

/s/ LESLIE T. KOBATA, Registrar
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327 KONA LLC
4054 McKinney Avenue, Suite 310
Dallas, TX 75204

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TITLE OF DOCUMENT:

AMENDMENT TO THE KONA VIEW ESTATES
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

PARTIES TO DOCUMENT:

DECLARANT: **327 KONA LLC, a Delaware limited liability company, whose mailing address is 4054 McKinney Avenue, Suite 310, Dallas, TX 75204**

Kona View Estates Subdivision

TL - Smith -Amendment to Declaration /10-19-20

AMENDMENT TO THE KONA VIEW ESTATES
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

THIS AMENDMENT TO THE KONA VIEW ESTATES DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS, dated the 19th day of October, 2020, is made by **327 KONA, LLC, a Delaware limited liability company**, whose mailing address is **4054 McKinney Avenue, Suite 310, Dallas, TX 75204** (hereinafter referred to as "Declarant");

RECITALS:

WHEREAS, the original Kona View Estates Declaration of Covenants, Conditions and Restrictions were recorded in the Bureau of Conveyances of the State of Hawaii on September 6, 2006 as Document No. 2006-165193 ("Declaration"); and

WHEREAS, the Kona View Estates Declaration of Covenants, Conditions and Restrictions, was amended by that certain First Amendment to the Kona View Estates Declaration of Covenants, Conditions and Restrictions acknowledged August 3, 2009, recorded in the Bureau of Conveyances of the State of Hawaii as Document No. 2009-136515 ("First Amendment"); and

WHEREAS, the Declaration affects the real property described therein; and

WHEREAS, pursuant to Section 16.1 of the Declaration, the Declarant may amend the Declaration unilaterally for any purpose until termination of the Class "B" membership; and

WHEREAS, the Class "B" membership has not been terminated as of the date of this Amendment; and

WHEREAS, the original Declaration failed to include Exhibit F to the Declaration, being the Residential Design Guidelines; and

WHEREAS, the Declarant wishes to correct the error and submit the Residential Design Guidelines attached hereto as Exhibit F and made a part hereof as part of the Kona View Estates Declaration of Covenants, Conditions and Restrictions; and

WHEREAS, additional Lots have been added to the subdivision since the recording of the Kona View Estates Declaration of Covenants, Conditions and Restrictions and the Declarant wishes to amend the Residential Design Guidelines to incorporate the design criteria for the additional lots.

WHEREAS, the Declarant wishes to amend the Declaration by amending "Appendix E – Building Height" of the Residential Design Guidelines; and

NOW, THEREFORE, the undersigned Declarant hereby certifies that pursuant to Section 16.1 of the Declaration, The Kona View Estates Declaration of Covenants, Conditions and Restrictions are amended as follows:

1. The Kona View Estates Declaration of Covenants, Conditions and Restrictions is amended to add Exhibit F attached hereto to the Kona View Estates Declaration of Covenants, Conditions and Restrictions as Exhibit F, being the Residential Design Guidelines.

2. Appendix E – Building Height of the Residential Design Guidelines which Guidelines are attached as Exhibit F to the Kona View Estates Declaration of Covenants, Conditions and Restrictions is deleted in its entirety and the following substituted therefore:

APPENDIX E. – BUILDING HEIGHT AND CERTAIN SETBACKS

| Lot | Stories | Sport/ Tennis | Building Height | Pad Elevation |
|------------|----------------|----------------------|------------------------|----------------------|
| 1 | Two | Yes | 30 Feet | 1326' |
| 2 | One | No | 22 Feet | 1304' |
| 3 | One | No | 22 Feet | 1266' |
| 4 | One | No | 22 Feet | 1224' |
| 5 | One | No | 22 Feet | 1181' |
| 6 | One | No | 22 Feet | 1220' |
| 7 | One | No | 22 Feet | 1248' |
| 8 | One | No | 22 Feet | 1277' |
| 9 | Two | Yes | 30 Feet | 1300' |
| 10 | Two | Yes | 30 Feet | 1278' |
| 11 | Two | Yes | 30 Feet | 1262' |
| 12 | Two | Yes | 30 Feet | 1256' |
| 13 | One | No | 22 Feet | 1226' |
| 14 | One | No | 22 Feet | 1226' |
| 15 | One | No | 22 Feet | 1240' |
| 16 | One | No | 22 Feet | 1256' |
| 17 | One | No | 22 Feet | 1202' |
| 18 | One | No | 20 Feet | 1180' |

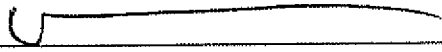
| | | | | |
|------|---------|-----|---------|-------------|
| 19 | One | No | 20 Feet | 1158' |
| 20 | One | No | 20 Feet | 1132' |
| 21 | One | No | 20 Feet | 1160' |
| 22 | One | No | 22 Feet | 1198' |
| 23 | Two | No | 26 Feet | 1182' |
| 24 | One | No | 22 Feet | 1138' |
| 25 | One/Two | Yes | 30 Feet | 1140'/1128' |
| 26 | One/Two | Yes | 30 Feet | 1140'/1128' |
| 27 | One | No | 22 Feet | 1084' |
| 28 | One | No | 22 Feet | 1088 |
| 29 | One | No | 22 Feet | 1100' |
| 30-A | One | No | 22 Feet | 1070 |
| 31 | One | No | 22 Feet | 1107 |
| 32 | One | No | 22 Feet | 1135 |
| 33-A | One | No | 22 Feet | 1151 |

Natural Area Building Set Backs

| Lot | West Side Set Back | Rear Set Back | Street Set Back | East Side Set Back |
|------------|---------------------------|----------------------|------------------------|---------------------------|
| 30-A | 35 Feet | 25 Feet | 35 Feet | 20 Feet |
| 31 | 35 Feet | 30 Feet | 35 Feet | 20 Feet |
| 32 | 35 Feet | 30 Feet | 35 Feet | 20 Feet |
| 33-A | 35 Feet | 30 Feet | 35 Feet | 20Feet |

Except as amended as hereinabove set forth, this Amendment shall not affect the interpretation or effect of any other Section, term, or condition of the Declaration and the same shall continue in full force and effect.

327 KONA, LLC, a Delaware limited liability company



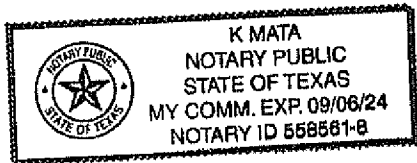
By: **THOMAS M. SMITH**


Its: **Manager**

STATE OF TEXAS)
COUNTY OF Dallas) ss.

On this 14th day of Oct., 2020, before me personally appeared **THOMAS M. SMITH**, to me known (or proved to me on the basis of satisfactory evidence) that **he is the Manager of 327 KONA, LLC, a Delaware limited liability company**, and that said instrument was signed in behalf of said company by authority of its Manager and said Manager acknowledged said instrument to be the free act and deed of said company.

(Notary Stamp or Seal)




Name: K MATA
Notary Public
State of Texas
My commission expires: 09/06/24



Residential Design Guidelines

June, 2006

327 Kona, LLC
Community Developer

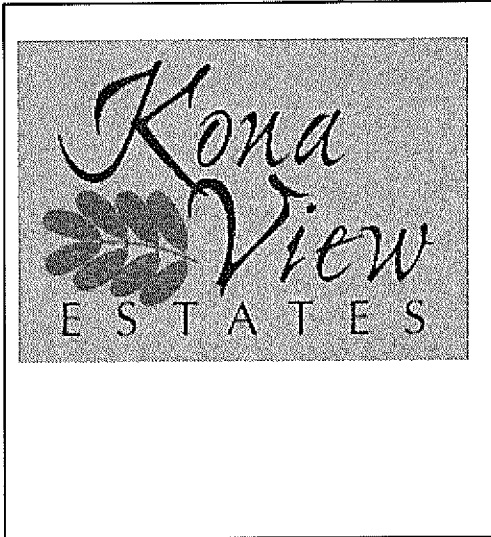
Planners • Architects
Richm Owensby

Carlsmith Ball, LLP
Robert Triantos
Legal Counsel

Bruce Witcher, Inc.
Civil Engineer

Alan Haun, Ph. D., Inc.
Archeology

Preface and Design Guidelines Usage



The Kona View Estates Phase I Design Guidelines ("Design Guidelines") provide guidance for all residential development and as well as any subsequent changes to previously approved plans or existing homes. The Design Guidelines shall apply to the lots under the Kona Estates Phase I Declaration of Covenants, Conditions and Restrictions ("Kona View Estates Phase I Declaration") and shall be administered and enforced by the Kona View Estates Design Review Committee ("Kona View DRC") in accordance with the procedures set forth in the Kona View Estates Phase I Declaration recorded in the Bureau of Conveyances of the State of Hawaii, and as may be amended thereafter. In the event of any conflict between the Design Guidelines and the Kona View Estates Phase I Declaration, the Kona View Estates Phase I Declaration shall control.

The Kona View Estates Community will be constructed in phases. These Design Guidelines address residential Improvements in the first phase. Homeowners should refer to appropriate sections in these Guidelines and the Plot Plans for conditions governing Improvements within their Lot.

These Design Guidelines provide a framework that owners and their design team may use to create a home that furthers the goals of the Kona View Estates Community plan. The DRC reserves the right to review, approve or disapprove design proposals based upon the proposal's support of these community goals, regardless of the proposal's adherence to specific sections of these Design Guidelines. Since the Design Guidelines may be amended from time to time by the DRC, it is the Homeowners' responsibility to be sure that they have current Design Guidelines and have carefully reviewed the CC&R's.

