. Expansion by Declarant
 2. Expansion by the Association
 3. Additional Covenants and Easements
 4. Effect of Filing Supplemental Declaration
12. Remedies
 1. General Remedies
 2. Agreement to Avoid Litigation
 3. Claims
 4. Mandatory Procedures
 5. Enforcement of Resolution
 6. Legal Action
 7. Limitation on Owner's Liability

13. Amendment
 1. Amendment of Declaration
 2. Effect of Amendment
 3. Required Approvals
 4. Owner's Right to Amend
 5. Validity and Effective Date of Amendments

14. Rights Reserved to Declarant
 1. Construction of Improvements
 2. Right to Use Common Area
 3. Other Covenants Prohibited
 4. Right to Approve Changes in Park Standards
 5. Use of the Phrase "The Villages at Hokukano"
 6. Right to Transfer or Assign Declarant Rights

15. Protection of Mortgagees
 1. Notices of Action
 2. No Priority
 3. Notice to Association
 4. No Personal Liability

16. Relationships with Other Entities
 1. Relationship with Tax-Exempt Organizations
 2. Cost Sharing with Non-Residential Properties
 3. Conflicts

17. General Provisions
 1. Notices
 2. Captions and Exhibits
 3. Severability

Draft Covenants, Conditions and Restrictions

18. Changes in Common Area

1. Condemnation
2. No Partition
3. Dedication of Common Area

19. General Provisions

1. Power of Attorney
2. Gender
3. Public Dedication
4. Assignment
5. Force Majeure
6. Counterparts

20. Owner's Disclaimer of Representations

WATER QUALITY AND MARINE LIFE MONITORING AND
MITIGATION PLAN - HOKUKANO PROJECT SITE

R.E. Brock

1.1 Introduction

With any coastal development there exists the potential for negative impacts to occur to resident aquatic biota. These may be direct impacts, such as those that occur during coastal construction or they may be more indirect resulting from gradual, long-term disturbances, as may occur with non-point source discharges causing gradual but chronic impacts to the aquatic community. Short-term impacts and potential mitigation measures are often addressed in detail through the EIS process, however, the long-term impacts can be overlooked.

The County of Hawaii, recognizing the potential for long-term negative impacts to the nearshore marine environment resulting from coastal development, has required developers to prepare and initiate monitoring and mitigation programs aimed at advertising these potentially chronic impacts. Recently, permit agencies, developers and concerned citizens have come together and are in the process of outlining a protocol to be used in monitoring water quality and marine biota of the West Hawaii coast to insure (1) standardization of methods thus allowing comparison of results across projects and (2) use of the best and most cost effective available technology and techniques to insure the best protection possible for the resources.

This resource management and protection plan has been developed utilizing the information and methodologies in the above draft protocol; these methods are generally accepted in the scientific community at the time this document was written. As techniques and methods improve and become accepted, they will be incorporated into the monitoring and management strategy herein. The implementation of this plan cannot guarantee total resource protection and parties involved in the preparation of this plan shall not be held liable for any problem arising in the future with respect to plan implementation, the resource or to any individual, corporation or other entity.

It is expected that the developer, his assigns or owner/operator(s) will employ only competent, professionally trained personnel to carry out the duties of the monitoring program.

1.2 Objectives

The objectives of the water quality and marine life monitoring and mitigation plan are to meet conditions as may be stipulated in the County of Hawaii SMA permits that would be issued if this project proceeds. Specifically, this plan develops a water quality and marine life monitoring program that should insure the continued viability of the nearshore marine resources and water quality conditions as they presently exist on the Hokuano coastline.

The intent of the program is to avoid and prevent any activity that would result in negative impact to ground and marine water quality as well as to nearshore marine biota. Because the marine waters fronting the Hokuano project site are Class AA waters as defined by the State Department of Health, they are to remain "...in their natural pristine state with an absolute minimum of pollution or alteration of water quality from any human-caused source or action" (Hawaii Administrative Rules, Chapter 11-54-01). Thus the objective of the monitoring program is to insure that these waters are not impacted by the proposed construction and subsequent maintenance of the improvements that the project proposes to develop.

The maintenance of existing marine communities and water quality is a major goal of the program. To meet this goal and the above objectives, three activities must be completed. These activities are (a) acquisition of comprehensive baseline information, (b) carrying out a monitoring program through the period of construction and for a period of five years following completion of construction and (c) having an approved mitigation plan in place to be used if problems arise.

Quantitative baseline studies have been completed for both the water quality characteristics and the marine biota (see companion document). Monitoring will focus on selected chemical and biological parameters as stipulated by the Board of Health and the draft West Hawaii Water Quality and Marine Life Monitoring Protocol document. Water quality parameters to be routinely measured include nitrate nitrogen, ammonia nitrogen, total nitrogen, orthophosphate, total phosphorus, silica, salinity, temperature, pH, oxygen, turbidity as well as the biological characteristics of chlorophyll-a and bacteria (total coliform, fecal coliform, streptococcus). Marine community monitoring will include for fish determinations of the numbers of individuals of each species and estimates of biomass by species, coverage of all exposed macrobenthos (corals, sponges, tunicates, sessile polychaetes, algae, etc.) as well as counts of all diurnally exposed macroinvertebrates. All sampling will be conducted at permanently marked stations as stipulated in the State of Hawaii Depart-

ment of Health Chapter 54 of Title 11 Administrative Rules.

Insecticide and herbicides are monitored on an annual basis in sediments and possibly in the tissues of specific species (as yet to be determined). Sampling will focus on those specific compounds that have been previously used on the project site. Since the project site is undeveloped, baseline information on pesticides in sediments fronting the project site will be developed by use of organochlorine and organophosphorus screens (useful for determining the presence of more than 30 different pesticides).

In general, monitoring of water quality parameters will be carried out on a quarterly basis and the marine life studies will be done twice a year. Monitoring schedules may change depending on the activities occurring (see below). Schedules as provided here should provide timely information regarding any change that may adversely impact the nearshore waters and communities resident to them. Early detection of change afforded by the monitoring program will allow for timely implementation of appropriate mitigation measures to correct the problem(s).

1.3 Monitoring Plan

Following completion of baseline studies, the monitoring program will focus on delineating any change that may occur in measured water quality or marine community parameters. If statistically significant changes are noted, the mitigation plan is implemented.

The monitoring program will use the same methods as employed in the baseline thus all data can be comparatively analyzed. Following the acquisition of baseline information, the monitoring program during construction will monitor water quality parameters on a quarterly basis at a minimum; this schedule may be increased as determined by permit agencies working with the monitoring program personnel. Unless a significant problem is encountered requiring prompt attention, reporting will be annually with a report developed to meet permit agency requirements.

If a degradative problem is discovered through routine monitoring, permit agencies (County of Hawaii, Department of Land and Natural Resources, Department of Health, US Corps of Engineers, National Marine Fisheries Service and the US Fish and Wildlife Service) will be notified and corrective actions implemented. Degradative problems that will trigger notification of permit agencies and prompt corrective action include (1) the finding of any herbicide or insecticide used on the premises in nearshore marine waters, (2) a statistically significant increase (over

baseline data) of inorganic nutrient concentrations in nearshore marine waters, (3) a statistically significant decline in the quantitative measures of dominant marine species (such as coral coverage) that cannot be unequivocally related to natural events such as storms, or (4) any other change in the nearshore marine communities fronting the Hokuano project site that in the professional opinion of the monitoring program personnel warrants such notification. Notification will be made within 48 hours from the time of first detection.

Notification of a problem to the developer and/or subsequent owner/operator(s) as well as permit agencies will trigger appropriate corrective measures. The cost of any corrective action(s) will be borne by the developer, his assigns and/or the owner/operator(s).

As stated previously, only scientifically accepted methods for sampling and reporting will be used as now given in the draft West Hawaii Water Quality and Marine Life Monitoring Protocol; these may be subject to change as required by the County of Hawaii and other permit agencies. The environmental monitor will have the authority to modify techniques and protocols to meet changing resource protection needs. Any change to the present program and protocol must be approved by the Planning Director, County of Hawaii prior to implementation.

2.3.a Phases in the Monitoring Program

The water quality and marine life monitoring and mitigation plan will be undertaken in three phases that are related to the construction activities of the development. These are detailed below:

Preconstruction Phase

During the preconstruction phase which is in effect until commencement of construction, baseline information is assembled. The demarcation of a quantitative baseline allows one to identify impacts or measure change that may subsequently occur with development. The first step in developing the baseline information has been accomplished (see companion document).

During Construction Phase

The developer will employ management practices as to avoid impacts to the quality of the groundwater or biota. Temporary settlement basins will be used where needed to reduce the possibility of runoff occurring as during a storm event. Permanent drainage systems will be developed to maximize percolation and

minimize stormwater runoff to the ocean.

During construction, water quality monitoring will continue at a minimum quarterly schedule and the marine life monitoring will be semiannual; this schedule may be increased if deemed necessary. It is probable that water quality monitoring could be increased to a monthly monitoring (for specific criteria) and the monitoring of marine communities may remain at on a semiannual schedule. It is expected that pesticide sampling will remain on an annual schedule. The rationale for this approach is related to the findings to date on coastal development and impacts to aquatic communities on the West Hawaii coast. As noted in the companion baseline document, data from the large-scale, long-term development at Waikoloa suggests that the first detectable changes to occur are with changes in the chemistry of the groundwater. These changes are apparent well in advance of any change in the biota; thus an appropriate strategy in monitoring during construction is to focus first on statistically significant change in chemical parameters. If changes in water chemistry are noted, a search for quantitative change in the aquatic biota is made. The methods used in the monitoring will be identical to those used in the baseline studies. If discernible impacts are evident, the mitigation plan is put into effect (see Section 1.4).

Post Construction

Following the termination of construction, the level of monitoring will be reduced to a quarterly sampling effort for water quality parameters and semiannually for marine communities. Pesticide sampling will continue on an annual cycle. All sampling should continue for a period of five years following the termination of all construction in the area within 1km of the shoreline. At the end of five years, the program will be reviewed by the permit agencies and a determination made as to the scale and frequency at which the program should continue. The goal of the post construction monitoring is to insure that no long-term change(s) in water quality and marine communities occur that are attributable to the development.

