

R-1370

STATE OF HAWAII
BUREAU OF CONVEYANCES
RECORDED

DEC 01, 1992 03:21 PM

Doc No(s) 92-195727

/s/ S. FURUKAWA
REGISTRAR OF CONVEYANCES
CONVEYANCE TAX: \$0.00

LAND COURT SYSTEM REGULAR SYSTEM
AFTER RECORDATION, RETURN BY MAIL () PICK UP ()

Dwyer Imanaka et al
524-8000

CERTIFICATE

PILI HALE ASSOCIATES, a Hawaii general partnership ("Petitioner"), whose business and mailing address is 733 Bishop Street, Suite 1610, Honolulu, Hawaii 96813, does hereby certify pursuant to Hawaii Revised Statutes Chapter 205A, as follows:

That Petitioner, as petitioner before the Planning Department for the County of Maui (the "Planning Department") on October 6, 1992, petitioned for approval of a Special Management Area Use Permit ("SMA Permit") for the 'Aina O Ka Hale Pili subdivision (the "project"), TMK: 2-8-4: 15, 30, and 27, consisting of twenty-one (21) agricultural lots situate at Peahi, Maui, Hawaii, said land being more particularly described in Exhibit A attached hereto and incorporated herein by reference; and

That, by way of that certain Decision and Order (the "Order") issued on October 13, 1992, the Planning Department approved said SMA Permit, subject to certain conditions contained in said Order.

That the Order requires that the conditions set forth in said Order be recorded at the Bureau of Conveyances of the State of Hawaii;

That the conditions contained within said Order are set forth as follows:

1. The Petitioner shall prepare and obtain approval of a master soil conservation/erosion control plan for the entire property from the Olinda-Kula Soil Conservation Service District and have same plan also approved by the Department of Public Works and Department of Land and Natural Resources.

2. No surface disturbance or removal of natural vegetation shall take place on any portion of the lots exhibiting sustained slopes in excess of 30% without prior authorization of the Soil Conservation Service with such approval being filed with the Planning Department prior to commencement of any such disturbance.

3. The Petitioner shall consolidate Lots 19-24 as shown on the revised site plan dated October 1, 1992.

4. The Petitioner shall provide for the reconfiguration of Lots 10 and 11 as shown on the revised site plan dated October 1, 1992.

5. No resubdivision of Lots 19 through 21 identified in the revised site plans dated October 1, 1992, shall be permitted without the review of the Maui Planning Commission.

6. The Petitioner shall provide for the maintenance of all drainage ways or easements on the property or by the Petitioners successor entitled to the property or by an association of property owners designated for that purpose.

7. The Petitioner's final drainage and erosion control plans shall be submitted to the Soil Conservation Service, the Department of Land and Natural Resources and the Department of Public Works for their review and approval. The plan shall provide verification that the grading and runoff generated by the project will not have an adverse effect on the adjacent and downstream properties.

8. The Petitioner shall immediately report any evidence of burials to the Department of Land and Natural Resources, Historic Preservation Division, for appropriate treatment.

9. Holokai Road at Hana Highway shall be improved to the standards prescribed by the State of Hawaii. Said improvements shall include the use of street lights at Hana Highway and Holokai Road intersection.

10. Final construction plans and sight distance study shall be submitted to the Department of Transportation, Highways Division for review.

11. The Petitioner shall resolve differing requirements for sewage treatment to the satisfaction of both the Department of Health and the Department of Land and Natural Resources, Division of Aquatic Resources.