Table of Contents

| | | |
|----------|--|-----------|
| 1 | The Kona View Estates Plan and Design Philosophy | 1 |
| 1.1 | The Kona View Estates Community..... | 1 |
| 1.2 | The Kona View Estates Design Philosophy..... | 1 |
| | | |
| 2 | Site and Landscape Guidelines | 1 |
| 2.1 | Site and Landscape Design Objectives..... | 1 |
| 2.2 | Homesites or Lots | 1 |
| 2.3 | Building Envelopes..... | 2 |
| 2.3.1 | Natural Area..... | 2 |
| 2.3.2 | Transition Area..... | 3 |
| 2.3.3 | Private Area..... | 3 |
| 2.3.4 | Lot Coverage | 3 |
| 2.4 | Association Easement Areas..... | 3 |
| 2.5 | View Corridors..... | 3 |
| 2.6 | Combining Homesites..... | 4 |
| 2.7 | Building Coverage and Maximum and Minimum Floor Areas..... | 4 |
| 2.8 | Grading and Drainage..... | 4 |
| 2.9 | Driveways..... | 6 |
| 2.10 | Garages and Parking..... | 6 |
| 2.11 | Walls, Fences and Gates..... | 7 |
| 2.12 | Planting..... | 8 |
| 2.13 | Pools, Spas and Water Features..... | 9 |
| 2.14 | Lighting..... | 10 |
| 2.15 | Exterior Service Areas..... | 10 |
| 2.16 | Mailboxes, Flagpoles and House Numbers..... | 11 |
| 2.17 | Sports/Tennis Courts | 12 |
| | | |
| 3 | Architectural Objectives and General Guidelines | 12 |
| 3.1 | Architectural Design Objectives..... | 12 |

| | | |
|----------|--|-----------|
| 3.2 | The Styles..... | 12 |
| 3.3 | Building Height | 13 |
| 4 | Basic Style Elements | 13 |
| 4.1 | The Elements | 14 |
| 4.2 | Building Forms and Massing | 14 |
| 4.3 | Roofs | 15 |
| 4.4 | Exterior Walls and Finishes | 16 |
| 4.5 | Doors and Windows | 16 |
| 4.6 | Building Projections and Accessory Structures | 17 |
| 4.7 | Color | 17 |
| 4.8 | Decorative Elements | 18 |
| 5 | Life Safety Guidelines and Environmental Considerations | 18 |
| 5.1 | Energy and Resource Conservation Measures..... | 18 |
| 5.2 | Skylights | 18 |
| 5.3 | Solar Equipment | 18 |
| 5.4 | Fire Protections | 19 |
| 5.5 | Security Measures | 19 |
| 6 | Design Review Committee Organization | 19 |
| 6.1 | Design Review Committee Membership | 19 |
| 6.2 | Appointment of Members | 19 |
| 6.3 | Membership Requirements | 19 |
| 6.4 | Resignation of Members | 19 |
| 6.5 | Functions of the Design Review Committee | 20 |
| 6.6 | Meetings | 20 |
| 6.7 | Compensation | 20 |
| 6.8 | Amendment of Design Guidelines | 20 |
| 6.9 | Non-Liability | 20 |

| | | |
|----------|--|----|
| 7 | Design Review Process | 21 |
| 7.1 | Design Review Process | 21 |
| 7.2 | Pre-Design Conference | 22 |
| 7.3 | Preliminary Design Review | 23 |
| | 7.3.1 Preliminary Design Review Submission Materials | 23 |
| | 7.3.2 Staking | 24 |
| | 7.3.3 Preliminary Design Review Meeting | 24 |
| 7.4 | Final Design Review | 25 |
| | 7.4.1 Final Design Review Submission Materials | 25 |
| | 7.4.2 Final Design Review Meeting | 26 |
| | 7.4.3 Final Design Approval | 27 |
| 7.5 | Resubmittal of Plans | 27 |
| 7.6 | County Approval | 27 |
| 7.7 | Subsequent Changes | 27 |
| 7.8 | Work in Progress Observations | 27 |
| 7.9 | Notice to Comply | 27 |
| 7.10 | Notice of Completion | 27 |
| 7.11 | Right of Waiver | 28 |
| 7.12 | Non-Liability | 28 |
| 7.13 | Design Review Schedule | 28 |
| 7.14 | Application Fees | 30 |
| 7.15 | Application Format | 30 |
| | | |
| 8 | Construction and Builder Regulations | 30 |
| 8.1 | Security Deposit | 30 |
| 8.2 | Access to Construction Area | 31 |
| 8.3 | Storage of Materials and Equipment | 31 |
| 8.4 | Construction Activity Times | 31 |
| 8.5 | Construction Trailers and/or Temporary Structures | 31 |
| 8.6 | Sanitary Facilities | 31 |
| 8.7 | Debris and Trash Removal | 32 |
| 8.8 | Excavation, Grading, and Lava Preservation | 32 |

| | | |
|------|--|----|
| 8.9 | Foundations | 32 |
| 8.10 | Lot, Foundation and Roof Surveys | 33 |
| 8.11 | Architects and Contractors | 33 |

Appendices

| | | |
|---|-------------------------------|----|
| A | DEFINITIONS | 34 |
| B | APPROVED PLANT LIST | 38 |
| C | PROHIBITED PLANT LIST | 45 |
| D | LOT DESIGNATION TABLE | 49 |
| E | BUILDING HEIGHTS | 50 |
| F | LOT SURVEY REQUIREMENTS | 51 |

1 THE KONA VIEW ESTATES PHASE I DESIGN PHILOSOPHY

1.1 The Kona View Estates Community

The Kona View Estates Phase I Community is designed to provide its Owners the opportunity to experience country living in an area rich with agricultural history and yet close to Kona. With views stretching to the horizon at a cool elevation of 1300 feet, you get a true sense of what living inside and outside can be.

1.2 The Kona View Estates Design Philosophy

Kona View Estate's homes and landscapes should reflect the informal, easy lifestyle and tropical climate of Hawaii. Ocean and mountain views, indoor and outdoor rooms, tradewinds, warm days and cool nights provide the framework for creating living environments that blur the conventional distinction between inside and outside. Owners are encouraged to create homes that reflect the rural Hawaiian setting by drawing upon indigenous building traditions and materials. Designs which draw from the island's historic plantation and Asian architectural styles are particularly well suited to the climate and lifestyle of Hawaii.

2 SITE AND LANDSCAPE GUIDELINES

The following chapter outlines guidelines and standards for all site work relating to the Lots ("Homesites"), including grading, planting, location of structures, design of outdoor areas and preservation and enhancement of the landscape.

2.1 Site and Landscape Design Objectives

Kona View Estate's landscapes should create a tropical landscape that envelops buildings and blends them into the surrounding site. Utilizing plants, landscape structures and details that draw upon the indigenous landscape and building traditions of Hawaii, the outdoor spaces should be natural extensions of indoor spaces so that the boundaries between indoors and outdoors are not barriers.

2.2 Homesites

Building Envelope locations were determined based on the specific characteristics of each Lot or Homesite so as to optimize views from the home while maintaining privacy. Effort has been made to maintain view corridors from neighboring Homesites and/or common use areas.

Each Homesite consists of:

A **Building Envelope** in which all Improvements on a Homesite must take place. The Building Envelope consists of a Private Area where buildings, other vertical structures and landscape improvements may occur and a Transition Area where only landscape or horizontal Improvements (patios, pools, paths etc.) may occur.

A **Natural Area**-which is that portion of the Homesite that lies outside of the Building Envelope and is to remain in a natural or landscaped condition.

The Building Envelope is separated into two areas:

Private Areas are areas within the Building Envelope where vertical construction may occur.

The Transition Areas are those areas visible from the street, or adjacent Homesites which must remain in a landscaped state.

2.3 Building Envelopes

Building Envelopes are areas designated on the Plot Plans within which all Improvements on the Homesite (except utility connections and driveways) must take place. The Building Envelope is made up of two areas, the Private Area and the Transition Area as described below. The Natural Area is that portion of the Homesite outside of the Building Envelope.

2.3.1 The Natural Area

The Natural Area is that portion of the Homesite as shown on the Plot Plan that lies outside of the Building Envelope and may remain in an essentially undisturbed, natural condition or be landscaped or cultivated by the Owner. With the rare exception of non-significant improvements as may be approved by the DRC, no building Improvements of any kind may be done in this area.

Improvements within the Natural Area may be allowed by the DRC, provided the improvements:

- Do not impact views from Homesites or Common Areas
- Do not have a noise impact on adjacent Homesites or Common Area
- Contemplate passive (quiet) activities

-
- Do not create an odor nuisance
 - Are underground utility vaults that are landscaped, and have covers that are stained and/or covered with lava.

2.3.2 Transition Area

The Transition Area is that portion of the Building Envelope which is visible from Common Areas, streets and neighboring Homesites. No buildings may be located in the Transition Area, but pools, patios, spas, other horizontal landscape Improvements, and low walls are allowed. The Transition Area is equal to the Building Envelope minus the Private area.

Landscape structures and walls over 4 feet and landscaping that have the potential to block views are prohibited. In some instances the DRC may allow construction of privacy walls or fences to a maximum of 6 feet in height provided they do not adversely impact adjoining Homesites or common areas.

2.3.3 Private Area

The Private Area is that portion of the Building Envelope that includes buildings and outdoor private spaces. The Private Area may not be more than 25% of a Lots gross square footage. The buildings within the Private Area must conform to the maximum height requirements set forth in these Design Guidelines to protect and enhance views from neighboring Homesites. Most of the landscape within this area is not visible from neighboring Homesites or the street because it is screened by privacy walls, buildings and/or other landscape elements.

2.3.4 Lot Coverage

Total Lot Coverage (the Envelope, Private Area and Transition Area excluding driveway) shall not exceed 55% of the Lot as shown on the Plot Plan.

2.4 Association Easement Areas

Those portions of Homesites that have designated areas for special landscape treatment, such as historical sites or large slopes, have been placed within an Association Easement. Unless approved by the DRC, these areas are restricted from any development or disturbance (including paths, patios, buildings, landscape structures and/or grading) in order to preserve the natural or recreated landscape.

2.5 View Corridors

Protecting and enhancing views for residents, from their homes, and/or throughout the Community as a whole, is a goal of these Guidelines. While the DRC will

endeavor to create and maintain View Corridors for most Homesites, any negative impact to any Owner's view shall not provide a basis for any claim or cause of action, or create any obligation on the part of the Declarant, or the Association.

2.6 Combining Homesites or Lots

When an Owner combines two or more Homesites or Lots, the DRC will designate a new Homesite location, size, and Building Height based on the new lot lines and the criteria previously described. Combined Homesites or Lots will be limited to a single access and/or driveway. Owners may submit to the DRC a request for a second access.

2.7 Building Coverage and Maximum and Minimum Floor Areas

In no case shall the Private Area, exclusive of driveways, decks, balconies, or overhangs, exceed 25% of the total Lot. Minimum Floor Area for interior area (exclusive of Garage and Lanais) is 1,800 square feet for all homes. An area equal to fifteen percent (15%) of the interior area exclusive of garages shall be Lanais.