Reporting

All monitoring activities will be presented in an annual report to be submitted to interested permit agencies (Hawaii County Planning Department, Department of Health, Department of Land and Natural Resources, US Corps of Engineers, National Marine Fisheries Service and the US. Fish and Wildlife Service). The frequency of reporting will be modified only if a change in

water quality or biota is noted as described in Section 1.3 and corrective measures are implemented. Under those circumstances, reporting may be variable, occurring on an "as need" basis (probably no greater than monthly). Reports will be written with as much statistical and/or quantitative interpretation as is possible with the extant data. Reports will be made available to any interest group, county, state or federal agency wishing to develop a regional or comprehensive database.

1.4 Mitigation Plan

If significant change occurs in water quality parameters and/or marine biota offshore of the project site, the mitigation plan would be implemented. The objective of this plan is to reverse detrimental impacts to aquatic communities; as discussed above, negative impacts to marine communities will probably be mediated through changes in water quality. Thus the mitigation plan focuses first on reversing detrimental water quality characteristics if problems have arisen. The monitoring program will identify the problem (using comparative analysis of baseline information); the mitigation plan will attempt to reverse the problem and subsequently, the monitoring program will determine if the mitigation plan has been successful. If not, the process is reiterated. Monitoring schedules during the process of mitigation are expected to be increased until the problem(s) is solved. This approach has been successfully used in the Waikoloa Anchialine Pond Preserve Program.

During the construction phase, the water quality monitoring will be on a quarterly schedule at a minimum; this level of effort will continue over into the post construction phase. Biological resource monitoring will be on a semiannual basis. If a problem is encountered which triggers a mitigative action, monitoring will be increased to reflect a level consistent with understanding the changes occurring. The costs of these increased efforts will be borne by the developer, his assigns or the owner/operator(s). The steps to be followed in this plan include the identification of the problem, locating the source of the problem, and lastly, halting or modifying the activity at the source to alleviate the problem. The monitoring program will determine if the effort has been successful.

A key to success in the mitigation plan lies with the cooperation of all parties concerned; personnel in the monitoring and management program must cooperate with the construction and later the grounds and maintenance personnel. This is particularly true for problems mediated by change in inorganic nutrient levels in the groundwater. A close working relationship between the monitoring program and construction and/or maintenance personnel pro-

vides the ingredients for a rapid response to environmental problems as they arise. Rapid response serves to protect the environmental integrity of the site and nearshore waters fronting the project. Responsibility for the success of the mitigation program must ultimately lie with the developer and this responsibility should be included in the covenants if ownership changes. Similarly, costs incurred in any mitigative action must be borne by the developer.

Some change to marine communities is anticipated with the development of the Hokukano parcel. Today access is limited and the structure (i.e., species richness, biomass, etc.) of the nearshore fish communities reflect that. Fishing pressure in the area is presently light but will increase with easy public access. The cause and effect relationship between exploitation and condition of the resource is difficult to quantitatively determine but is assumed to occur. Qualitatively these changes have been encountered at numerous areas of the West Hawaii coast (Brock, personal observations); they have not been linked with changes in the groundwater chemistry but rather with the ease of access and thus increased resource exploitation. Because the monitoring program is quantitatively assessing both groundwater characteristics as well as fish community structure, the impact of exploitation may be quantitatively divisible in the dataset.

1.5 Funding

The cost of water quality and marine life monitoring program will be carried by the developer, his assigns or owner/operator(s). These costs shall include but not limited to those associated with routine monitoring and reporting as well as providing funds for mitigative action on an "as need" basis. All monies shall be provided to the monitoring program on a timely basis such that the sampling schedule of the program is not jeopardized.



AMENDED ARCHAEOLOGICAL MONITORING PLAN
FOR VEGETATION CLEARING AT THE
SHORELINE PRESERVATION PARK AT HOKULI`A
KONA DISTRICT, ISLAND OF HAWAI`I,
STATE OF HAWAII

Final Report



April 2006

Amended Archaeological Monitoring Plan
For Vegetation Clearing at Hokuli`a
Shoreline Preservation Park
Kona District, Island of Hawai`i, State of Hawaii

Final Report

Dennis C. Gosser and Stephan D. Clark
Pacific Consulting Services, Inc.
720 Iwilei Road, Suite 424
Honolulu, HI 96817

Prepared for
1250 Oceanside Partners, Inc.
78-6831 Ali`i Drive, Suite K15
Kailua-Kona, Hawaii 96740

April 2006

TABLE OF CONTENTS

TABLE OF CONTENTS	I
INTRODUCTION	1
PROJECT AREA LOCATION	1
PROJECT BACKGROUND	1
SCOPE OF WORK	5
PRE-CLEARING PREPARATIONS	7
CLEARING METHODS	10
SPECIAL AREAS	11
INADVERTENT DISTURBANCE	11
REPORTING	12
REFERENCES CITED	13
APPENDIX A Table 1 Shoreline Park Archaeological Sites Cleared of Vegetation in 2003	
Table 2 Shoreline Park Archaeological Sites to be Cleared in 2005-2006	
Table 3 Archaeological Sites on or near Pu`u Ohau	
Table 4 Archaeological Sites Excluded from Shoreline Park Clearing Project	
APPENDIX B COMMUNITY CONSULTATION FOR AN AMENDED ARCHAEOLOGICAL MONITORING PLAN FOR VEGETATION CLEARING AT THE SHORELINE PRESERVATION PARK AT HOKULI`A	

LIST OF FIGURES

Figure 1. Northern Portion of Shoreline Park Showing Sites Cleared in 2003.	2
Figure 2. Southern Portion of Shoreline Park Showing Previously Recorded Sites.	3
Figure 3. Northern Portion of Shoreline Park Showing Possible Staging Areas and Disposal Routes.	6
Figure 4. Southern Portion of Shoreline Park Showing Possible Staging Areas and Disposal Routes.	8
Figure 5. Archaeological Sites on and near Pu`u Ohau.	9

INTRODUCTION

At the request of 1250 Oceanside Partners, Inc. (Oceanside), Pacific Consulting Services, Inc. (PCSI) has prepared this amended archaeological monitoring plan (AMP) to continue efforts to monitor vegetation clearing within and near selected archaeological sites in the Shoreline Park at Hokuli`a on Hawai`i Island. The primary purpose of vegetation clearing in the Shoreline Park is to facilitate a PCSI field survey to verify and update data reported in the archaeological inventory report (Hammatt et al. 1995a, 1995b, 1997). The results of that survey will be included in the Historic Preservation Plan (HPP) for the Shoreline Park.

Archaeological monitoring of vegetation clearing in the Shoreline Park is required in compliance with Hawaii Revised Statutes (HRS), Chapter 6e, and Title 13 of the Hawaii Administrative Rules (HAR), Subtitle 13 (State Historic Preservation Division Rules), Chapter 279 (Rules Governing Standards for Archaeological Monitoring Studies and Reports). Monitoring of vegetation clearing also complies with Hokuli`a's *Integrated Archaeological Mitigation Plan* (IAMP) (Tuggle and Tuggle 1999:131).

PROJECT AREA LOCATION

The Shoreline Park consists of approximately 140 acres of coastline in Oceanside's Hokuli`a project area (Tax Map Key [TMK] 8-1-04:03) and extends approximately 300 feet to 1200 feet inland (Figures 1 and 2). The lands within Shoreline Park include Honua`ino (3 & 4), Hōkūkano (1 & 2), and Kanāueue (1 & 2) *ahupua`a* in North Kona District, and Haleki`i, Ke`eke`e (1 & 2), `Ilikahi, Kanakau (1 & 2), Kalukalu (1 & 2), and Onouli (1) *ahupua`a* in South Kona District. The Shoreline Park is within the boundaries of the State Conservation District, Limited (L) Subzone (PBR 2000:2) and is bounded on the west by the Pacific Ocean, on the east by the Conservation District boundary, on the north by Honuaino (3) *Ahupua`a* and on the south by Onouli (2) *Ahupua`a*.

PROJECT BACKGROUND

The environmental, historical, land-use, and archaeological background for the Shoreline Park and surrounding areas has been synthesized in several reports (Hammatt