12. Full compliance with the Subdivision Ordinance shall be rendered.

13. The Petitioner shall submit a solid waste management plan acceptable to the Department of Public Works.

14. The Petitioner shall install low flow water devices.
15. Precautions shall be taken during construction to prevent debris, eroded soils, petroleum products, landscaping chemicals and other potential contaminants from entering the coastal waters.
16. The construction of the proposed project shall be initiated by October 5, 1994. Further, initiation of construction shall be determined as construction of offsite improvements, approval of construction permit for the subdivision, and initiation of construction, whichever occurs first. Failure to comply within this two (2) year period will automatically terminate the Special Management Area Use Permit unless a time extension is requested no later than ninety (90) days prior to the expiration of said two-year period.
17. The construction of the project shall be completed within five (5) years after the date of its initiation. Failure to complete construction of this project will automatically terminate the subject Special Management Area Use Permit.
18. Final construction shall be in accordance with the preliminary subdivision plans dated October 1, 1992.
19. Appropriate measures shall be taken during construction to mitigate the short term impacts of the project relative to soil erosion from wind and water, ambient noise levels, and traffic disruptions.
20. The conditions of the Special Management Area Use Permit shall be self-enforcing and, accordingly, upon due notice by the Planning Department to the permit holder and the Planning Commission that there is prima facie evidence that a breach has occurred the permit shall be automatically suspended pending a hearing on the continuity of such Special Management Area Use Permit, provided that written request for such a hearing is filed with the Planning Department within ten (10) days of the date of receipt of such notice of alleged breach. If no request for a hearing is filed within said ten-day period, the Planning Commission may revoke said Special Management Area Use Permit.
21. The subject Special Management Area Use Permit shall not be transferred without the prior written approval of the Planning Commission. However, in the event that a contested case hearing preceded issuance of said Special Management Area Use Permit, a public hearing shall be held upon due published notice, including actual written notice to the last known addresses of parties to said contested case and their counsel.
22. The Petitioner, its successors and permitted assigns, shall exercise reasonable due care as to third parties with respect to all areas affected by the subject Special Management Area Use Permit and shall hold the County of Maui harmless from and against any loss, liability, claim or demand arising out of this permit.
23. Full compliance with all applicable governmental requirements shall be rendered.

24. The Petitioner shall submit to the Planning Department a detailed report addressing its compliance with the conditions established with the subject Special Management Area Use Permit. Further, this report shall be reviewed and approved by the Planning Department prior to construction plan approval.

25. The conditions of the Special Management Area Use Permit shall be recorded at the Bureau of Conveyances so that all prospective buyers are aware of the restrictions imposed on the lots within this project. A copy of the recorded document shall be filed with the Planning Department.

26. The Petitioner shall be required to provide their own source of water for the project, or participate in the Department of Water Supply's source development in the area on a pro rata share basis.

27. The Petitioner shall consult with the Department of Land and Natural Resources and shall provide traditional fishing beach access trails as required by the Department of Land and Natural Resources.

In addition to the above covenants, the Petitioner or its designee, 'ĀINA O KA HALE PILI COMMUNITY ASSOCIATION, whose business and mailing address is 733 Bishop Street, Suite 1610, Honolulu, Hawaii 96813, may petition said Planning Department, from time to time, to release any or all of the above conditions, upon their satisfaction or waiver.

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

PILI HALE ASSOCIATES, a Hawaii general partnership

By James Caldwell Investments, Inc.
Its Managing Partner

By James G. Caldwell
James G. Caldwell
Its President


"Declarant"

STATE OF HAWAII

CITY AND COUNTY OF HONOLULU

SS:

On this 30th day of November, 19 92, before me personally appeared JAMES G. CALDWELL, to me personally known, who, being by me duly sworn, did say that he is the President of JAMES CALDWELL INVESTMENTS, INC., a Hawaii corporation, which is a general partner of Pili Hale Associates, a Hawaii general partnership, and that the foregoing instrument was signed in behalf of said corporation by authority of its Board of Directors for said partnership, and that said Officer acknowledged said instrument to be the free act and deed of said corporation and said partnership.



Notary Public, State of Hawaii

My commission expires: 8-29-94

L.S.

EXHIBIT "A"

PARCEL FIRST:

All of that certain parcel of land being a portion of Grant 160 to Charles R. Bishop and identified by Tax Map Key No. (2) 2-8-04:15, situate at Peahi, Hamakualoa, Haiku, Island and County of Maui, State of Hawaii and more particularly described as follows:

Beginning at a 1/2 inch pipe at the top of Pali, being the north-eastern corner of this parcel of land, being also the north-western corner of Lot A of Groves Subdivision, the coordinates of said point of beginning being

North	11,166.80	feet
East	2,752.50	feet

referred to Government Survey Triangulation Station "KAPUAI" and running by azimuths measured clockwise from true South (meridian of said "KAPUAI"); thence,