2.8 Grading and Drainage

Objectives:

- To blend new Improvements into the site.
- To maintain the natural drainage patterns and encourage percolation.

Grading Guidelines:

- Changes to Pad Grades.

Request for adjustments to pad elevations are discouraged. In very unusual circumstances, and at the sole discretion of the DRC, pad elevations may be changed. If a pad elevation is raised, the roof ridge height will be calculated from the original pad elevation. (See Section 3.3, Building Height Measurement). Lowering of pad elevations by the DRC may be possible provided that transitions to adjacent Homesites or existing grades can be accomplished in a naturalistic manner and view corridors are maintained.

- All cuts, fills and retaining walls must create smooth transitions at top and bottom of slopes so as to appear to be extensions of natural land forms. Cuts and fills over 1,000 cubic yards are discouraged and will require approval by the DRC.

-
- Slopes shall not exceed 3:1 unless it can be demonstrated that a steeper slope will not erode. Natural slopes are to be used instead of structures wherever feasible.
 - Cut and fill slopes are to be re-vegetated with plantings appropriate to the site or with rockscaping to blend them into the surrounding environment.

Retaining Wall Guidelines:

- The maximum height of retaining walls is 6 feet 0 inches. Retaining walls shall be built to extend and/or blend with the existing topography.
- Retaining walls cannot be built in the natural area unless there is a demonstrated need and will require prior approval by the DRC.
- Where grade changes exceed 6 feet-0 inches, stepped-back or terraced wall structures with ample planting terraces are to be used. Stepped retaining walls will be a minimum of four feet apart as measured from the inside face of the wall to the outside face of the next wall. Any walls in excess of 6 feet in height are to be designed by an engineer.
- Lava rock is to be used for all retaining walls. A dry stack pattern, structural in appearance and drawing upon the regional rock walls, is required. Other wall materials are acceptable provided they are located in Private Areas that are out of public view.
- Higher walls at driveways may be necessary due to topography and may be approved when such a solution would significantly reduce overall impacts on the site.
- Increased water flow off of the Homesite is to be managed within the Homesite by systems that retain water and encourage percolation.
- Ponds and artificial water features may be built only within the designated Building Envelope.
- Materials and sizes of culverts and driveways require the approval of the DRC.
- When appropriate, gutters and downspouts will direct drainage from the roofs to on-site drainage sump areas. In no event shall gutters and/or downspouts drain onto adjoining Homesites.

2.9 Driveways

Objectives:

- To minimize visibility of paved areas from neighboring Homesites through careful siting, design and use of plant materials.
- To blend driveways into the natural terrain so that grading is minimized.
- To utilize, where possible, local materials and/or pervious materials for paving (such as turf jointed pavers or turf block).

Guidelines:

- All driveways are to follow alignments that minimize grading or other disruption of the site. The driveway parking-garage layouts are to minimize the visibility of the garage doors, driveways and off street parking from the street, common areas and adjoining Homesites.
- In general, one driveway entry will be permitted for each Lot.
- Approved materials for driveways include turf block, colored and/or patterned concrete and precast concrete pavers. Asphalt may be used for longer driveways. Black coloring is required.
- Driveways shall be a maximum of 14 feet wide, except at the driveway apron to garage entrances and/or where they provide a turnaround at a garage and/or off-street parking. Parking and turnaround areas must be located within the Building Envelope.
- The common use of one driveway, and the establishment of an access easement, is required for Lots 1, 2 and 8; Lots 9, 10, 15 and 16; Lots 11, 12, 13 and 14; Lots 25 and 26; and Lots 27 and 28.

2.10 Garages, Paving and Parking

Objectives:

- To minimize visibility of parking areas through careful siting of garages.

Guidelines:

- All Homesites shall include an enclosed garage which can accommodate a minimum of two cars.

-
- Each Lot shall contain a minimum of two additional guest parking spaces (in addition to the required two enclosed spaces). These spaces must utilize plantings and/or low walls to screen cars from view.
 - Garages shall have a minimum dimension of 20 feet by 20 feet.
 - Garages must be sited and located so that visibility from the street is minimized. Side loading is required.
 - Recessed garage doors (minimum of 12") are required.
 - The total area of paved surfaces excluding Sport/Tennis Courts shall not exceed thirty percent (30%) of the portion of the lot covered by the building structure.

2.11 Walls, Fences and Gates

Objectives:

- To maintain an open and rural feeling to the community.
- To achieve privacy through careful building and planting design, thereby minimizing the need for privacy walls and fences.
- To construct walls, fences and gates that use and incorporate indigenous building materials and design motifs of the region.
- To design walls, fences and gates which are natural extensions of the buildings.
- To achieve privacy through careful building and planting design, thereby minimizing the need for privacy walls and fences.

Guidelines:

- In general, driveway or pedestrian gates are to be located within the Building Envelope.
- Walls and fences may not exceed 6 feet in height except in areas where a partial retaining condition exists.
- Privacy walls should be used only when absolutely necessary and should be located so as not to impact views from adjacent Homesites. Landscape solutions, like berming and dense planting, are preferred.

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- Approved materials for walls include lava rock and multi-hued and textured cement plaster.
 - No vinyl fence, chain link or other metal fences shall be permitted unless reviewed and approved by the DRC.
 - In no event shall fences be built within the County of Hawaii set back lines adjacent to a roadway unless there is a demonstrated need and a variance will require prior approval by the DRC.

Wall Design Guidelines:

Historically, walls on the Big Island were used to contain cattle or define areas where only members of royalty or priests could enter. These dry laid walls were built using the readily available lava rock and responded to topographic undulations. Taking inspiration from local historic precedent, only lava rock walls will be permitted within the community. Walls not visible from Common Areas or streets may use cement plaster or other materials in their construction.

The following design criteria apply to all walls that are visible from the street or common areas of the community regardless of whether they are retaining or free standing:

- Except as otherwise permitted under these Guidelines, all walls shall be constructed of lava rock. Walls should appear to be built from the surrounding natural materials.
- Jointing:
 - Dry-laid structural appearance.
 - Horizontal and vertical joints frequently interrupted.
 - Mosaic joining patterns, where the majority of joints are neither horizontal nor vertical, are unacceptable.
- Rock walls should incorporate a mix of sizes and shapes with larger stones predominating at lower levels. Faced walls are not allowed.

2.12 Planting

Objectives:

- To utilize new plantings to frame views, lessen the impact of new structures, screen use areas and unify the Community.

General Planting Guidelines:

- Suggested plant lists are included in Appendix B -Approved Plant List.
- The use of larger specimen trees is preferred in areas close to the house to help blend buildings with the site, accentuate entry areas, provide for climate amelioration, and help to define outdoor spaces.
- Planting of trees must take into consideration views from adjoining Homesites. The use of tall palms or large canopy trees where views from adjoining Homesites would be impacted are not permitted.
- Plant materials should envelop buildings and help to complete structures and outdoor rooms. Shrubs may be used as informal low walls, vines may be used to fill in walls between structural components and trees may be used to provide scale for building masses.
- A Prohibited Plant List is included in Appendix C. These plants represent species with characteristics which are potentially destructive to indigenous plants and have weed-like characteristics. Under no circumstances may a plant from the Prohibited Plant List be used.
- All planting within the Private Area must be maintained at a height not to exceed the maximum building height. All planting within the Natural Areas must be kept at 12' or less. A request to have a single specimen planting exceed the building height may be forwarded to the DRC for consideration; however, in no case will plantings be allowed to impact views from neighboring Homesites or Common Areas.
- The DRC has final approval on the location of all plants and existing trees shown on Plot Plans may not be removed without permission of the DRC.

2.13 Pools, Spas and Water Features

Objectives:

- To locate pools and/or water features where they integrate with the landscape and minimize views from surrounding Homesites.

Guidelines:

- Swimming pools, spas and ponds shall be set back a minimum of 35 feet from the property line.

-
- Design solutions that eliminate the need for a pool fence are encouraged. Pool enclosure, as required by County or other ordinances, is required.
 - The exposed edges of infinity pools and spas must be dark.
 - Pool and spa equipment should be located behind walls or in underground vaults to contain noise. Solid noise absorbing covers for equipment may be required after installation if it is discovered that the equipment is audible from adjacent properties.
 - Pools shall be located makai of the Private Area.

2.14 Lighting

Objectives:

- To preserve the nighttime sky by minimizing exterior lighting.
- To utilize low intensity, indirect light sources to the extent required for safety and subtle drama.

Guidelines:

- Exterior building lighting, either attached to or as part of the building, should be the minimum needed to provide for general illumination and security of entries, patios and outdoor spaces.
- Exterior site lighting must be directed onto vegetation or prominent site features, such as boulders or planting, and not upon the building.
- Lighting of plant materials shall be achieved with hidden light sources such as lamps recessed into the ground or hidden by plant materials.
- To preserve the dark sky no uplighting is allowed.
- Only low voltage, incandescent lamps with a maximum of 25 watts may be used for all exterior lighting applications.
- All exterior lighting is subject to the County of Hawaii Ordinance #88-122 or as subsequently amended or revised.
- With the exception of subtle lighting of the driveway entry or address numbers, all lighting must occur within the Building Envelope.

-
- Night lighting is not allowed on Sports/Tennis court Lots.

2.15 Exterior Service Areas

Objectives:

- To screen service areas from off-site views.
- To ensure any noise or smells from equipment or trash are contained within the service areas.

Guidelines:

- Service or storage areas, BBQ's, satellite dishes, gates, outdoor sculpture or other outdoor elements are to be located within the Building Envelope.
- Trash disposal areas, outdoor work areas and outside equipment (including antennae and satellite dishes) are to be completely screened from off site views by the use of architectural features or plant materials. Satellite dishes are to be treated with compatible paint to blend in with exterior surroundings. These areas should be integrated into the main buildings.
- Trash container storage areas must be located so that they are easily accessible to service personnel and smells are contained.
- Exterior storage of patio furniture and outdoor living accessories (BBQs, heaters, etc.) in areas visible from off-site is allowed provided it meets the following requirements. If stored uncovered, the furniture is stored in the same location as if it were in use. If stored with covers, the covers must be made from non-glare material and of earth tone colors.