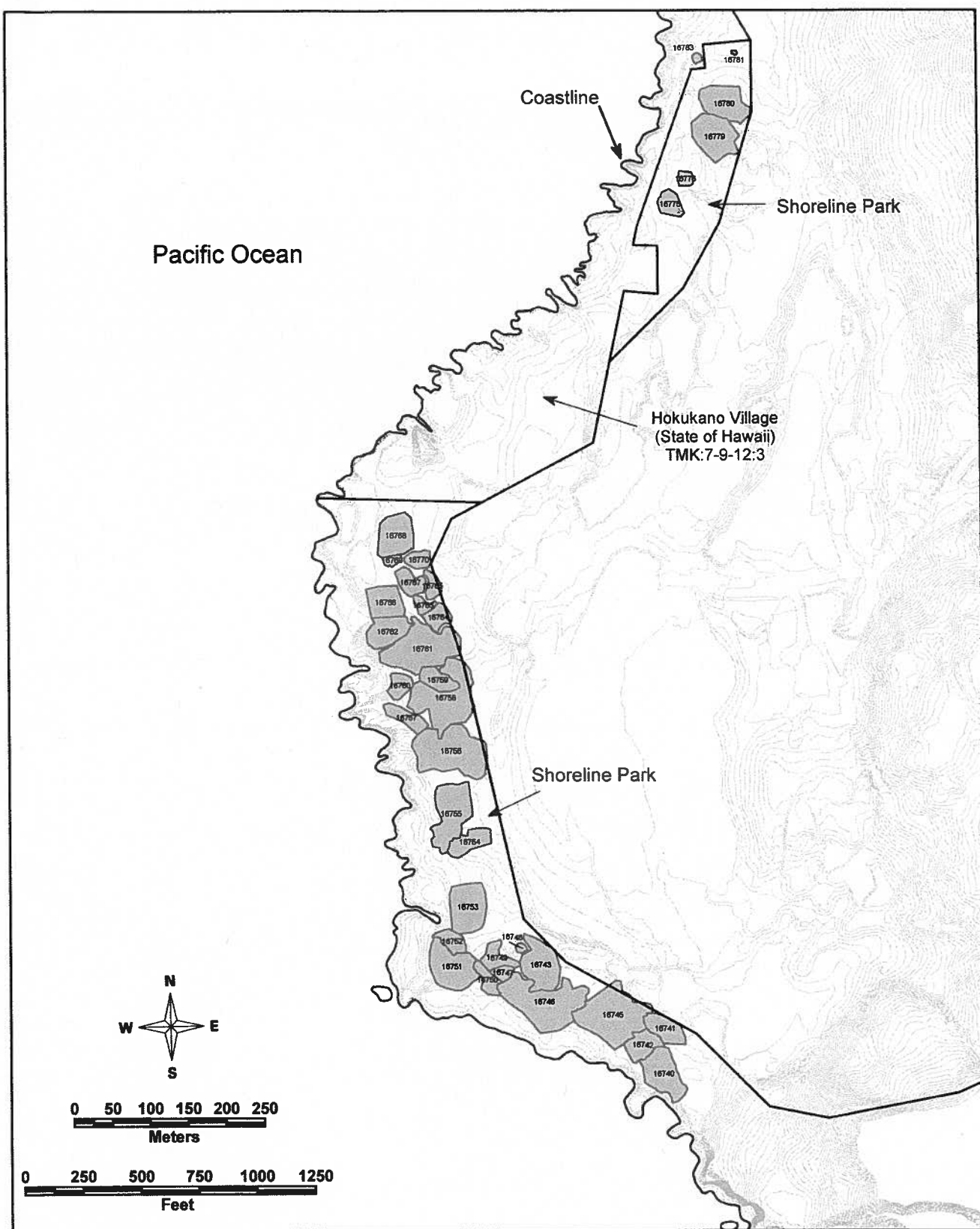


Figure 1. Northern Portion of Shoreline Park Showing Archaeological Sites Cleared in 2003.

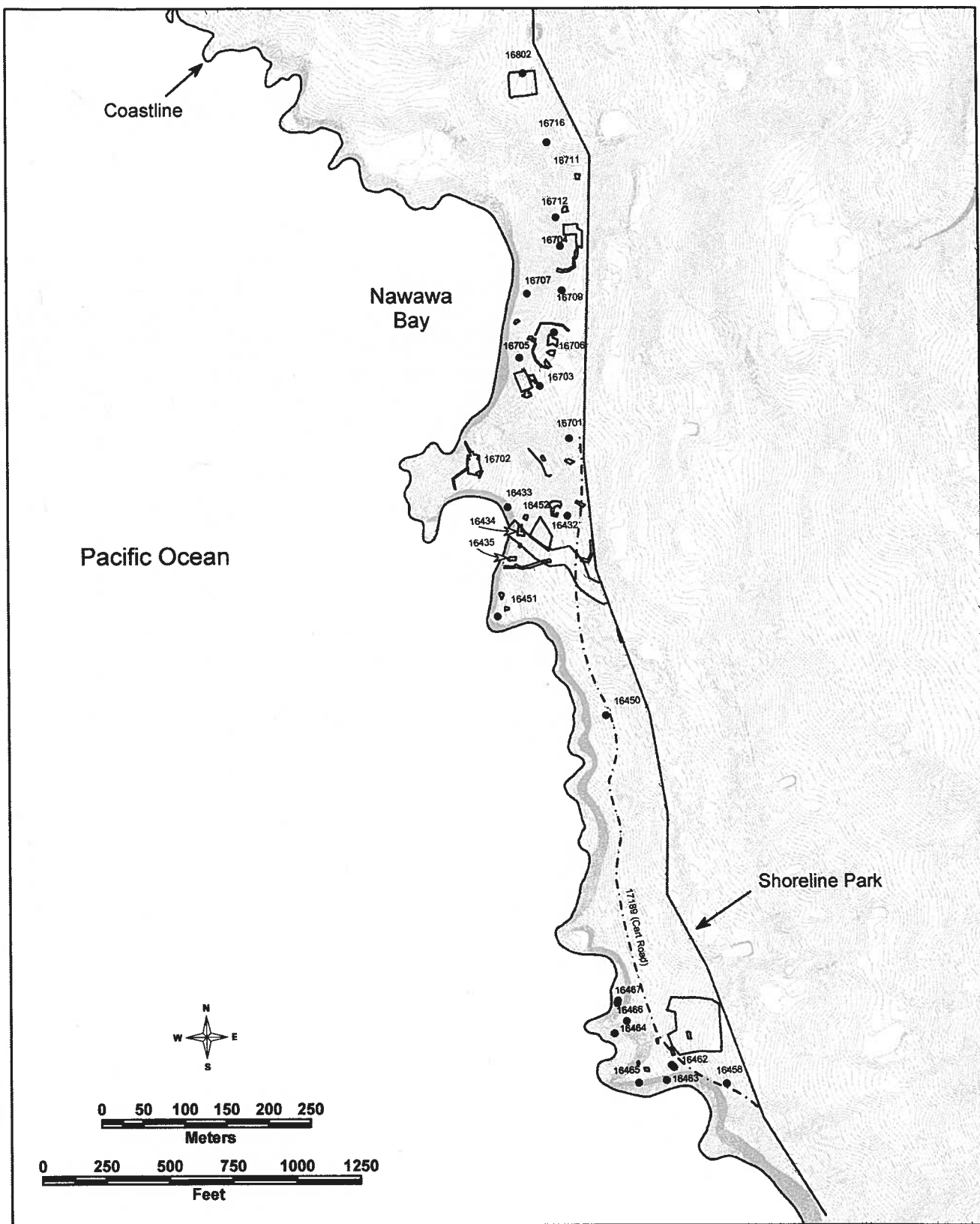


Figure 2. Southern Portion of Shoreline Park Showing Previously Recorded Archaeological Sites.

et al. 1997, PBR Hawaii 1998, 2000, Tuggle and Tuggle 1999). The park was conceived as part of Oceanside's Master Plan for "The Villages at Hokukano" (now called Hokuli'a) development; its establishment and management plan has been included as a "condition of approval" for various land-use and zoning permits (PBR 1998:1). The Shoreline Park will include, through a management-lease agreement, the State owned "Hokukano Village" archaeological site, located in the northern section of the park.

There are 94 archaeological sites within the boundaries of Shoreline Park (Tuggle and Tuggle 1999: Appendix A). In addition, two sites (16779 and 16780) not originally listed within the park are now included.

Summary of 2003 Monitoring of Vegetation Clearing

Between 13 June and 16 November 2003, Pacific Consulting Services, Inc. (PCSI) monitored vegetation clearing within Shoreline Park. The clearing project was initiated to remove vegetation in support of an HPP being prepared for the Shoreline Park and was conducted in accordance with the Monitoring Plan and the Preservation Plan components of the IAMP (Tuggle and Tuggle 1999). As stated in the IAMP's Monitoring Plan (Tuggle and Tuggle 1999:131; see also Tuggle and Tuggle 1999:63):

"Monitoring is required for any development actions that can disturb or damage archaeological sites. These actions include clearing, grubbing, and grading prior to construction, construction of roads, facilities, and above and underground utilities, and landscaping. These actions are discussed as short-term impacts in the Preservation Plan."

Guided by the SHPD-approved AMP (Gosser and Clark 2003), Oceanside cleared 36 archaeological sites north of Pu'u Ohau, and 13 sites south of Pu'u Ohau (see Table 1 in Appendix A). PCSI identified 516 new features in sites on the north side of the *pu'u* and 89 new features in sites on the south side of the *pu'u*. Because of the protocols established in the AMP, no damage or alteration to historic properties occurred during the clearing fieldwork in 2003.

SCOPE OF WORK

In 2005-2006, Oceanside proposes to clear portions of nine (9) archaeological sites north of Pu'u Ohau and 28 sites south of Pu'u Oahu. Seventeen sites within the park boundaries are being excluded from the current clearing project.

North of Pu'u Ohau

There are approximately eight sites with features extending across the park boundaries into residential lots slated for development (Figure 3; Table 2, Appendix A). While the Shoreline Park's inland boundary will remain fixed, Oceanside will use the forthcoming Shoreline Park HPP to manage these sites in a consistent manner. That is, sites with features within the park and adjacent to the park will be managed and preserved as if they were entirely in the park. Based on current data, the following sites fit this scenario;

16741 – Features 1-6, 8, 10, and 11 are outside the park

16758 – Features F and K are outside the park; and

16764 – Feature B is outside the park

Site 16756 also has features that extend outside the park boundary; these features have already been mapped and described in the preliminary draft HPP.

In addition to the known sites with features outside the park boundary, four additional sites, 16744, 16745, 16761, 16765, and 16780, may have non recorded features outside the park boundaries. These areas will be inspected prior to clearing.

Another site area that will be cleared is the inland extent of Sites 16752 and 16753. This area was examined only briefly during the last phase of work and there are an unknown number of features yet to be recorded.

South of Pu'u Ohau

During the previous vegetation-clearing project, 13 sites were cleared south of Pu'u Ohau (see Table 1, Appendix A). Subsequent to clearing, but before additional features could be fully recorded, Oceanside, in consultation with PCSI and SHPD,