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|-----|----------|--------|--|
| 1. | 328° 38' | 371.00 | feet along Lot A of Groves Subdivision to a 1/2 inch pipe; thence, |
| 2. | 34° 11' | 708.70 | feet along the same to a 1/2 inch pipe; thence, |
| 3. | 110° 29' | 30.00 | feet along the north end of Holokai Road to a 1/2 inch pipe; thence, |
| 4. | 20° 29' | 567.10 | feet along the westerly side of Holokai Road to a 1/2 inch pipe; thence, |
| 5. | 4° 54' | 482.80 | feet along the same to a 1/2 inch pipe; thence, |
| 6. | 90° 00' | 142.35 | feet along a 20 foot road to a 1/2 inch pipe; thence, |
| 7. | 184° 12' | 398.60 | feet along the same top a 1/2 inch pipe; thence, |
| 8. | 188° 58' | 79.11 | feet along the same to a 1/2 inch pipe; thence, |
| 9. | 196° 09' | 386.11 | feet along the same to a 1/2 inch pipe; thence, |
| 10. | 194° 04' | 81.49 | feet along the same to a 1/2 inch pipe; thence, |
| 11. | 182° 21' | 210.78 | feet along the same to a 1/2 inch pipe; thence, |
| 12. | 100° 19' | 20.19 | feet along the same to a 1/2 inch pipe; thence, |

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|-----|--|--------|--|
| 13. | 2° 21' | 69.80 | feet along the same to a 1/2 inch pipe; thence, |
| 14. | 90° 00' | 629.20 | feet along Parcel 16 of Tax Map Key Second Division 2-8-04 to a 1/2 inch pipe; thence, |
| 15. | 350° 51' | 71.50 | feet along the same to a 1/2 inch pipe; thence, |
| 16. | 90° 00' | 57.33 | feet along the same to a 1/2 inch pipe at the middle of the Gulch; thence, |
| 17. | Along Parcel of Tax Map Key Second Division 2-8-04 following the centerline of Uaoo Stream, the chord azimuth and distance being | | |
| | 164° 15' | 46.87 | feet to a point; thence, |
| 18. | Along the same, the chord azimuth and distance being | | |
| | 156° 20' | 147.08 | feet to a point; thence, |
| 19. | Along the same, the chord azimuth and distance being | | |
| | 162° 28' | 134.00 | feet to a point; thence, |
| 20. | Along the same, the chord azimuth and distance being | | |
| | 185° 12' | 120.75 | feet to a point; thence, |
| 21. | Along the same, the chord azimuth and distance being | | |
| | 182° 37' | 149.99 | feet to a point; thence, |
| 22. | Along the same, the chord azimuth and distance being | | |
| | 192° 52' | 76.52 | feet to a point; thence, |
| 23. | Along the same, the chord azimuth and distance being | | |
| | 229° 26' | 95.69 | feet to a point; thence, |
| 24. | Along the same, the chord azimuth and distance being | | |
| | 234° 32' | 110.97 | feet to a point; thence, |
| 25. | Along the same, the chord azimuth and distance being | | |
| | 242° 12' | 66.04 | feet to a point; thence, |

26. Along the same, the chord azimuth and distance being
 171° 40' 69.27 feet to a point; thence,
27. Along the same, the chord azimuth and distance being
 108° 52' 127.74 feet to an "X" mark on a rock boulder at the top of
 a waterfall; thence,
28. Along the top of the Pali bordering the Pacific Ocean, the chord azimuth and distance
 being
 198° 58' 30" 103.91 feet to a point; thence,
29. Along the same, the chord azimuth and distance being
 260° 12' 108.80 feet to a point; thence,
30. Along the same, the chord azimuth and distance being
 299° 18' 257.90 feet to a point; thence,
31. Along the same, the chord azimuth and distance being
 292° 07' 265.13 feet to a point; thence,
32. Along the same, the chord azimuth and distance being
 257° 23' 164.31 feet to a point; thence,
33. Along the same, the chord azimuth and distance being
 259° 30' 151.92 feet to a point; thence,
34. Along the same, the chord azimuth and distance being
 262° 05' 129.35 feet to a point; thence,
35. Along the same, the chord azimuth and distance being
 258° 40' 30" 74.59 feet to the point of beginning and containing an area
 of 27.409 acres, more or less.

Being a portion of the premises described in Deed dated January 29, 1991, by and between American Reflex, a California corporation, and Howard Francis Schmidt, husband of

Helen Frances Schmidt, as Grantor, and Pili Hale Associates, a Hawaii general partnership, as Grantee, recorded at the Bureau of Conveyances of the State of Hawaii as Document No. 91-015134.