2.16 Mailboxes, Flagpoles and House Numbers

Objectives:

- To provide for a uniform appearance of common elements.

Guidelines:

- A common mailbox shall be provided by Kona View Estates and used by each Lot Owner.
- The design for the address identification for each residence is provided by the Kona View Estates. The owner must obtain, install and finish the sign.

Address numerals shall be purchased from the Homeowners Association. No additional signs will be permitted except temporary construction signs (max. of 12 sq. ft.), real estate signs, or others as approved by the DRC.

- Free-standing flagpoles are not allowed on any Lot within Kona View Estates. The displays of flags are permitted if they are hung from a pole bracket mounted on the Dwelling.

2.17 Sports/Tennis Courts

Objectives:

- To control and noise and for visual aesthetics.

Guidelines:

- Sports/tennis courts will not be allowed except on the rear (furthest Mauka) of the Building Envelope on Lots 1,9,10,11,12,25 and 26.

3 ARCHITECTURAL OBJECTIVES AND GENERAL GUIDELINES

This chapter outlines the overall architectural objectives, styles and Building Height Guidelines for all Residences at Kona View Estates Phase I.

3.1 Architectural Design Objectives

- To draw upon the indigenous building design.
- To create buildings appropriate to the local tradition, climate and Hawaiian lifestyle.
- To draw upon the indigenous building traditions and design influences of the area, such as Early Hawaiian, Japanese, Plantation and Polynesian, and to create contemporary buildings suited for modern lifestyles.
- To design homes which respond to the tropical climate and landscape thereby enhancing indoor/outdoor living.

3.2 The Styles

Homes whose design is based on the traditional building styles found throughout Hawaii are encouraged. Many Hawaiian buildings were influenced by Southeast Asian and Japanese traditions. These houses utilize indigenous materials and have building forms and details that have minimal vertical expression. Their character is that of a house or pavilion that has minimal

walls and a broad roof, so that the house feels completely open to the outside. In essence, these homes are a sheltered continuation of the surrounding landscape.

Another traditional Hawaiian style is derived from the Plantation houses built in Hawaii in the mid 1880's. These homes blend elements of European and American architectural traditions with Asian, Polynesian and Hawaiian influences. Typically a simple box broad roof and porch that wraps around the building, these buildings are usually raised off the ground.

Other styles which respect and comport with the design philosophy described in these Guidelines are allowed. An example of such other styles would be a contemporary design which incorporates natural materials and whose structure and mass blend into the surrounding landscape in a harmonious manner.

3.3 Building Height

Objectives:

- To minimize the visual impacts of all buildings and to ensure that they are subordinate to and blend with the surrounding landscape.
- To insure that view potential from each Lot is preserved.

Building Height Measurement:

Building height shall be measured from the pad elevation shown on the Plot Plan to the ridge of the highest sloping roof.

Building Height Guidelines:

- One-Story - The allowable building height for Lot numbers 2, 3, 4, 5, 6, 7, 8, 13, 14, 15, 16, 17, 22, 23, 24, 27, 28, and 29 is twenty two feet (22 feet). The allowable building height for Lot numbers 18, 19, 20 and 21 is twenty feet (20 feet).
- Two-Story - The allowable building height for Lot numbers 1, 9, 10, 11, 12, and 26 is thirty feet (30 feet). The allowable building height for Lot numbers 23 and 25 is twenty six feet (26 feet).

Basement Guidelines:

- Basements below Pad Elevations may be allowed on a case by case basis and will require special approval by the DRC. The basement must not be visible from the streets, common areas or adjoining Homesites.

4 BASIC STYLE ELEMENTS

The following section defines the characteristics, components, principles and elements that the DRC will consider when reviewing plans with regard to materials, forms, colors and building elements.

4.1 Basic Elements

Some suggested basic elements are:

- Simple, rectangular forms, informal massing, organized with symmetrical facades.
- Lanais that wrap around the building.
- Rooms, or groups of rooms, arranged as individual pavilions linked by walkways (covered or uncovered) or gardens.
- Large openings with minimal vertical structural expression.
- Broad, enveloping roofs with deep eaves.
- Designs that blend European and Asian motifs with Tropical influences and incorporate refined detail utilizing primarily early Hawaiian, Asian and Polynesian motifs.
- Deep shade on the walls created by lanais and roof overhangs.
- Factory-built or pre-cut structures are prohibited.

4.2 Building Forms & Massing

Masses:

Simple, open volumes, typically one-story. Structures should seem as if they are very lightweight with simple wall compositions and large openings (minimal mass and many voids). In general, structures should have the appearance of having broad, sheltering roofs with minimal walls. Designs which step down and follow the natural slope of the land are encouraged.

- Massing should reflect room size volumes or groups of pavilions rather than one dominating mass. If one dominant roof mass is used, it should be in a long, low horizontal-type composition.

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- While not required, detached garages which incorporate breezeways, lanais or trellises to connect to the main Residence are encouraged to avoid large bulky forms.
 - Each main building elevation shall have a minimum of six (6) corners with each change of direction being a minimum of four (4) feet.
Exterior Wall Height:
 - In general, the maximum exterior wall height from finish floor to top of wall plate is 12 feet. In special instances wall heights over 12 feet may be allowed by the DRC depending on their articulation and treatment.

Building Height:

- **Two Story Buildings:** In general, second story masses should be located toward the center of the building mass and/or incorporated into the roof structure. Two-story height walls are not allowed.
- **Building Projections:** In designing building projections, like entrances or other rooms, the main roof remains dominant. The intersecting roofs of these outgrowths are to be subordinate to the larger roof. The objective is to maintain the strong horizontal roof and eave lines and blend into the landscape. Strong vertical entrance statements are not allowed.

4.3 Roofs

All roofs should have the appearance of a broad, sheltering hat that floats over a minimal structure. Roofs should incorporate deep eaves and overhangs to create shade and protection from the sun and rain. Each main building elevation shall have a minimum of six (6) roof corners with a change of direction for each corner being a minimum of four (4) feet. The maximum unbroken eave line shall be forty three (43) feet.

Roof Forms: Broad, low, sheltering elements; gable, hip, or double pitched hipped roofs often with attic louvers or triangular gable vents at the top. Structures with "A-frame" roof lines are prohibited.

Roof Slopes: Roof Slopes shall not exceed 8:12 or be less than 4:12.

Eave depths: Wide protecting eaves, 4 feet minimum.

Roof Materials: Roofs shall utilize treated wood shakes, metal standing seam, flat roof tiles or slate.

Flat Roofs: Flat roofs used as connective elements between sloped roofs are allowed on a case by case basis at the sole discretion of the DRC.

4.4 Exterior Walls and Finishes

The exterior walls of buildings shall use a maximum of three materials, with one material clearly dominating over the others.

Exterior wall design: Simple, refined wall compositions with ornamentation that draws on Hawaiian, European or Asian motifs. Buildings should have minimal vertical structural expression to give them a lightweight appearance. The maximum unbroken exterior wall length shall be thirty five (35) feet.

Materials: Local stone, cement plaster with stone, architectural concrete, lava rock, or wood.

Wood: All wood exterior materials should be finely detailed and utilize the following patterns: horizontal or vertical siding with board and batten, shiplap or tongue and groove, stained. Plywood siding may be allowed for board and batten walls. High quality cement fiber board such as Hardiplank is allowed.

Stone/Rock: Stone may be used as an element. Stone masonry is to be one of two styles: either a dry-laid structural appearance, or uncoursed stone with minimal grout showing.

Plaster: Plastered walls may be utilized for foundation elements or full height walls. Plaster finishes will require special approval by the DRC when not used in conjunction with other material.

4.5 Doors and Windows

Windows and doors should be broad openings, recessed and shaded by overhanging roofs. Stock size windows should be avoided. Windows should be grouped to create larger compositions and avoid a regimented stock size window treatment.

Doors: Doors may reflect early European, Hawaiian and Southeast Asian influences and have a handcrafted appearance.

Sliding Doors: Large glass or louvered, wood construction is preferred.

Materials: Stained, indigenous woods or vinyl and metal clad for trim, mullions and surrounds. Stains may be used for protection from weathering. Paint is allowed.

4.6 Building Projections and Accessory Structures

The use of extensions which provide shade and shadow, protect buildings from the intense sun and create a strong indoor/outdoor relationship are outlined below. The style and details of these architectural elements should borrow from the earlier European/Hawaiian and/or Southeast Asian building traditions.

In general, requirements for accessory structures will be similar to those for the main residence. The DRC may require that the heights for accessory structures are considerably lower than those for the main residence but may allow steeper roof pitches.

Lanais: Informal in arrangement, these areas are to protect buildings from the intense sun a minimum of 6 feet in depth and utilize wide overhanging roofs.

Entry and/or Side Porches: Porches which provide shelter from the sun and accentuate entry: areas are to be a minimum of 6 feet in depth.

Arbors/Trellises: Covered areas which connect separate structures or are free-standing are to be a minimum of 6 feet wide.

Railings: Simple and straightforward railing details are to utilize a blend of the earlier Hawaiian motifs and/or patterns with European and Craftsman vernacular. Railings may utilize either wood or metal. Decorated or carved railing details are to utilize Asian, Polynesian and/or Hawaiian motifs.

Vents: Roof top equipment and/or large vents are to be grouped and concealed in roof or wall structures that match the materials and style of the buildings and located on the side of the roof least visible from the streets.

Materials: Materials and colors should be the same or similar to the main structure(s).

4.7 Color

In general, color should come from the inherent, natural color of the materials used. Stains may be used to protect wood from weathering, to give it a more refined texture, or to achieve a darker hue. A shiny appearance is not permitted. Woods and stone or rock should be carefully chosen so that their natural colors complement the lava landscape.

Roofs: Neither shiny in appearance nor bright in color.

Walls: Natural earth tone colors including browns, medium to dark grays and black. Some weathering of wood is encouraged to achieve subtle color differentiation on walls and to blend buildings with the vegetation.

Trim and Accent Colors: Earth tone colors including subtle browns, grays, blues and/or greens, painted and/or stained. Dark, rich earth tones that come from stains and or refined woods. Semitransparent muted colors can be applied to details like carved friezes or trim.