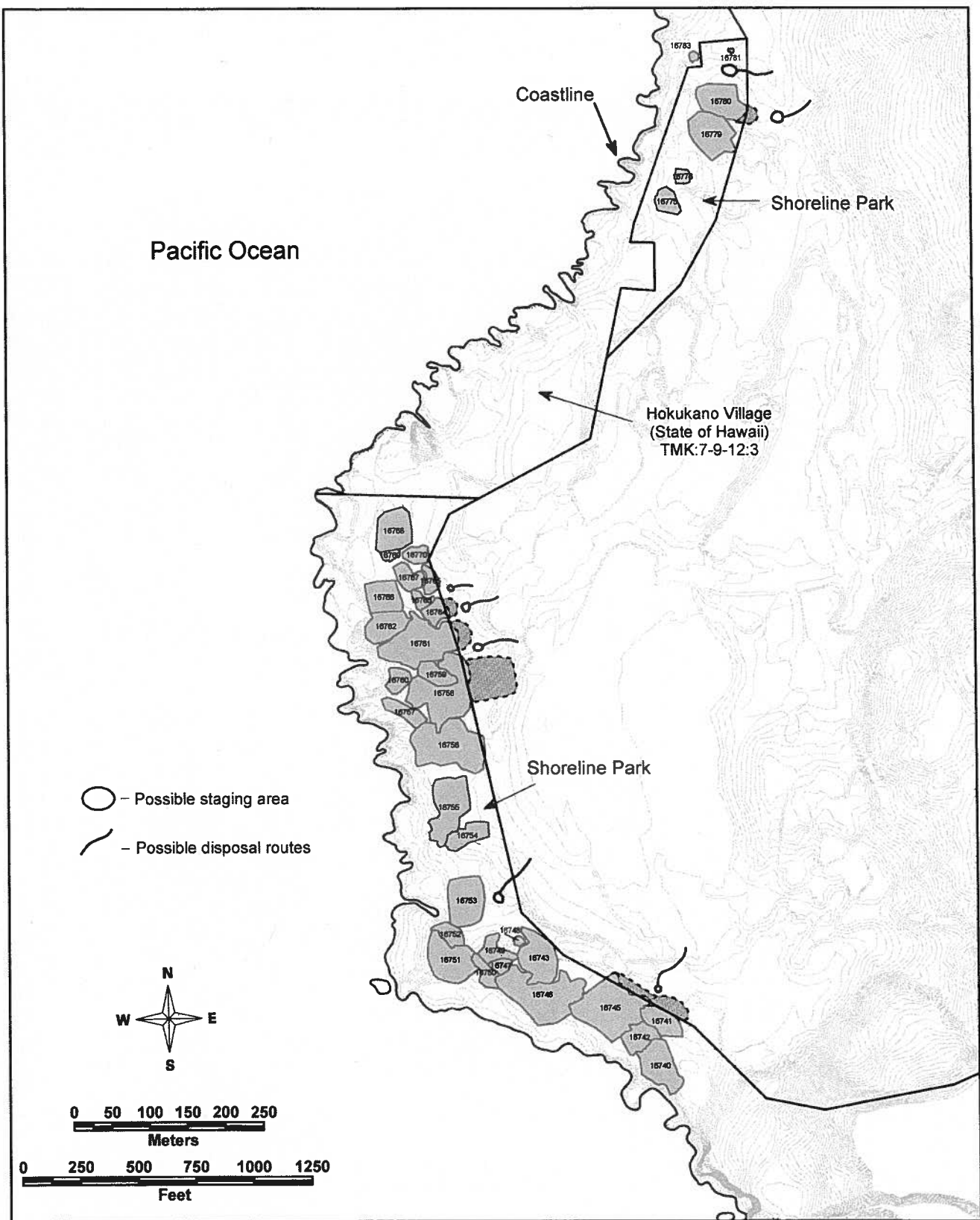


Figure 3. Northern Portion of Shoreline Park Showing Possible Staging Areas and Disposal Routes.

decided to focus their attention on sites north of Pu'u Ohau. Oceanside proposes to revisit these 13 sites plus an additional 15 sites during the current clearing project (Figure 4; see Table 2).

Pu'u Ohau and Other Excluded Sites

Seventeen sites on or near Pu'u Ohau, or within privately-owned *kuleana* parcels south of Pu'u Ohau will not be cleared as part of the current project. Tables 3 and 4 in Appendix A lists these sites and the number of currently known features associated with them. The locations of the Pu'u Ohau sites are on Figure 5.

Monitoring Tasks

Vegetation clearing in and around preserved archaeological sites in the Shoreline Park is being undertaken by Oceanside to facilitate the development of the Park's Historic Preservation Plan; archaeologists will monitor all aspects of the work. The following tasks are described in this report:

- Pre-Clearing Preparations
- Clearing Methods
- Areas of Special Concern
- Inadvertent Disturbances
- Reporting

PRE-CLEARING PREPARATIONS

Before clearing begins, PCSI will undertake several pre-field tasks. First, to facilitate the removal of cut vegetation from site areas, we will identify (with flagging) staging areas for piling vegetation and temporary access trails for the removal of vegetation away from the Shoreline Park. A base course of chipped wood will be put on the access trails to facilitate transport of vegetation debris.

The project will employ two primary means to remove vegetation from the park: 1) rubber-tired vehicles on cleared paths bedded with coarse mulch, and 2) on foot using

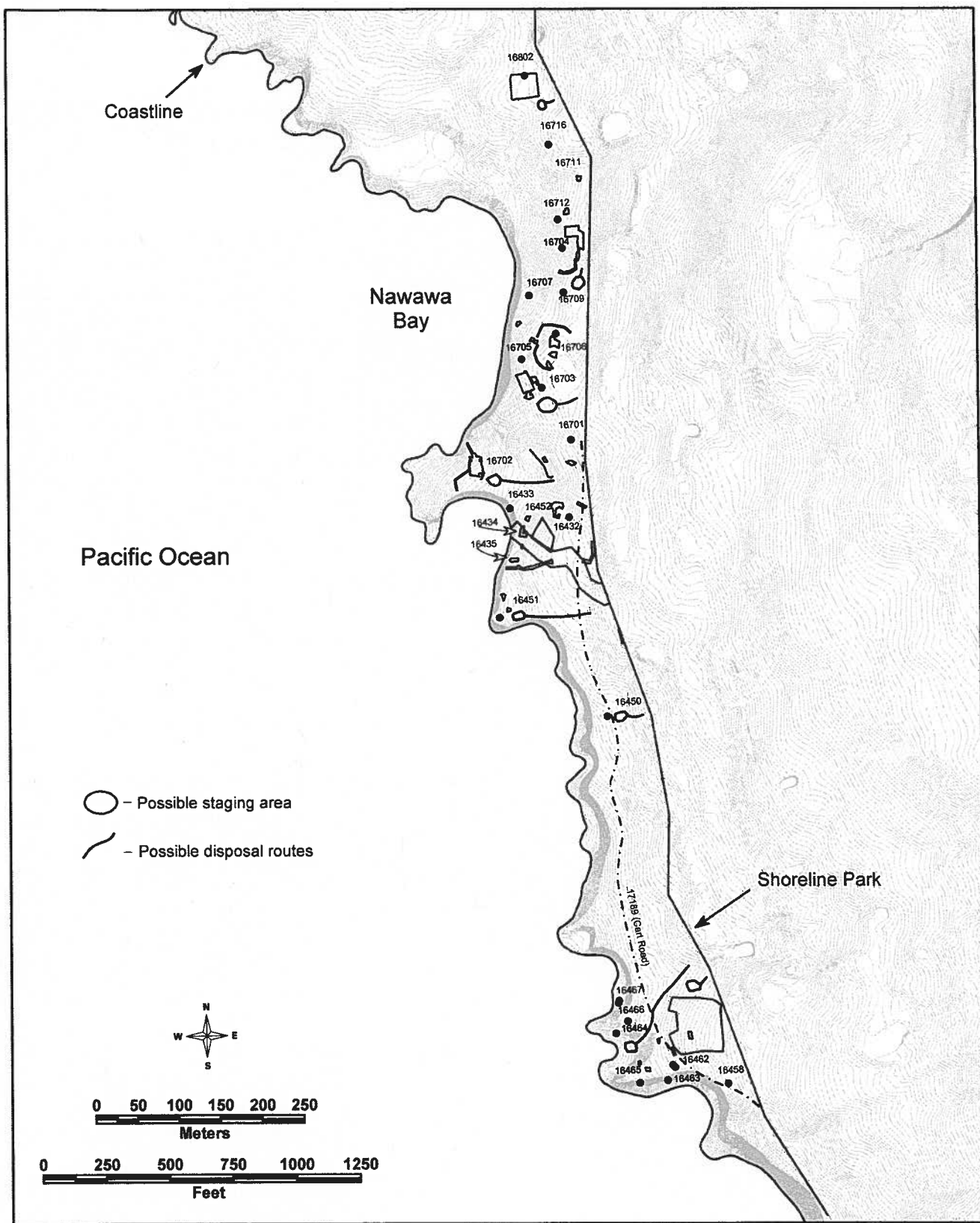


Figure 4. Southern Portion of Shoreline Park Showing Possible Staging Areas and Disposal Routes.

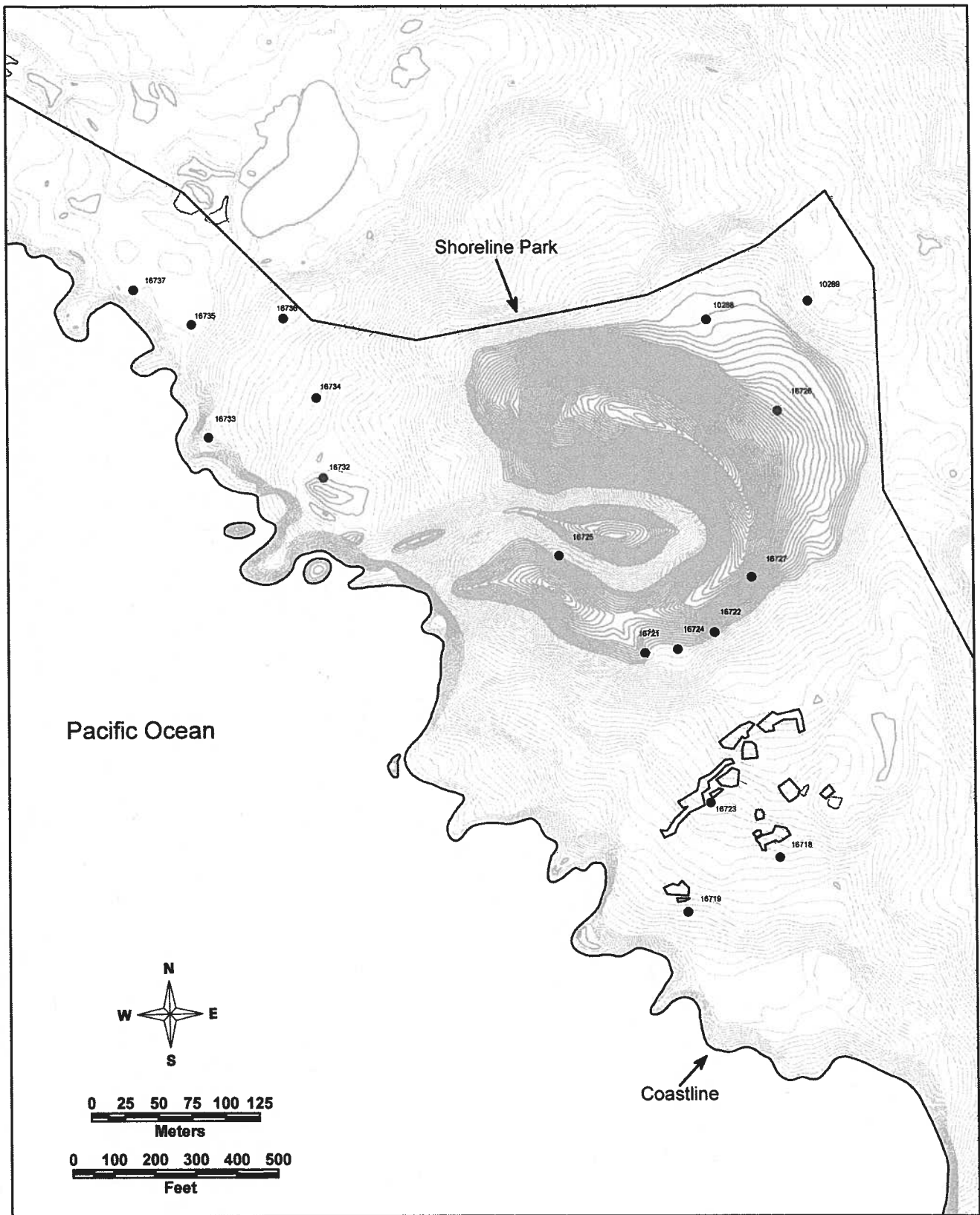


Figure 5. Archaeological Sites on and Near Pu'u Ohau.