PARCEL SECOND:

All of that certain parcel of land (being portion(s) of the land(s) described in and covered by Royal Patent Grant Number 3430, Apana 1 to Mrs. E. M. Kahananui, and Royal Patent Grant Number 160 to Charles R. Bishop) situate, lying and being at Kealii-Iki and Uaao, District of Hamakualoa, Island and County of Maui, State of Hawaii, being LOT "A" of the "GROVES SUBDIVISION", and thus bounded and described:

Beginning at the southwest corner of this parcel of land, being also the northwest corner of Lot B of the Groves Subdivision, and on the easterly side of Holokai Road (30.0 feet wide), the coordinates of said point of beginning referred to Government Survey Triangulation Station "KAPUAI" being 9,871.64 feet north and 2,401.19 feet east and thence running by azimuths measured clockwise from true South:

1.	200° 29'	418.60	feet along the easterly side of Holokai Road (30.0 feet wide);
2.	214° 11'	708.70	feet along Grant 160 to Charles R. Bishop, along Lot 13 of the Partition of Hui Kuai Aina O Peahi to top of Kealii-Iki Gulch;
3.	148° 38'	371.00	feet along Grant 160 to Charles R. Bishop, along Lot 13 of the Partition of Hui Kuai Aina O Peahi to top of Kealii-Iki Gulch near edge of sea cliff;
4.	148° 38'	90.00	feet, more or less, down cliff to highwater mark at seashore;
			Thence along highwater mark at seashore the direct azimuth and distance being:
5.	232° 05' 30"	938.60	feet, more or less;
6.	359° 06' 37"	50.00	feet, more or less, up cliff to top edge of said cliff;
7.	359° 06' 37"	603.20	feet along Grant 2182 to Lewis H. Anthon, along Lot 97 of the partition of Hui Kuai Aina O Peahi to top of Kealii-nui Gulch;

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|----|--------------|---------|--|
| 8. | 359° 06' 37" | 1278.98 | feet along Grant 2181 to Lewis H. Anthon, along Lots 97, 98, 99 and 100 of the partition of Hui Kuai Aina O Peahi; |
| 9. | 89° 06' 30" | 1075.39 | feet along Lot B of the Groves Subdivision, along the remainders of Grant 3430, Apana 1 to Mrs. Elmira M. Kahananui and Grant 160 to Charles R. Bishop to the point of beginning and containing an area of 28.514 acres, more or less. |

Being the premises described in Deed dated December 19, 1990, by and between Carrier Lumber Ltd., a Canadian corporation, as Grantor, and Pili Hale Associates, a Hawaii general partnership, as Grantee, recorded at said Bureau as Document No. 91-002520.

SUBJECT, HOWEVER, TO THE FOLLOWING:

1. AS TO PARCEL FIRST:

- a. Location of seaward boundary in accordance with the laws of the State of Hawaii and shoreline setback line in accordance with County regulation and/or ordinance and the effect, if any, upon the area of the land described herein.
- b. Old Trail running through the land described herein, as shown on survey map by Edgardo V. Valera, Registered Land Surveyor, dated January 30, 1991.
- c. Mortgage dated February 5, 1992, in favor of Toyo Real Estate (Hawaii), Inc., a Hawaii corporation, recorded at said Bureau as Document No. 91-025379.

2. AS TO PARCEL SECOND:

- a. Reservation in favor of the State of Hawaii of all mineral and metallic mines.
- b. Location of seaward boundary in accordance with the laws of the State of Hawaii and shoreline setback line in accordance with County regulation and/or ordinance and the effect, if any, upon the area of the land described herein.
- c. A Road Easement (30.0 feet wide) containing an area of 0.28 acre, more or less, (said Roadway is located near Course 2 of Lot A) in favor of Lot 13 of Peahi Hui Partition Lots.
- d. Grant dated October 4, 1973, in favor of Jane Dara Feuerman, unmarried, for prescriptive easement over road and said Lot A for access to Lot 98 of "Partition of the Hui Lands of Peahi" recorded at said Bureau in Liber 13613 at Page 685.

e. Any facts an archaeological study would disclose, including, without limitation, trails, rights of ways, historic property and burial sites; and which are not shown by public records.

f. 10 feet wide Dirt Roads as shown on survey map dated November 5, 1990, prepared by Edgardo V. Valera, Registered Land Surveyor.

g. Mortgage dated December 1, 1990, in favor of Toyo Real Estate Company (Hawaii), Inc., a Hawaii corporation, recorded at said Bureau as Document No. 91-006475.