4.8 Decorative Elements

In general, decorative elements should draw upon Asian, Polynesian and early Hawaiian vernacular and influences.

Sources: Craftsman wood and iron details and Hawaiian and/or Asian indigenous artifacts, ceramics, stoneware, sculpture and carvings. Indigenous petroglyphs, tapa patterns, vernacular basketware, carvings, ceramics, lacquerware, artifacts weavings and sculpture.

Materials: Woods, stone, bamboo, weathered metal and tiles.

5 LIFE SAFETY GUIDELINES AND ENVIRONMENTAL CONSIDERATIONS

This chapter outlines guidelines for systems regarding life safety such as fire sprinklers and alarm systems and presents ways in which to build resource and energy efficient buildings.

5.1 Energy and Resource Conservation Measures

Site and building design along with construction techniques that utilize the latest advances in resource conservation are encouraged. New building technologies, innovative building materials, thoughtful site planning and creative construction systems can be used to create more energy-efficient, durable, and better quality homes.

5.2 Skylights

Skylights must be integrally designed into the roof structure and are not to be obtrusive. Skylight glazing shall not be back-lit or manufactured of reflective material. Skylight framing and glazing shall be colored or coated to match adjacent materials.

5.3 Solar Equipment

Solar hot water systems and solar power generating equipment is encouraged. If not located on the ground, solar power panels should integrate with the architectural design of the roof structure and may not be visible to the adjacent properties, Common

Areas or street. Solar water systems should be low profile and tankless with the tank located in a screened area. All solar designs must be reviewed and approved by the DRC.

5.4 Fire Protection

In order to ensure adequate fire protection, all buildings designed for human occupancy, including garages, should have an automatic fire alarm system.

5.5 Security Measures

Owners may incorporate additional security measures into their plans however, exterior high-intensity lighting is not allowed.

6 DESIGN REVIEW COMMITTEE ORGANIZATION

6.1 Design Review Committee Membership

The Design Review Committee (DRC) will consist of three Members. Each person will hold office until such time as she/he has resigned, been removed or her/his successor has been appointed.

6.2 Appointment of Members

All Members shall initially be appointed by the Declarant on behalf of the Association. At such time as the Declarant no longer owns any Homesites or Parcels, all Members shall be appointed by the Association Board (Board).

Members shall serve staggered two-year terms. There is no limit to the number of consecutive terms that can be served by any Member.

6.3 Membership Requirements

Members of the DRC appointed by the Board or the Declarant need not be Members of the Association. One Member of the DRC is required to be a licensed design professional in the field of architecture and one member is required to be licensed in the field of landscape architecture. The DRC may contract and/or assign some of the DRC's administrative duties, but not authority, to any qualified design professional as needed.

6.4 Resignation of Members

Any Member of the DRC may at any time resign from the DRC upon written notice stating the effective date of the Member's resignation to the Board, or to the Declarant, whichever then has the right to appoint and remove members. Any Member may be removed at any time by the body that appointed them, with or without cause.

6.5 Functions of the DRC

It will be the duty of the DRC to consider and act upon such proposals or plans from time to time submitted to it in accordance with the Design Review procedures established by these Design Guidelines; to amend the Design Guidelines as deemed appropriate with the approval of the Board; and to perform any duties assigned to it by the Declarant, or the Board as set forth in this document and the CC&R's.

6.6 Meetings

The DRC will meet monthly or as needed to properly perform its duties. The DRC's actions on matters will be by a majority vote of the DRC. Any action required to be taken by the DRC may be taken without a meeting provided it is in writing, setting forth the action so taken, and be signed by all of the DRC Members. The DRC should keep and maintain a record of all actions taken by it.

6.7 Compensation

The Board or Declarant, whichever then has the greater number of appointed Members, will have the right to set the compensation for the DRC Members and the DRC Administrator. Compensation may at any time be revoked or changed by Declarant or Board with or without cause. All Members will be entitled to reimbursement for reasonable expenses incurred by them in connection with the performance of any DRC function or duty. The DRC may contract and/or assign some of the DRC's administrative duties, but not authority, to any qualified design professional as needed.

6.8 Amendment of Design Guidelines

The DRC may, from time to time with the approval of the Board, adopt, amend and repeal by unanimous vote, rules and regulations to be incorporated into, or amendments of, the Design Guidelines, which, among other things, interpret, supplement or implement the provisions of the Design Guidelines. All such rules and regulations or amendments, as they may from time to time be adopted, amended or repealed, will be appended to and made a part of the Design Guidelines. Each Owner is responsible for obtaining from the DRC a copy of the most recently revised Design Guidelines.

6.9 Non-Liability

Provided that DRC Members act in good faith, neither the DRC nor any Member will be liable to the Association, any Owner or any other person for any damage, loss or prejudice suffered or claimed on account of:

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1. Approving or disapproving any plans, specifications and other materials, whether or not defective.
 2. Constructing or performing any work, whether or not pursuant to approved plans, specifications and other materials.
 3. The development or manner of development of any land within Kona View Estates.
 4. Executing and recording a form of approval or disapproval, whether or not the facts stated therein are correct.
 5. Performing any other function pursuant to the provisions of the Design Guidelines.

7 DESIGN REVIEW PROCESS

This section provides a guide for the Design Review Process for the Community. The process involves a series of meetings between the Owner, their design team and the DRC. The process begins with an informal introductory meeting and concludes with the completion of construction. Along the way are a series of meetings designed to ensure a smooth and efficient review of the building and site design. The DRC should be thought of as a member of the Owner's design team as opposed to a regulatory review agency.

7.1 Design Review Process

Improvement plans will be carefully reviewed by the DRC to ensure that the proposed design is compatible with the design intent at Kona View Estates. This Design Review Process must be followed for any of the following Improvements:

- Construction of all new buildings;
- The renovation, expansion or refinishing of the exterior of an existing building;
- Major site and/or landscape improvements (including bridges, pools, driveways and/or culverts); and
- Construction of, or additions to, fences or enclosure structures.

The DRC evaluates all development proposals on the basis of these Design Guidelines. The interpretation of these standards is left up to the discretion of the DRC. Other guidelines such as Building Height or setbacks are more definitive, or absolute design parameters, and in many cases parallel County and building code requirements. It is the intention of this Design Review Process that all Improvements comply with these absolute standards.

Kona View Estates Design Review Process takes place in four steps:

1. Pre-Design Conference
2. Preliminary Design Review
3. Final Design Review
4. Construction Monitoring

Any Improvement as described above will require and be preceded by the submission of plans and specifications describing the proposed Improvements accompanied by an application fee. The Owner will retain competent assistance from a registered Architect, Civil Engineer, Landscape Architect, Soils Engineer and a licensed and bonded Contractor (Consultants) as appropriate. The Owner and Consultant(s) shall carefully review the CC&R's and these Design Guidelines prior to commencing with the Design Review Process.

On or before fifteen days (15) prior to the first day of the following month, the DRC will set the date for design review ("Review Meeting Date"). This shall be the only day the DRC will review submittals.

Having secured final design approval from the DRC, the Owner is also required to meet all the submittal and approval requirements of the County of Hawaii to obtain design approvals or any other discretionary permits and a building permit.

The Owner is to commence construction within one year of the Final Design Approval.

7.2 Pre-Design Conference

Prior to the preparation of any materials for formal DRC review, the Owner and Consultant(s) must meet with representatives of the DRC for a Pre-Design Conference. A Pre-Design Conference package that includes a current copy of the Design Guidelines, the Plot Plan and a conference request form is available from the DRC Office. The purpose of this meeting will be for the DRC to answer any questions the Owners and/or Consultant(s) may have and to offer guidance on the following subjects:

- The particular characteristics and restrictions on the Homesite, as shown on the Plot Plan to be provided by the DRC;
- Optimal orientation of buildings and outdoor spaces;
- Additional survey information requirements;
- Preliminary building and site development program ideas and requirements;

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- Potential issues or conflicts with view shed;
 - Clarification of Design Guideline objectives;
 - The requirements, fees, and schedule of the Design Review Process.

From this conference, the Applicant may decide to informally submit an optional, quick conceptual sketch of the proposed Residence. This sketch would most likely be a floor/site plan at 1"= 8', 16', or 20' scale showing the overall design intent. The purpose of this optional sketch and conference is to confirm the design professionals are headed in the right direction and are interpreting the Design Guidelines correctly.

7.3 Preliminary Design Review

After the Pre-Design Conference, the Owner shall submit a written application and appropriate fee for Preliminary Design Review together with Preliminary Design Review submission materials, described in Section 7.4.1 below. A copy of all drawings must be submitted in PDF format in order to reduce storage costs.

7.3.1 Preliminary Design Review Submission Materials

Within this step, the Applicant shall prepare and submit to the DRC for review and approval a Preliminary Design Review package that should adequately convey existing site conditions, constraints, building orientation and design, vehicular and pedestrian access, the proposed use of exterior materials and colors and conceptual landscape design. All architectural plans are to be prepared by a licensed Architect. All landscape architectural plans are to be prepared by a licensed Landscape Architect. The package shall include four full-size sets and two sets of reductions to 11" x 17" of the following drawings and/or materials:

1. Preliminary Design Review Application Form and Fee
2. Parcel Survey-a property survey (minimum scale: 1"=20'-0") prepared by a licensed surveyor indicating property boundaries, the area of the property, all easements of record and setbacks, 2' contours, any significant natural features such as significant lava rock outcrops, or any significant drainages. Please refer to Appendix F, Lot Survey Requirements, for specific information that must be shown on all surveys and site base plans.

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3. Site Plan-1"=20' minimum, showing existing topography and proposed grading (2' contour interval), building footprint with finished floor elevations, Building Envelope, Transition Area, all easements, driveway, parking area, turnarounds, drainage, fences/walls, patios, decks, pools, and any other site amenities.
 6. Schematic Floor and Roof Plans-minimum 1/8" = 1'-0".
 4. Elevations- minimum 1/8"=1'-0", including roof heights existing and finish grades, building heights and notation of materials.
 5. Site Sections-minimum scale 1"=20', showing proposed buildings, building heights, elevations and existing and finished grades in relation to surrounding site, including adjacent Residences and roads as may be required by the DRC.
 6. Conceptual Landscape Plan-a conceptual plan at 1"=20' minimum, irrigated areas, areas of planting, total square footage of landscape area, water features, pools, patios, decks, and any other significant design elements.