a wire litter where vehicle removal is not viable. Once the vegetation is cleared, the debris will be taken to an area outside the park for chipping and mulching.

Second, PCSI will conduct a brief reconnaissance to locate the initial site areas to be cleared. As the project begins, additional site areas will be identified in advance of the clearing crew. All work will be monitored by PCSI.

Finally, PCSI will conduct a briefing for Hokuli`a's vegetation clearing crew. The briefing will discuss acceptable protocol in and around archaeological sites. This will include information to minimize subsurface disturbance to sites (e.g., cutting vegetation rather than pulling roots), information to minimize disturbance to aboveground surface architecture (e.g., avoiding contact with free-standing walls and climbing on terrace and platform faces), and information to minimize displacement of artifacts and other cultural materials on the surface. The briefing will also address culturally sensitive conduct in and around special sites such as *heiau* and known human interments.

CLEARING METHODS

Once in the field, the PCSI monitor will lead the clearing crew into site areas and identify, with flagging, site features and other areas of concern. Clearing will focus on surface architecture, including walls, terraces, platforms, pavements, lava tube entrances, and mounds. Clearing will extend approximately 5-6 feet beyond established site boundaries. The purpose of vegetation clearing is to increase ground visibility for the subsequent HPP verification survey. Therefore, large trees (i.e., trunks greater than 6 inch diameters) with elevated canopies will be pruned. As a means of prohibiting future growth (where desirable), limb stumps will be cauterized. The decision to cut large trees that are impacting walls and other structural components of the archaeological sites will be determined on a case-by-case basis.

All clearing in the Shoreline Park will be conducted by hand with the aid of hand-held mechanized equipment such as "weed whackers," small propane torches, and chain saws. There will be areas of sawdust and leaf debris that will need to be removed and this work will be conducted utilizing rakes and/or blowers at the discretion of the archaeological monitor. Rakes will not be used within site areas to remove surface debris. The monitor may request additional limited hand removal of

leaf-litter in areas of concern to minimize surface disturbance. Cut vegetation will be collected at designated "staging areas" for subsequent removal out of Shoreline Park (see Figures 3 and 4).

Once the initial clearing project is completed, maintenance vegetation clearing will be conducted on a regular basis throughout Shoreline Park and will be monitored by a qualified archaeological monitor. Practices consistent with this Plan will be followed on all subsequent vegetation maintenance programs within Shoreline Park.

SPECIAL AREAS

Several archaeological site types are of special cultural concern and will require special attention. Primarily, these site types are *heiau*, or ceremonial structures, as well as known and probable human interments. PCSI, in consultation with Oceanside and designated Native Hawaiian groups, will meet to develop acceptable clearing practices at these site types. Acceptable practices may also include special conduct by individuals to maintain proper reverence and respect while in designated areas.

Pu`u Ohau

Archaeological sites on Pu`u Ohau will not be visited or disturbed during the 2005-2006 vegetation clearing covered by this revised plan.

INADVERTENT DISTURBANCE

If, during vegetation clearing, archaeological features are accidentally disturbed, the archaeological monitor will document the event. Documentation will include a description of the feature, a description of the extent of disturbance, photographs of the disturbance, and a description of how the event occurred. Corrective action, if any, will be documented. In the unlikely event that a human interment is exposed because of a disturbance, PCSI will follow the procedures for burials set forth in Chapter 6E-43 of Hawaii Revised Statutes, and will notify SHPD of the discovery. Finally, disturbances will be flagged and included on maps during the subsequent HPP verification survey.

REPORTING

The archaeological monitor will compile daily monitoring reports. These reports will minimally include a description of daily activities, sites (or features) cleared, personnel on-site, problems encountered, and corrective action taken. Monthly reports will be filed with the SHPD detailing any new sites or features identified within the park boundaries. This work will be reported on standardized forms. Upon the completion of the project, a draft monitoring report will be filed with the SHPD for review. After addressing comments, a final monitoring report will be filed with the SHPD.

REFERENCES CITED

Gosser, Dennis C., and Stephan D. Clark

- 2003 Archaeological Monitoring Plan for Vegetation Clearing at Shoreline Preservation Park, Kona District, Island of Hawai'i, State of Hawaii. Prepared by Pacific Consulting Services Inc. for 1250 Oceanside Partners. Available at the State Historic Preservation Division, Kapolei.

Hammatt, H.H., D.F. Borthwick, B.L. Colin, I. Masterson, J.J. Robins, and H. Wong Smith

- 1997 Volume I, Archaeological Inventory Survey and Limited Subsurface Testing of a 1,540-Acre Parcel in the Ahupua`a of Honuaino, Hokukano, Kanaeue, Haleki`i, Ke`eke`e, `Ilikahi, Kanakau, Kalukalu, and Onouli, Districts of North and South Kona, Island of Hawai'i. Prepared for 1250 Oceanside Partners. Cultural Surveys Hawaii, Kailua. January. Available at the State Historic Preservation Division, Kapolei.
- 1995a Volume II, Archaeological Inventory Survey and Limited Subsurface Testing of a 1,540-Acre Parcel in the Ahupua`a of Honuaino, Hokukano, Kanaeue, Haleki`i, Ke`eke`e, `Ilikahi, Kanakau, Kalukalu, and Onouli, Districts of North and South Kona, Island of Hawai'i. Prepared for 1250 Oceanside Partners. Cultural Surveys Hawaii, Kailua. January. Available at the State Historic Preservation Division, Kapolei.
- 1995b Volume I, Archaeological Inventory Survey and Limited Subsurface Testing of a 1,540-Acre Parcel in the Ahupua`a of Honuaino, Hokukano, Kanaeue, Haleki`i, Ke`eke`e, `Ilikahi, Kanakau, Kalukalu, and Onouli, Districts of North and South Kona, Island of Hawai'i. Prepared for 1250 Oceanside Partners. Cultural Surveys Hawaii, Kailua. January. Available at the State Historic Preservation Division, Kapolei.

PBR, Hawaii

- 1998 Shoreline Park Management and Public Access Plan, the Villages at Hokukano. Prepared for 1250 Oceanside Partners (November). Prepared by PBR Hawaii, Honolulu. Available at the State Historic Preservation Division, Kapolei.
- 2000 Hokuli'a Shoreline Park Conservation District Use Application Permit. Prepared for 1250 Oceanside Partners (January). Prepared by PBR Hawaii, Honolulu. Available at the State Historic Preservation Division, Kapolei.

Tuggle-Tomonari, M.J., and H. David Tuggle

1999 Hokuli'a: An Integrated Archaeological Mitigation Plan. Prepared by the
International Archaeological Research Institute, Inc. Ms. on file at Oceanside
1250 Partners, Kona, Hawaii.

APPENDIX A

Table 1 Shoreline Park Archaeological Sites Cleared of Vegetation in 2003

Table 2 Shoreline Park Archaeological Sites to be Cleared in 2005-2006

Table 3 Archaeological Sites on or near Pu`u Ohau

Table 4 Archaeological Sites Excluded from Shoreline Park Clearing Project

APPENDIX A

Table 1. Shoreline Park Archaeological Sites Cleared of Vegetation in 2003.

Site Number	Ahupua`a	Site Type/Function	Original Feature Total	# New Features	Revised Feature Total
Archaeological Sites on North Side of Pu`u Ohau					
16740	Kanaeue	Platform-wall complex/habitation	3	13	20
16741	Kanaeue	Multi-feature complex/habitation/burial/ag	8	7	15
16742	Kanaeue	Enclosure complex/agriculture	3	2	5
16743	Hokukano	Platform-terrace complex/burial	3	17	20
16744	Hokukano	Lava blister	1	0	1
16745	Kanaeue	Multi-feature complex/habitation, burial?, agriculture	5	34	39
16746	Hokukano	Multi-feature complex/habitation-possible burial-pen	11	31	42
16747	Hokukano	Platform/habitation	1	5	6
16748	Hokukano	Lava blister/habitation	1	0	1
16749	Hokukano	Rockshelter/habitation	1	14	15
16750	Hokukano	Rockshelter/habitation	1	5	6
16751	Hokukano	Terrace-enclosure complex/habitation	5	39	44
16752	Hokukano	Terrace/habitation	1	7	8
16753	Hokukano	Site Remnant	1	27	28
16754	Hokukano	Rockshelters/habitation	1	13	14
16755	Hokukano	Platform-enclosure complex/habitation	5	41	46
16756	Hokukano	Multi-feature complex/habitation-possible burial	18	31	49
16757	Hokukano	Platform complex/possible <i>heiau</i> - possible burial	2	16	18
16758	Hokukano	Multi-feature Complex/habitation-possible burial-possible <i>heiau</i>	11	42	53
16759	Hokukano	Terrace complex/habitation	2	7	9
16760	Hokukano	Platform complex/possible burial	2	3	5
16761	Hokukano	Multi-feature complex/habitation/possible burial	16	44	60
16762	Hokukano	Platform complex/habitation- <i>heiau</i>	4	7	11
16763	Hokukano	Platform-terrace complex/possible burial	3	6	9
16764	Hokukano	Terrace complex/possible burial	2	11	13
16765	Hokukano	Enclosure-pavement complex/habitation	2	5	7
16766	Hokukano	Platform complex/habitation	3	7	10
16767	Hokukano	Enclosure-terrace complex/habitation - possible burial	3	14	17
16768	Hokukano	Enclosure-terrace complex/habitation- possible burial	3	19	22
16769	Hokukano	Walls/agricultural	1	3	4
16770	Hokukano	Terrace/habitation	1	18	19
16775	Hokukano	Enclosure/habitation	1	5	6
16776	Hokukano	Enclosure/habitation	1	0	1
16779	Honuaino	Rock shelter complex/habitation	2	16	18
16780	Honuaino	Platform-enclosure complex/habitation	2	5	7
16781	Honuaino	Enclosure/pen	1	2	3
16783	Honuaino	Platform/habitation	1	0	1