7.3.2 Staking

The Owner will stake the location of corners of the proposed buildings and all other major Improvements upon submittal of Preliminary Design Review Documents. In some instances, the DRC may require that ridgeline flagging be erected to indicate proposed heights of buildings.

7.3.3 Preliminary Design Review Meeting

Upon receipt of the required documents and staking of the property, the DRC will notify the Owner of the scheduled meeting date to review the Preliminary Design Documents. The Owner and/or Consultant(s) must be present at the meeting, or the submittal will be postponed until the next meeting. The DRC will review and comment on the application at the meeting, allow time for discussion with the Owner and/or Consultant(s).

The comments of the DRC on the preliminary submittal shall be advisory only, and shall not be binding upon either the Owner or the DRC. A second review meeting may be necessary to review corrected and/or new materials. Corrected materials will be provided to the DRC a minimum of five working days prior to the next regularly scheduled meeting.

7.4 Final Design Review

Within one year of Preliminary Design Review approval the Owner shall initiate Final Design Review by submitting required Final Design documents.

7.4.1 Final Design Review Submission Materials

The Applicant shall provide all information necessary to reflect the design of the proposed building(s), landscape or other features requiring the approval of the DRC. Final Design documents shall generally conform with the approved Preliminary Design Review documents. All architectural plans are to be prepared by a licensed Architect. All landscape architectural plans are to be prepared by a licensed Landscape Architect. Submit four sets full size and two sets of 11"x 17" reductions (with a PDF file) of final plans that include the following.

1. Final Design Review Application Form and Fee
2. Site Plan-1"= 20'-0" minimum, showing existing topography and proposed grading (2' contour interval), building footprint with finished floor grades, driveway, parking area, turnarounds, drainage, fences/walls, patios, decks, pools and any other site amenities.
3. Floor and Roof Plans-1/4"= 1'-0", indicate all room dimensions, door and window locations and sizes, location of mechanical and electrical systems and fire sprinkler and monitoring systems. Indicate the location and type of all exterior lighting fixtures, proposed fireplaces, and kitchen appliances. Provide floor plans of all Accessory Structures.
4. Elevations-1/4"=1'-0", illustrate the exterior appearance of all views labeled in accordance with the site plan. Indicate the highest ridge of the roof, the elevation of each floor, and existing and finished grades for each elevation. Describe all exterior materials, colors, and finishes (walls, roofs, trim, vents, windows, doors, etc.) and locate all exterior lighting fixtures. Indicate Building Height.
5. Sections-indicate building walls, floors, interior relationships, finished exterior grades and any other information to clearly describe the interior/ exterior relationships of the building as well as the building's relationship to the site. A site section showing existing and proposed grades along with the proposed maximum allowable building height limit from the existing grade is required.

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6. Landscape Plans- 1"= 20' minimum, including an irrigation plan, lighting plan, proposed plant materials, and sizes.
 7. Sample Board-including.
 - Roof material and color
 - Wall materials and colors
 - Exterior trim material and color
 - Window material and color
 - Exterior door material and color
 - Stone/rock materials
 - Fence/wall materials
 - Exterior rails and paving materials
 - Pool tile material, color and details
 - Exterior landscape materials / specifications

The DRC will review and approve/disapprove the sample board at the Final Design Review.

8. Construction Schedule-include start and completion dates for both building and landscape construction. All construction shall be started within one year of Final Design Approval and shall be completed within 24 months from start of construction.
9. Calculations-provide the exact square footage of the interior areas, lanai areas, paved areas, lot coverage and the cut and fill quantities.

7.4.2 Final Design Review Meeting

Upon receipt of the required documents, the DRC will notify the Owner of the scheduled meeting date to review the Final Design documents. In some instances, the DRC may request a final staking of the location of all corners of proposed buildings if the Final Design documents vary substantially from approved Preliminary Design documents.

The Owner and/or Consultant(s) must be present at the meeting. The DRC will review and comment on the application at the meeting, allow time for discussion with the Owner and/or Consultant(s), and subsequently provide the Owner with an approval (see Section 7.4.3 below) or conclusive recommendations in writing for refinements to the design. A second review meeting may be necessary to review refinements, revisions and/or new materials. These materials will be provided to the DRC a minimum of five working days prior to the next regularly scheduled meeting.

7.4.3 Final Design Approval

The DRC will issue Final Design Approval in writing within twelve working days of a vote for approval at a Final Design Review Meeting. If the decision of the DRC is to disapprove the proposal, the DRC shall provide the Owner with a written statement of the basis for such disapproval to assist the Owner in redesigning the project so as to obtain the approval of the DRC.

7.5 Resubmittal of Plans

In the event that final submittals are not approved by the DRC, the Owner will follow the same procedures for a resubmission as for original submittals. An additional design review fee must accompany each resubmission as required by the DRC.

7.6 County Approval

The Owner shall apply for all applicable building permits from the County of Hawaii after receiving final design approval from the DRC. Any adjustments to DRC-approved plans required by the County review must be resubmitted to the DRC for review and approval prior to commencing construction.

7.7 Subsequent Changes

Subsequent construction, landscaping or other changes in the intended Improvements that differ from approved Final Design documents must be submitted in writing to the DRC for review and approval prior to making changes.

7.8 Work In Progress Observations

During construction, the DRC will check construction to ensure compliance with approved Final Design documents. If changes or alterations have been found that have not been approved, the DRC will issue a Notice to Comply.

7.9 Notice to Comply

When as a result of a construction observation the DRC finds changes and/or alterations that have not been approved, the DRC will issue a Notice to Comply within three working days of the observation. The DRC will describe the specific instances of non-compliance and will require the Owner to comply or resolve the discrepancies.

7.10 Notice of Completion

The Owner will provide the DRC with a Notice of Completion of any Improvement(s) requiring Final Design Approval by the DRC. The DRC will make an

inspection of the property within ten working days of the notification. The DRC will issue in writing a Notice of Completion within ten working days of observation. If the work was not done in compliance with the approved final design documents, the DRC will issue a Notice to comply within ten working days of the observation.

7.11 Right of Waiver

The DRC recognizes that each Parcel has its own characteristics and that each Owner has their own individual needs and desires. For this reason, the DRC has the authority to approve deviations from any of the Design Guidelines or Regulations contained within this document. It should be understood, however, that any request to deviate from these Design Guidelines will be evaluated at the sole discretion of the DRC, and that the approval of deviations will be limited to only the most creative design solutions to unique situations. Prior to the DRC approving any deviation from a Design Guideline, it must be demonstrated that the proposal is consistent with the overall objectives of these Design Guidelines and that the deviation will not adversely affect adjoining Parcels or Kona View Estates as a whole.

It is the responsibility of the applicant to notify, in writing via registered mail, the Association and surrounding property owners who may be affected by their deviation request. Such notification must occur no less than 2 weeks prior to the date the DRC is scheduled to hear the request.

The DRC also reserves the right to waive any of the procedural steps outlined in this Design Guideline document provided that the Owner demonstrates there is good cause.

7.12 Non-Liability

Neither the DRC, nor any of its members, employees or agents, will be liable to any party for any action, or failure to act with respect to any matter if such action or failure to act was in good faith and without malice.

7.13 Design Review Schedule

The DRC will make every reasonable effort to comply with the time schedule for design review. However the DRC will not be liable for delays that are caused by circumstances beyond their control. The DRC will provide Design Review according to the following schedule:

1. Pre-Design Conference
 - The Owner shall give the DRC written notice of a request for Pre-Design Review on or before the 15th day of the month. The Pre-

Design meeting will then be scheduled on the following months Review Meeting Date.

2. Preliminary Design Review

- Application documents to be submitted ten (10) working days prior to the next scheduled Review Meeting Date.
- Written comments from DRC meeting will be provided to Owner within ten (10) working days.
- A second review meeting may be necessary to review corrected and/or new materials. Corrected materials will be provided to the DRC a minimum of ten (10) working days prior to the next Review Meeting Date.

3. Final Design Review

- Application documents to be submitted ten (10) working days prior to the next Review Meeting Date, and within one year of Preliminary Design Approval.
- Written comments from DRC meeting and/or written notice of Final Design Approval will be provided to Owner within ten (10) working days.
- A second review meeting may be necessary to review refinements, revisions and/or new materials. These materials will be provided to the DRC a minimum of five working days prior to the next regularly scheduled meeting.

4. Building Permits

Owner will apply to the County of Hawaii for all applicable building and use permits.

5. Final Approval

- When construction is complete and in compliance with the Design Guidelines, a final inspection by the DRC is required. The DRC will provide the Owner with a completion letter for the construction.

7.14 Application Fees

In order to defray the expense of reviewing plans, monitoring construction and related data, and to compensate consulting Architects, Landscape Architects and other professionals, these Guidelines establish a total fee of \$2,700 payable upon submittal of the application for the Pre-Design Conference.

| | <u>Initial</u> <u>Improvements</u> | <u>Subsequent</u> <u>Remodel</u> | <u>Minor</u> <u>Improvements</u> |
|--------------------------|---------------------------------------|-------------------------------------|-------------------------------------|
| Fee for DRC Review | \$2,700 | \$250 | \$0 |
| Fee for Resubmission | \$500 | \$250 | \$250 |
| Each Site Inspection Fee | \$300 | | |

Fees are subject to revision annually.

7.15 Application Format

An application and information package is available from the DRC for each submission. Each submission must be accompanied by the required information, as specified in the application package instructions, in order to be scheduled for review. The Owner and/or design Consultants must attend the DRC meetings to explain a submission or be available to respond to questions.

8 CONSTRUCTION AND BUILDER REGULATIONS

8.1 Security Deposit

After the DRC approves an Owner's proposed Construction Area Plan, and prior to commencing any Construction Activity, a Security Deposit shall be delivered to the DRC, on behalf of the Association, as security for the project's full and faithful performance of its Construction Activity in accordance with its approved final plans. The amount of the Security Deposit shall be \$8,000 or such greater amount, as determined by the DRC for all Homesites within Kona View Estates Phase I. This amount may be adjusted annually by the DRC.

The DRC may use, apply or retain any part of a Security Deposit to the extent required to reimburse the DRC for any violation of these Guidelines and Rules and any cost that the DRC may incur to repair or clean up any damage or debris resulting from a Project's Construction Activity. In such an event, the Owner shall promptly restore the Security Deposit to its original amount and Construction Activity shall be halted until the Security Deposit is brought up to the original amount.