Site Number	Ahupua`a	Site Type/Function	Original Feature Total	# New Features	Revised Feature Total
Feature Totals North Side of Pu`u Oahu			132	516	652
Archaeological Sites on South Side of Pu`u Oahu					
16702	Kanakau	Platform complex/habitation-historic store	4	13	17
16703	Kanakau	Platform complex/ <i>heiau</i> /possible burial	5	11	16
16704	Ke`eke`e	Platform/habitation	1	6	7
16705	Ke`eke`e	Platform complex/possible burial	2	7	9
16709	Ke`eke`e	Mound/possible burial	1	0	1
16719	Ke`eke`e	Enclosure/ <i>heiau</i>	1	2	3
16802	Ke`eke`e	Enclosure/animal pen	1	2	3
16435	Kalukalu	Platform/habitation	1	5	6
16458	Onouli	Platform remnant-function unknown	1	35	36
16462	Onouli	Terrace/habitation	1	2	3
16463	Onouli	Platform/possible burial	1	5	6
16450	Onouli 1	Platform/possible burial	1	0	1
16465	Onouli 1	Platform complex/possible burial	2	1	3
Feature Totals South Side of Pu`u Oahu			22	89	111
Feature Totals for North and South Sides			154	605	763

Table 2. Shoreline Park Archaeological Sites to be Cleared in 2005-2006.

Site Number	Ahupua`a	Site Type/Function	Original Feature Total
Archaeological Sites on North Side of Pu`u Ohau*			
16741	Kanaeue	Multi-feature complex/habitation/ burial/agriculture	8
16744**	Hokukano	Lava blister	1
16745	Kanaeue	Multi-feature complex/habitation, burial?, agriculture	5
16756	Hokukano	Multi-feature complex/habitation-possible burial	18
16758	Hokukano	Multi-feature Complex/habitation-possible burial-possible <i>heiau</i>	11
16761	Hokukano	Multi-feature complex/habitation/possible burial	16
16764	Hokukano	Terrace complex/possible burial	2
16765	Hokukano	Enclosure-pavement complex/habitation	2
16780	Honuaiono	Platform-enclosure complex/habitation	2
16752	Hokukano	Terrace/habitation	1
Archaeological Sites on South Side of Pu`u Ohau			
16432	Kalukalu	Modified Outcrop/habitation	1
16433	Kalukalu	Platform/burial?	1
16434	Kalukalu	Platform	1
16435	Kalukalu	Platform/habitation	1
16450	Onouli 1	Platform/possible burial	1
16451	Kalukalu	Complex/burial?	3
16452	Kalukalu	Platform/burial	1
16458	Onouli	Platform remnant-function unknown	1
16461	Onouli 1	Enclosure/habitation	1
16462	Onouli	Terrace/habitation	1
16463	Onouli	Platform/possible burial	1
16464	Onouli 1	Platform/burial?	1
16465	Onouli 1	Platform complex/possible burial	2
16466	Onouli	C-shape/habitation	1
16467	Onouli	Enclosure/habitation	1
16701	Kanakau	Terrace/habitation	1
16702	Kanakau	Platform complex/habitation-historic store	4
16703	Kanakau	Platform complex/ <i>heiau</i> /possible burial	5
16704	Ke`eke`e	Platform/habitation	1
16705	Ke`eke`e	Platform complex/possible burial	2
16706	Ke`eke`e	Platform/burial?	1
16707	Ke`eke`e	Platform/burial?	1
16709	Ke`eke`e	Mound/possible burial	1
16711	Ke`eke`e	Platform/habitation	1
16712	Ke`eke`e	Platform/habitation	1
16716	Ke`eke`e	Platform-terrace complex/habitation	4
16802	Ke`eke`e	Enclosure/animal pen	1
17189	multiple	Trail-cart road/transportation	1

* Work on the north side only applies to areas not previously cleared in 2003.

** Only if portions extend into Shoreline Park.

Table 3. Archaeological Sites on and Near Pu`u Ohau.

Site Number	Ahupua`a	Site Type/Function	Original Feature Total
10288	Kanaeue	Platform/burial?	1
10289	Kanaeue	Mound-terrace complex/burial?	1
16718	Ke`eke`e	Platform complex/burial?	3
16719	Ke`eke`e	Enclosure/ <i>heiau</i>	1
16721	Halekii	Platform complex/burial?	2
16722	Halekii	Mound/burial?	1
16723	Ke`eke`e	Enclosure-pavement complex/habitation, ag.	5
16724	Halekii	Platform/burial?	1
16725	Halekii	Mound-platform complex/burial?	1
16726	Halekii	Platform/burial?	1
16727	Halekii	Platform/burial?	1
16732	Kanaeue	Platform/burial?	1
16733	Kanaeue	Enclosure-Platform complex/habitation	3
16734	Kanaeue	Enclosure-Platform complex/habitation	3
16735	Kanaeue	Platform remnant	1
16736	Kanaeue	Mound/burial	1
16737	Kanaeue	Enclosure/habitation	1

Table 4. Archaeological Sites Excluded from Shoreline Park Clearing Project.

Site Number	Ahupua`a	Reason for Exclusion
15257	Hokukano	On State land
16771	Hokukano	On State land
16772	Hokukano	On State land
16782	Honuaino	Outside Shoreline Park
16710	Ke`eke`e	On Kuleana land (private)
16713	Ke`eke`e	On Kuleana land (private)
16714	Ke`eke`e	On Kuleana land (private)
16715	Ke`eke`e	On Kuleana land (private)
16717	Ke`eke`e	On Kuleana land (private)
16728	Ke`eke`e	On Kuleana land (private)
16729	Ke`eke`e	On Kuleana land (private)
16730	Ke`eke`e	On Kuleana land (private)
16785	Kalukalu	Subsurface Lava Tube
10290	Multiple	Trail outside Shoreline Park

APPENDIX B

Community Consultation for an Amended Archaeological Monitoring Plan For Vegetation Clearing at the Shoreline Preservation Park at Hokuli`a

**Prepared by
Stephan D. Clark and Dennis Gosser
Pacific Consulting Services, Inc.
720 Iwilei Road, Suite 424
Honolulu, HI 96817**

**Prepared for
1250 Oceanside Partners, Inc.
78-6831 Ali`i Drive, Suite K15
Kailua-Kona, Hawaii 96740**

April 2006

INTRODUCTION

At the request of the State Historic Preservation Division (SHPD), Pacific Consulting Services Inc. (PCSI), on behalf of 1250 Oceanside Partners, Inc. (1250 OP), initiated consultation with recognized descendants and other members of the Kona community regarding an amended archaeological monitoring plan (AMP) for vegetation clearing in the Shoreline Park at Hokuli'a. Pursuant to several consultation alternatives suggested by SHPD, 1250 OP elected to conduct the consultation by direct mail-out in order to reach the maximum number of responders. However, the AMP was also placed on the agenda of the March 16, 2006 meeting of the Hawaii Island Burial Council (HIBC) for general discussion and to take public testimony. This report summarizes the results of both the direct mail-out and the discussion during the March 16th meeting of the HIBC regarding the amended AMP.

The primary purpose of the consultation was to solicit comments on the vegetation clearing in the Shoreline Park proposed and described in the amended AMP. More specifically, there was a need to identify any concerns or perceptions of impacts that had the potential of restricting or halting the project. This report presents a quantitative and qualitative summary of the responses received as part of the mail-out consultation process and a general summary of the community input at the March 16th HIBC meeting.

Mail-out Consultation Methods

To realize the objective of the consultation, on March 3, 2006, a total of 210 information packets were sent via U.S. mail to three groups of participants, including recognized cultural and lineal descendants of known burial sites at Hokuli'a, *kuleana* lot owners within conservation land surrounded by the Shoreline Park, and community members at large (defined as community residents from Kona and West Hawaii). Included with the information packet was a letter explaining the purpose of the consultation, a summary of the amended AMP, two maps depicting the locations of sites on the north and south sides of the Shoreline Park, and a form with a stamped, return-addressed envelope. The form was designed so that the recipients had the option of checking either a "yes, have concerns and/or comments box", or a "no comments box", which was taken to mean that they had no objection to the proposed vegetation clearing in the Shoreline Park. Participants were also provided information concerning how to obtain a copy of the entire amended AMP. Participants in the consultation process were given a deadline of March 31 (four weeks) to respond.

Constraints to Methods

One constraint encountered at the beginning of the consultation process was obtaining a complete and accurate list of recognized cultural and lineal descendants of known burial sites at Hokuli'a. PCSI requested a list of descendants from the History and Culture Branch at SHPD, and was informed by personnel in the Kapolei office that the list of recognized descendants could not be found due to recent changes in staff and

directed us to Mr. Keola Lindsey in the Kona office. A list of 131 names with 47 addresses was provided by Mr. Lindsey in SHPD's Kona office.

When PCSI requested a list from the cultural program staff at 1250 OP, they provided a list of 186 names with 143 addresses. Thus, there were no available lists with complete address information. After comparing the two lists, the final list that was compiled included 186 named individuals, which seems to represent all or almost all of the officially recognized number of descendants. This list was sent to the SHPD Kona office.

The list obtained from 1250 OP also contained information regarding descendants that were deceased; the list noted that 6 descendants had passed away, reducing the number of descendants to consult with to a total of 180 individuals.