The DRC shall return the Security Deposit to the Owner within 15 working days after the issuance of a Notice of Completion from the DRC.

8.2 Access to Construction Area

Kona View Estates requires all Builders to comply with the following:

1. Enforce hours of construction and speed limits.
2. Consolidate deliveries of materials and equipment.

8.3 Storage of Materials and Equipment

All construction materials, equipment and vehicles will be stored within the Lot. Equipment and machinery will be stored on-site only while needed.

8.4 Construction Activity Times

The time of construction will be limited to the period from 7:00 am until 5:30 pm Monday through Friday, and 9 am until 5 pm on Saturday. Construction on Sunday and the following holidays is not permitted: New Year's Day, Thanksgiving Day and Christmas Day. Essentially quiet activities that do not involve heavy equipment or machinery may occur at other times subject to the review and approval of the DRC. No personnel are to remain at the construction site after working hours. No alcohol consumption or pau hana parties shall be allowed at the construction site or street side within the development at any time.

8.5 Construction Trailers and/or Temporary Structures

Any Owner or Builder who desires to bring a construction trailer or the like to Kona View Estates must obtain written approval from the DRC. The DRC will work closely with the Owner and/or Builder to site the trailer in the best possible location to minimize impacts to the site and to adjacent Parcel Owners. All such facilities will be removed from the Lot prior to issuance of a Certificate of Occupancy.

Temporary living quarters for the Owner, Builder or their employees on the Lot will not be permitted.

8.6 Sanitary Facilities

Sanitary facilities, including potable water, must be provided for construction personnel on-site in a location approved by the DRC. The facility must be screened from view from adjacent Residences and Roads, and maintained regularly.

8.7 Debris and Trash Removal

Contractors must clean up all trash and debris on the Construction Site at the end of each day. Trash and debris must be removed from each Construction Site at least once a week and transported to an authorized disposal site. Lightweight material, packaging and other items, must be covered, or weighted down to prevent wind from blowing such materials off the Construction Site. Contractors are prohibited from dumping, burying or burning trash anywhere on the Lot or in Kona View Estates except in areas, if any, expressly designated by the DRC. During the construction period, each Construction Site must be kept neat and tidy to prevent it from becoming a public eyesore, or affecting adjacent Homesites. Dirt, mud or debris resulting from activity on each Construction Site must be promptly removed from roads, open spaces and driveways, or other portions of Kona View Estates. Any clean up costs incurred by the DRC or the Association in enforcing these requirements will be taken out of the Builder's Bond or billed to the Owner as needed. Washing out of Cement Trucks is prohibited and all excess dried cement shall be removed from the Lot and streets.

8.8 Excavation and Grading

Blowing dust resulting from grading and construction operations must be controlled by watering. During construction, erosion must be minimized on exposed cut and/or fill slopes through proper soil stabilization, water control and revegetation. The Builder is responsible for the implementation of erosion control techniques. Grading operations may be suspended by the DRC during periods of heavy rains or high winds.

8.9 Foundations

Owner is encouraged to seek the assistance of a licensed Soils Engineer to examine and test soils conditions on his Lot prior to undertaking any design or construction. Declarant makes no representations or warranties express or implied, as to the soil conditions.

- The Owner and the Owner's Architect, Engineer and Contractor shall give due consideration to the design of the foundation systems of all structures.
- Undetected lava tubes may occur below the surface.
- Portions of Kona View Estates have been filled. The ground may settle in filled areas.
- The Owner's independent soils engineering investigation will determine the suitability and feasibility of any Lot for construction of the intended Improvement.

8.10 Lot, Foundation and Roof Surveys

Prior to commencement of design, it is the responsibility of the buyer to obtain a survey by a Surveyor licensed in the State of Hawaii to confirm pad grades, tops and toes of slope, edges of existing lava areas and any other features or Lot attributes that would affect the design of any Lot Improvement. After the foundation is poured, a certified survey is required showing the finish slab height and after the roof is completed, a certified survey of the top or the roof elevation is required.

8.11 Architects and Contractors

All work shall be performed, executed and completed by a General Contractor licensed in the State of Hawaii.

All architectural work shall be prepared by or under the supervision of and construction will be under the observation of an architect registered in the State of Hawaii.

APPENDICES A THROUGH F

- Appendix A - Definitions
- Appendix B - Approved Plant List
- Appendix C - Prohibited Plant List
- Appendix D - Lot Designation Table
- Appendix E - Building Heights
- Appendix F - Lot Survey Requirements

APPENDIX A-DEFINITIONS

Unless the context otherwise specifies or requires, the following words or phrases when used in these Design Guidelines shall have the following meanings:

Accessory Structure

Any structure ancillary to main Residence.

Architect

A person licensed to practice architecture or landscape architecture in the State of Hawaii.

Association

The Kona View Estates Community Association, Inc., a Hawaii non-profit corporation, the members of which shall be the Owners of Parcels within Kona View Estates, their successors and assigns.

Board

The term "Board" shall mean the Board of Directors of the Association.

Builder

A person or entity engaged by an Owner for the purpose of constructing any Improvement within Kona View Estates. The Builder and Owner may be the same person or entity.

Builder's Bond

The deposit that is required to be delivered to the DRC prior to the commencement of Construction Activity.

Building Coverage

The total area of a Lot covered by building(s). Measured from outside of all exterior walls at ground level, it includes all exterior stairways, lanais, covered parking and walkway areas. It does not include roof overhangs, uncovered walkways, hardscape and above-grade decks.

Building Envelope

That portion of any Parcel, designated as a Homesite (or Building Envelope) on the Plot Plan, and within which the construction of buildings and accessory and appurtenant structures and Improvements is located.

Building Height

Building Height is defined as the vertical distance from pad elevation as shown on the Plot Plan to the top of the roof ridge. If a pad grade is lowered, the new grade will serve as the elevation from which height will be measured.

Construction Activity

Any site disturbance, construction, addition or alteration of any building, landscaping or any other Improvement on any Construction Site.

Construction Site

A site upon which Construction Activity takes place.

Construction Vehicle

Any car, truck, tractor, trailer or other vehicle used to perform any part of a Construction Activity or to transport equipment, supplies or workers to a Construction Site.

Consultants

A person or entity engaged by an Owner for the purpose of designing or consulting on any Improvement within Kona View Estates.

Declarant

327 Kona, LLC, a Delaware Limited Liability Company.

Design Guidelines and Regulations

The architectural, design and construction regulations, restrictions and review procedures adopted and enforced by the DRC as set forth in this document and as amended from time to time by the DRC.

Design Review Committee (DRC)

The DRC appointed by the Declarant or Kona View Estates Association Board as provided in the CC&R's to review and either approve or disapprove proposals and/or plans and specifications for the construction, exterior additions, landscaping, or changes and alterations within Kona View Estates.

Estates

Homesites designated by Declarant as "Estate Lots", on which the individual Owners are to construct their residences.

Excavation

Any disturbance of the surface of the land (except to the extent reasonably necessary for planting of approved vegetation), including any trenching that results in the removal of earth, rock or other substance from a depth of more than 12 inches below the natural surface of the land or any grading of the surface.

Fill

Any addition of earth, rock or other materials to the surface of the land, which increases the natural elevation of such surface.

Final Map

The recorded final Subdivision map or Parcel map for any portion of Kona View Estates.

Homesite

Homesite shall have the same meaning as "Private Area" under the CC&R's.

Homeowner

See definition for Owner.

Improvement

See Definition contained in the CC & R's.

Lanai

The required fifteen percent (15%) of outdoor living or lounge area, which is attached to the residence or guest unit, and is open on a minimum of two sides. The open sides of the lanai are not enclosed with fixed screens or doors of any kind.

Lot

The term "Lot" means that parcel of land, described in the purchaser's purchase contract, and illustrated by the Plot Plan, on which the purchaser intends to construct improvements.

Lot Coverage

The Envelope, Private Area and Transition (excluding driveway) shall not exceed 65% of the Lot.

Maximum Floor Area

The sum of horizontal areas of all floors of a building measured from the outside of all exterior walls.

Minimum Floor Area

Minimum Floor Area shall be 1,800 square feet exclusive of Lanais and Garage (floor area is defined the same as in Maximum Floor Area, above).

Modification

Any change or Owner-proposed change to a building, its site or its landscape.

Owner

See definition contained in the CC & R's.

Pad Elevation

The maximum height of the Pad Elevation is the elevation shown on Appendix "E". The Pad Elevation may be lowered subject to DRC approval. In no event shall fill, added to achieve a Pad Elevation, block a neighboring lots view.

Parcel

The term "Parcel" shall be those parcels of land, together with any appurtenances, described as Lots 1-29 subdivided by Declarant pursuant to the County of Hawaii subdivision approval for the Kona View Estates.

Plot Plan

The term Plot Plan shall refer to the individual site plan for each Parcel provided to the Owner by the DRC at the commencement of the Design Review Process. Each Plot Plan specifies setbacks, Building Height and any special restrictions pertinent to the Parcel's development as recorded with the County of Hawaii, together with any additional factors that the DRC may consider to be pertinent.

Private Area

The Private Area is an area within the Building Envelope where vertical construction may occur. The Private Area may not be more than 25% of the Homesite.

Residence

The building or buildings, including any garage, or other accessory building, used for residential purposes constructed on a Parcel, and any Improvements constructed in connection therewith.

Review Meeting Date

The monthly date the DRC sets for design review ("Review Meeting Date").

Transition Areas

Transition Areas are those areas visible from the street, Common Areas or adjacent Homesites which must remain in a landscape or more natural state. The Transition Area may not be less than 40% of the Homesite.