Table 1 summarizes the status of contact information for recognized descendants associated with known burial sites at Hokuli'a. As shown in Table 1, 76% (137 individuals) of the descendants had address information and could be contacted. Twenty-four percent of the recognized descendants, or 43 individuals, were not included in the consultation process because of a lack of contact information.

Table 1. Summary of Contact Information for Recognized Descendants.

Recognized Descendants	Number	Percentage of Total
Descendants with address information	137	76%
Descendants without address information	43	24%
Total Number of Descendants	180	100%

Another related constraint to contacting recognized descendants was that a number of individuals had apparently moved and did not leave forwarding addresses with the Post Office, and/or failed to forward update address information to SHPD. Table 2 summarizes the numbers of information packets returned un-open due to incorrect address information for participant groups. A total of 12 packets were returned by the Post Office; eight (67%) of these were from recognized descendants and four (33%) were from the community at large.

Table 2. Summary of Returned Information Packets by Participant Groups.

Participant Groups	No. of Information Packets Returned	Percentage of Total
Descendants	8	67%
<i>Kuleana</i> lot owners	0	0%
Community at large	4	33%
Total	12	100%

One recognized descendant who attended the March HIBC meeting asked why he did not receive an information packet. The Kona office of SHPD subsequently forwarded a current address to PCSI, and a new information packet was sent.

Quantitative Summary of Consultation Results

Table 3 presents general information pertaining to the number of information packets sent out to each group of participants and the number of responses received by PCSI. Of the 210 information packets mailed to the three participant groups (recognized descendants, *kuleana* lot owners, and community members at large), PCSI received responses from 70 individuals, representing 33% of the 210 mailed information packets. A total of 140 individuals, or 67% of the 210, did not respond to PCSI, SHPD, or 1250 OP.

The 70 responses received were derived not only from participant's comments on forms returned to PCSI (40 forms returned), but also from telephone calls, emails, letters, and one personal visit to PCSI's Honolulu office by a recognized descendant. The responses received from returned forms include three forms that represent more than one individual on a single returned form.

Table 3. Quantitative Summary of Consultation Responses.

Participant Groups	# Info Packets Sent	# of Respondents	% of Respondents (N = 208)	# Non-respondents	% of Non-respondents	Total	Total %
Recognized descendants	136	47	22%	89	42%	136	65%
<i>Kuleana</i> lot owners	20	4	2%	16	7%	20	9%
Community at Large	54	19	9%	35	17%	54	26%
Total	210	70	33%	140	67%	210	100%

Table 4 shows the break-down of these 70 responses in terms of individuals that responded with comments, individuals that responded without comments, and those that responded only to ask for a copy of the amended AMP.

Table 4. Quantitative Summary of Responses.

Participant Groups	Responded with comments	Responded without comments	AMP requests only	Total	Percent Total
Recognized descendants	37	6	4	47	67%
<i>Kuleana</i> lot owners	2	2	0	4	6%
Community at large	8	11	0	19	27%
Total	47	19	4	70	100%

As shown in Table 4, of the 68 responses received by PCSI, a majority (46 out of 68 or 68%) were recognized descendants. Four responses (6%) were received by *kuleana* lot owners, and 18 responses (26%) were from the community at large.

A total of 45 of the 68 responses, or 66% provided comments. Nineteen respondents, or 28%, responded without comments; all of these individuals submitted forms with the "No Comments" box checked. Four respondents (6%) called only to request a copy of the amended AMP.

PCSI assumes that in cases where the "No Comments" box was checked, the participants had no concerns regarding the amended AMP or the vegetation clearing.

Qualitative Summary of Comments from Participants

Table 5, located at the end of this report, provides a qualitative summary of the comments and concerns expressed by participants in the consultation process. This table provides the name of the participant, his or her community affiliation (recognized descendant, *kuleana* lot owner, community resident, or business affiliation), the specific comment expressed, and the source of the comment (returned forms, letters, phone calls, email, and office visit). "No comment" is listed in the "Comment" column if the respondent returned a form with the "No Comments" box checked.

Also noted in Table 5 (in the "Comment" column) are individuals who requested a copy of the entire amended AMP. Eight individuals requested copies of the amended AMP for their review during the consultation process, including the four descendants who called only to request a copy of the amended AMP. Three other recognized descendants and one community resident also requested copies.

None of the comments received were interpreted as being negative in nature; there were no comments that reflect an adverse position to the amended AMP or to the vegetation clearing. Table 6 below presents a breakdown of the 45 responses with comments based on the nature of the comments. After an examination of the comments in Table 5, the comments were divided into five categories, including comments on clearing, comments on the consultation process, supportive comments, comments that were unrelated to the amended AMP or the vegetation clearing, and other miscellaneous comments.

Table 6. Summary of Comment Types.

Nature of Comments	No. of Comments	Percentage of Total
Comments on clearing	22	49%
Comments on consultation	2	4%
Supportive comments	10	22%
Comments unrelated to AMP	8	18%
Other comments	3	7%
Total	45	100%

In Table 6, the majority of the comments (23 of 47, or 49%) directly or indirectly pertained to vegetation clearing, and covered a range of related subjects. Based on Table 5 entries, the range of subjects included the following:

- Preferring the selection of people for the clearing tasks who have experience clearing vegetation in the Shoreline Park.
- Clearing of vegetation around burial and other sensitive sites.
- Hiring a cultural monitor for the clearing activities.
- Attention to saving indigenous/native plants during clearing activities.
- The use of daily clearing plans.
- Include descendants in determining acceptable clearing practices.
- Possible impacts to the old cart road (Site 17189) caused by clearing activities.
- Proper protocols should be followed to bless the sites and workers.
- No objections to clearing at the Shoreline Park.

Regarding the concern about the people selected for clearing crews, a number of comments were received indicating that, if possible, some of the crew members who participated in clearing vegetation in the Shoreline Park in 2003/2004 should be involved with the next vegetation clearing phase. Reasons for this preference include experience with clearing vegetation near culturally sensitive burial sites, and the understanding that several of the previous clearing crew members were recognized descendants who had connections with the land and who would perform the work with appropriate sensitivity.

Two responses (4% of the 47) could be deemed relevant to the consultation process itself. One response included a suggestion of having a meeting of all descendants prior to clearing activities. The other response raised the question of why were only some of the descendants notified; this question has been addressed in the section titled "Constraints to Methods".

Eleven of the comments (or 23% of the total) expressed support and appreciation that the vegetation clearing was to be conducted using hand clearing methods. One of these expressed gratitude for the being contacted for this consultation.

Eight of the comments (or 18% of the total), including two from *kuleana* lot owners, provided comments that did not relate to the amended AMP or to vegetation clearing. These comments covered subjects including:

- Maintenance of access roads outside the park.
- Control of park visitors who trespass on *kuleana* lands.

Four of the comments in this category included a statement that any concerns regarding the amended AMP would be handled by Ka `Ohana o Nā Kūpuna O Kona.

Three responses (or 6% of the total) were put into a miscellaneous category and included the following comments:

- Why was Ka `Ohana o Nā Kūpuna O Kona not included in the last meeting with SHPD and PCSI?
- The protection of the near-shore marine environment during clearing activities.
- What happened to the *`iwi kūpuna*?

Summary of the Hawai'i Island Burial Council Meeting

While representatives of PCSI and 1250 OP did not attend the HIBC meeting on March 16th, it was attended by Ms. LeeAnn Leslie, one of the recognized descendants of known burials at Hokuli'a who provided the following comments.

The amended AMP was the third item on the HIBC agenda at the March 16th HIBC meeting, and was presented by Mr. Keola Lindsey of the SHPD History and Culture Branch in Kona. The discussions were informative for the council and for the attendees of the meeting. Both Mr. Lindsey and Ms. MaryAnn Maigret, an archaeologist in the Kona SHPD office presented information regarding both the amended AMP and the previously approved AMP.

Most of the questions asked were informational in nature and did not rise to the level of identifying any substantial concerns or impacts that could result from the project. There were no positions taken or comments given that could be considered critical of or adversarial to the content of the amended AMP during the presentation by SHPD staff.

MaryAnne Maigret provided a briefing to the council stating that the amended AMP was necessary in order to interpret and move forward with the HPP for the Shoreline Park. In her briefing, Ms. Maigret also made reference to the AMP that was approved previously for that portion of the Shoreline Park north of Pu'u Ohau. The experience of that previously-approved AMP for similar vegetation clearing for the northern section was entirely positive with no negative long-term impacts to the cultural and natural resources found there.

Several questions were asked during the meeting including whether the clearing work would be conducted on Pu'u Ohau or the "shelf area" along the hill's north-facing slope. Ms. Maigret confirmed that none of the work would involve Pu'u Ohau. A similar query was made of Hokukano Village to which Ms. Maigret noted that Hokukano Village was not yet part of the Shoreline Park as it is owned by the State of Hawai'i and would be subject to a lease issued by the Land Board. She also advised the council that this parcel will be covered by its own separate archaeological inventory survey and historic preservation plan.

There were also questions raised regarding burials in the Shoreline Park. Pursuant to the prior approval of the original Burial Treatment Plan (BTP) for the Hokuli'a

Project, it was determined that all confirmed or potential burial sites identified within the Shoreline Park would be preserved in place. Mr. Lindsey further noted that this continuing requirement will be included in the historic preservation plan for the Shoreline Park.

Mr. Curtis Tyler, one of the recognized descendants of the Hokuli'a Project attending the meeting, asked why he was not notified of the meeting by the direct mail-out. In response, Mr. Lindsey stated his surprise that he had not received a packet since his name appeared on the list of cultural descendants. In following up on his request, it was learned that Mr. Tyler's packet was one of those returned by the Post Office with no forwarding address. After Mr. Tyler's current address was provided by SHPD staff, PCSI re-mailed the informational packet to him.

Following the testimony and discussion, the council moved to close the amended AMP as an agenda item for the HIBC.

Conclusions

Through the responses received from the mail-out survey and the dialogue occurring at the HIBC's March 16th meeting, the consultation process conducted by PCSI was successful in securing a reasonable number of comments on the amended AMP for vegetation clearing in the Shoreline Park from recognized descendants of burials in the Hokuli'a Project as well as from members of the West Hawai'i community. The comments received by PCSI vary in content and degree, with some expressing concern about burial sites, about protocols, and about people who may be selected to be on clearing crews. Other comments express appreciation for the fact that the vegetation clearing will be done by hand. Of the comments received from the consultation, and those expressed at the HIBC meeting, none reflected an adverse position to the amended AMP or to the vegetation clearing.

Table 5. Summary of Comments and Concerns from Consultation for Amended Archaeological Monitoring Plan.

Name	Community Affiliation	Comment	Source of Comments
Chelsea Abordo	Recognized descendant	No comments (see Eileen Norman)	Returned form
Devlyn "Teddy" Akau	Recognized descendant/kuleana owner	Aaron Alapai provided comments for Ms. Akau (see Aaron Alapai)	Returned form
Aaron Alapai	Recognized descendant	Provided comments unrelated to vegetation clearing at the Shoreline Park that were shared by Aunty Teddy Akau	Returned form
Cara Arcalas	Recognized descendant	No comments (see Eileen Norman)	Returned form
Grace Crediford	Recognized descendant	Comments provided were unrelated to Shoreline Park vegetation clearing	Telephone
Abra Crisostomo	Recognized descendant	Ka 'Ohana o Nā Kūpuna O Kona will be handling my concerns regarding this amendment to the archaeological monitoring plan for Hokuli'a	Returned form
H. Crisostomo	Recognized descendant	Ka 'Ohana o Nā Kūpuna O Kona will be handling my concerns regarding this amendment to the archaeological monitoring plan for Hokuli'a	Returned form
K. Gianni Ariel Crisostomo	Recognized descendant	Ka 'Ohana o Nā Kūpuna O Kona will be handling my concerns regarding this amendment to the archaeological monitoring plan for Hokuli'a	Returned form
K. Koit Abram Crisostomo	Recognized descendant	Ka 'Ohana o Nā Kūpuna O Kona will be handling my concerns regarding this amendment to the archaeological monitoring plan for Hokuli'a	Returned form
Irene DeBina	Recognized descendant	Have a meeting with all lineal descendants before clearing starts	Returned form
Paulette Kaleikini	Recognized descendant	Requested copy of the AMP	Telephone/email
Mary Rachel Kalili	Recognized descendant	Concerns include the clearing of burial areas and future findings of burial areas that might need clearing. Notify Ka 'Ohana O Nā Kūpuna O Kona members for Hokuli'a	Returned form

Name	Community Affiliation	Comment	Source of Comments
Emalia Keohokālōle	Recognized descendant	Ms. Emalia Keohokālōle returned one form with comments for all the Keohokālōle family claimants: regarding vegetation clearing at the park, please give attention to saving any native/indigenous plants or brush. Please give consideration to having a cultural monitor available to follow the clearing near any archaeological or cultural sites (Hokuli'a should have the final say on whom that person should be; requested copy of AMP	Returned form
Adrian Kealoha Keohokālōle	Recognized descendant	See Emalia Keohokālōle	Returned form
Barbara M. Keohokālōle	Recognized descendant	See Emalia Keohokālōle	Returned form
Brook Duncan Keohokālōle	Recognized descendant	See Emalia Keohokālōle	Returned form
Cherie Kahealani Eiko Keohokālōle	Recognized descendant	See Emalia Keohokālōle	Returned form
Dane Matthew Kapuawiliiaakealoha Tevaiarii Keohokālōle	Recognized descendant	See Emalia Keohokālōle	Returned form
Dennis Kaiminaauu Keohokālōle	Recognized descendant	See Emalia Keohokālōle	Returned form
Dennis Pomaikai Tiapou Keohokālōle	Recognized descendant	See Emalia Keohokālōle	Returned form
James Derrick Keohokālōle	Recognized descendant	See Emalia Keohokālōle	Returned form
James Hoapili Tehoohuanaaarii Keohokālōle	Recognized descendant	See Emalia Keohokālōle	Returned form
Jarrett Kapolialoha Tauhere Keohokālōle	Recognized descendant	See Emalia Keohokālōle	Returned form
Joseph Keohokālōle	Recognized descendant	See Emalia Keohokālōle	Returned form
Kaimi Keller Keohokālōle	Recognized descendant	See Emalia Keohokālōle	Returned form
Lori Lani Keohokālōle	Recognized descendant	See Emalia Keohokālōle	Returned form
Marilyn E.S. Keohokālōle	Recognized descendant	See Emalia Keohokālōle	Returned form

Name	Community Affiliation	Comment	Source of Comments
Nicole Mikilani Keohokālole	Recognized descendant	See Emalia Keohokālole	Returned form
Jeanine Keohokālole-Kam	Recognized descendant	Is pleased with the amended AMP and sincerely appreciates the detailed planning and continued care that is indicated. Would appreciate it if descendants are included in developing acceptable clearing practices for special cultural sites including burials; requested copy of the AMP	Telephone/ Returned form
Lily Kong	Recognized descendant	Why wasn't Ka`Ohana o Nā Kūpuna O Kona informed of the meeting held between SHPD and PCSI regarding this consultation?	Letter
Gordon Leslie	Recognized descendant	Mr. Leslie is fairly certain that the people experienced with clearing vegetation from archaeological sites at Hokuli'a were no longer working for 1250 OP, and that, based on his experience, this is very sensitive work. Mr. Leslie recommended using daily clearing plans and hiring individuals who have had experience clearing vegetation at the Shoreline Park; requested copy of the AMP	Telephone
Dustin W.H. Gomes	Recognized descendant	Dustin's mother Lee Ann Leslie provided comments for him	Email
Treston R.K. Gomes	Recognized descendant	Treston's mother Lee Ann Leslie provided comments for him	Email
Lee Ann Leslie	Recognized descendant	Ms. Leslie supports clearing and monitoring efforts at the Shoreline Park, and is responding for her two sons Treston R.K. Gomes and Dustin W.H. Gomes (both minors)	Email
Clarence Medeiros, Jr.	Recognized descendant	As a recognized lineal descendant, I would like to suggest that in the hiring of the crew, preference be given to the former employees of Oceanside 1250, many of whom have family ties to the lands within the project area and are already familiar with the land	Returned form

Name	Community Affiliation	Comment	Source of Comments
Lori Moses	Recognized descendant	Shoreline Park clearing should be done by those whom had originally cleared it; they had a connection with the land and many were lineal descendants; if you want things done right that's the proper procedure	Returned form
Barbara Jean Akau Navas	Recognized descendant	Two concerns were noted: Why were only some of the lineal descendants notified? Whatever happened to our <i>kūpuna's 'iwi</i> ?	Returned form
Eileen Norman	Recognized descendant	No comments; also responded for her two grandchildren, Chelsea Abordo and Cara Arcalas (both minors)	Returned form
Kaleo K. Norman	Recognized descendant	No comments	Returned form
Keliinui Norman	Recognized descendant	No comments	Returned form
Theodore Norman	Recognized descendant	No comments	Returned form
Mahealani Pai	Recognized descendant	Requested copy of the AMP	Telephone
Hannah Reeves	Recognized descendant	Requested copy of the AMP	Telephone
Corbett Roy	Recognized descendant	Mr. Roy expressed concern about the quality of the near-shore waters and their fish, particularly if the amount rubbish going to the water increases due to development. He also expressed concern in general about the effects of development along the entire coastline (beyond Hōkuli'a) particularly as ocean water quality affects the fish stocks inshore	In person
Valerie Thompson-Corcoran	Kuleana lot owner	In the past, clearing for the Shoreline Park was done by hand and they did a good job; other concerns were not related to vegetation clearing at the Shoreline Park	Returned form
A.D. Ackerman	Kuleana lot owner	Had no objections to vegetation clearing in the Shoreline Park; expressed other concerns not related to clearing	Returned form
Allen Wall	Kuleana lot owner	No comments	Returned form
George T. Beard	Kuleana lot owner	No comments	Returned form
Mike Asam	Hawaii Community Credit Union	No comments	Returned form
Bruce and Maile Gould	Owners Big Island Grill	No comments	Returned form

Name	Community Affiliation	Comment	Source of Comments
Winston Chow	First Hawaiian Bank	No comments	Returned form
Wendell Davis	Kamehameha Schools	No comments	Returned form
Felicity Johnson	Hualalai Academy	No comments	Returned form
John Kahiapo	DLNR-Div. of Aquatic Resources	No comments	Returned form
Irving Kawashima	DLNR-Div. Forestry & Natural Resources and Na Ala Hele	Expressed concerns regarding cart trail and impacts to it by vegetation clearing staging areas and trails; wants to be notified clearing work begins to coordinate locations of trails and staging areas	Letter
Margaret Masunaga	Community resident	No comments	Returned form
Claude Onizuka	Community resident	No comments	Returned form
Erik von Platen Luder	Huggo's Restaurant	No comments	Returned form
Joe Spencer	Kamehameha Investment	No comments	Returned form
Bobby Stivers	Kona Family YMCA	Hopes and expects that appropriate protocol to bless and 'pono' the site and workers are included in the work plan. The clearing steps which will be done by "hand tools" is commendable since it requires a lot of manpower. Through this method, you safeguard the important and sacred properties in the park	Returned form
Les Thuet	Hawaii Youth Patrons	I believe Hokuli'a will do the right thing without a lot of demands from the public	Returned form
Peter Van Dyke	Amy Greenwell Ethnobotanical Gardens - Bishop Museum	No comments	Returned form
John Wilkinson	Back to Eden	Letter indicates that Mr. Thuet's company, Back to Eden, was originally hired to clear portions of the Shoreline Park, and states: "We followed your procedures and had no problems with the removal of vegetation."	Letter
Lei Benson	Community resident	I have complete confidence that Hokuli'a will proceed in a culturally sensitive fashion; requested copy of AMP	Returned form

Name	Community Affiliation	Comment	Source of Comments
Ginny Squire	Community resident	It appears that the clearing has been accomplished with sensitivity and caring. I am grateful it was done by hand; also expressed concerns unrelated to vegetation clearing	Returned form
Rob Kildow	Hualalai Realty	I am in support of the amended monitoring plan. The sooner the park is cleared the sooner families can enjoy this wonderful addition to their community and, at the same time, gain a better understanding of the history of this land.	Returned form
Scott Dodd	Community resident/Paradise Gourmet Catering	I support Hokuili'a's efforts and am sure they will do a good job	Returned form