APPENDIX B-APPROVED PLANT LIST

TREES

| Botanical Name | Common Name |
|--|---------------------------|
| <i>Acacia confusa</i> | Formosa Koa |
| <i>Aleurites moluccana</i> | Kukui |
| <i>Artocarpus altilis</i> | `Ulu, Breadfruit |
| <i>Bauhinia blakeana</i> | Hong Kong Orchid Tree |
| <i>Caesalpinia pulcherrima</i> | Dwarf poinciana |
| <i>Calophyllum inophyllum</i> | Kamani |
| <i>Canthium odoratum</i> | Alahe'e |
| <i>Cassia gaudichendi</i> | Kolomona |
| <i>Cassia grandis</i> | Pink Shower, Coral Shower |
| <i>Cassia javanica</i> | Pink/White Shower |
| <i>Cassia x nealiae</i> | Rainbow Shower |
| (<i>Cassia fistula</i> x <i>C. javanica</i>) | |
| <i>Cibotium chamissoi</i> | Hapu'u |
| <i>Citharexylum spinosum</i> | Fiddlewood Tree |
| <i>Clusia rosea</i> | Autograph Tree |
| <i>Coccoloba uvifera</i> | Sea Grape |
| <i>Conocarpus erectus sericeus</i> | Silver Buttonwood |
| <i>Cordia sebestena</i> | Kou Haole |
| <i>Cordia subcordata</i> | Kou (Hawaiian) |
| <i>Delonix regia</i> | Royal Poinciana |
| <i>Diospyros sandwicensis</i> | Lama |
| <i>Erythrina crista-galli</i> | Coral Tree |
| <i>Erythrina fusca fastigiata</i> | Vertical wiliwili |
| <i>Erythrina sandwicensis</i> | Wiliwili |
| <i>Erythrina variegata</i> | Tiger's Claw |
| `Orientalis' | |
| <i>Ficus benghalensis</i> | Indian Banyan |
| <i>Ficus benjamina</i> | Weeping Fig |
| <i>Ficus elastica</i> | Indian Rubber Tree |
| <i>Ficus lyrata</i> | Fiddle Leaf Fig |
| <i>Ficus macrophylla</i> | Morton Bay Fig |
| <i>Ficus retusa</i> | Chinese Banyan |
| * Polynesian, Indigenous, or Endemic Plants | |
| <i>Ficus</i> spp. | Banyan |
| <i>Harpulia pendula</i> | Tulipwood |
| <i>Hibiscus brackenridgei</i> | Ma'o Hau Hele |
| <i>Hibiscus tiliaceus</i> | Hau |

| | |
|-------------------------------|------------------------|
| Hibiscus waimeae | Koki'o Ke'oke'o |
| Jatropha hastata | Jatropha |
| Lagerstroemia indica | Crape Myrtle |
| Lagerstroemia speciosa | Giant Crape Myrtle |
| Messerschmidia argenta | Beach heliotrope |
| Metrosideros collina | 'Ohi'a lehua |
| subsp. polymorpha | |
| Morinda citrifolia | Noni |
| Noronhia emarginata | Madagascar olive |
| Pandanus tectorius | Hala |
| Pandanus variegatus | Variegated Pandanus |
| Peltophorum pterocarpus | Yellow Poinciana |
| Pithecellobium dulce | Opiuma |
| Plumeria obtusa | Singapore Plumeria |
| Plumeria rubra | Red Plumeria |
| Plumeria rubra f. acutifolia | Plumeria |
| Plumeria rubra f. acutifolia | Temple Tree |
| Podocarpus gracilior | Podocarpus |
| Podocarpus macrophyllus | Podocarpus |
| Prosopis pallida "Thornless" | Thornless kiawe |
| Pseudobombax ellipticum | Bombax |
| Psidium cattleianum | Strawberry Guava |
| Rauvolfia sandwicensis | Hao |
| Ravenalla madagascariensis | Travelers Tree |
| Samanea saman | Monkey Pod |
| Sapindus saponaria | Soapberry tree, Manele |
| Schinus molle | California Pepper Tree |
| Schizostachyum glaucifolium | 'Ohe, Bamboo |
| Spathodea campanulata 'aurea' | African Tulip |
| Stemmadenia littoralis | Lecheso |
| Swietenia mahogani | Mahogany |
| Tabebuia argentea | Silver Trumpet |
| Tabebuia aurea | Silver Trumpet |
| Tabebuia donnell-smithii | Gold Tree |
| Tabebuia heterophylla | Pink Tecoma |
| Tabebuia palmeri | Palmer's Tecoma. |
| Tabebuia rosea | Pink Trumpet Tree |
| Tamarindus indica | Tamarind |
| Terminalia catappa | False Kamani |
| Thespesia populnea | Milo |
| Thevetia peruviana | Be Still Tree |

PALMS

| Botanical Name | Common Name |
|-----------------------------------|-------------------|
| <i>Chrysalidocarpus lutescens</i> | Areca Palm |
| * <i>Cocos nucifera</i> | Coconut Palm, Niu |
| <i>Cocos plumosa</i> | Queen Palm |
| <i>Cycas circinalis</i> | Queen Sago Palm |
| <i>Cycas revoluta</i> | Sago Palm |
| <i>Dictosperma album</i> | Princess Palm |
| <i>Livistona chinensis</i> | Chinese Fan Palm |
| <i>Neodypsis decaryi</i> | Triangle Palm |
| <i>Phoenix roebelinii</i> | Pygmy Date Palm |
| * <i>Pritchardia hildebrandii</i> | Loulu |
| * <i>Pritchardia martii</i> | Loulu |
| <i>Pritchardia Pacifica</i> | Fiji Fan Palm |
| <i>Pritchardis affinis</i> | Lou |
| <i>Ptychosperma macarthurii</i> | MacArthur Palm |
| <i>Rhapis excelsa</i> | Rhapis Palm |
| <i>Roystonea regia</i> | Royal Palm |
| <i>Veitchia joannis</i> | joannis Palm |
| <i>Veitchia merrillii</i> | Manila Palm |
| <i>Veitchia montgomeryana</i> | Montgomery Palm |

SHRUBS

| Botanical Name | Common Name |
|------------------------------------|------------------------|
| <i>Agave</i> spp, | Century Plant |
| <i>Alpinia</i> spp. | Ginger |
| <i>Asplenium nidus</i> | 'Ekaha, Bird Nest Fern |
| <i>Bougainvillea</i> spp | Bougainvillea |
| <i>Canna indica</i> | Canna Lily |
| <i>Carissa</i> g. `prostrate | Dwarf Carissa |
| <i>Carissa grandiflora</i> | Natal Plum |
| <i>Cestrum nocturnum</i> | Night-blooming asmine |
| <i>Codiaeum variegatum</i> | Croton |
| <i>Colocasia esculenta</i> | Kalo |
| <i>Cordyline terminalis</i> . var. | Ti varieties |
| <i>Cordyline terminalis</i> | Green Ti |
| <i>Crinum asiaticum</i> | Spider Lily |
| <i>Crinum augustum</i> | Queen Emma Spider Lily |
| <i>Cyathea australis</i> | Australian Tree Fern |

| | |
|------------------------------------|---------------------------------|
| <i>Dodonaea viscosa</i> | 'A'ali'i |
| <i>Dracaena marginata</i> | Money Tree; Dragon Tree |
| <i>Ervatamia divaricata</i> | Crepe Gardenia |
| <i>Gardenia taitensis</i> | Tiare Gardenia |
| <i>Gossypium tomentosum</i> | Ma'o, Hawaiian Cotton |
| <i>Graptophyllum pictum</i> | Caricature Plant |
| <i>Heliconia</i> sp. | <i>Heliconia</i> varieties |
| <i>Hibiscus kokio</i> , | Koki'o-'ula'ula Red |
| <i>H. Saint-johnianus</i> | Hawaiian Hibiscus |
| <i>Hibiscus rockii</i> | Rock's Kauai Hibiscus |
| <i>Hibiscus rosa-sinensis</i> | Chinese Red Hibiscus |
| <i>Hibiscus</i> spp. | Hibiscus |
| <i>Hibiscus waimeae</i> , | Koki'o-ke'oke'o, White Hibiscus |
| <i>H. arnottianus</i> | |
| <i>Ixora chinensis</i> | <i>Ixora</i> |
| <i>Ixora coccinea</i> | <i>Ixora</i> |
| <i>Leea</i> c. 'rubra red' | Purple <i>Leea</i> |
| <i>Leea coccinea</i> | <i>Leea</i> |
| <i>Ligustrum ovalifolium</i> | California Privet |
| <i>Melvaviscus arborsus</i> | Turk's Cap |
| <i>Moraea iridiodes</i> | African Iris |
| <i>Murraya paniculata</i> | Mock Orange |
| <i>Myoporum sandwicense</i> | Naio |
| <i>Nerium oleander</i> | Oleander |
| <i>Nototrichium sandwicense</i> | Kulu'i |
| <i>Philodendron selloum</i> | Philodendron |
| <i>Philodendron wendlandii</i> | Philodendron |
| <i>Phormium tenax</i> | New Zealand Flax |
| <i>Pittosporum tobira</i> | Pittosporum |
| <i>Plumbago capensis</i> | Plumbago |
| <i>Pseuderanthemum reticulatum</i> | Golden Eranthemum |
| <i>Russelia equisetifolia</i> | Firecracker Plant |
| <i>Santalum ellipticum</i> | 'Iliahi |
| <i>Scaevola frutescens</i> | Naupaka |
| <i>Sesbania tomentosa</i> | 'Ohai |
| <i>Strelitzia reginae</i> | Bird-of-Paradise |
| * <i>Wikstroemia uva-ursi</i> | 'Aki'a |

VINES

| Botanical Name | Common Name |
|--------------------------------|-------------------------------|
| Allamanda cartharica | Allamanda |
| Antigonon leptopus | Mexican Creeper |
| Bougainvillea 'Miss Manila' | Miss Manila Bougainvillea |
| Bougainvillea spectabilis | Purple Bougainvillea |
| Canavalia pubescens | 'Awikiwiki Vine |
| Ficus pumila | Creeping Fig |
| Hylocereus undatus | Night Blooming Cereus |
| Ipomoea batatas | 'Uala, Sweet Potato |
| Ipomoea horsfalliae | Prince Kuhio Vine |
| Ipomoea pes-caprae | Pohuehue, Beach Morning Glory |
| Monstera deliciosa | Monstera |
| Petrea volubilis | Sandpaper Vine |
| Pothos aureus | Pothos |
| Pyrostegia ignea | Huapala, Orange Trumpet Vine |
| Stephanotis floribunda | Stephanotis |
| Tecomaria capensis | Cape Honeysuckle |
| Thunbergia grandiflora alba | White Thunbergia |

GROUNDCOVERS

| Botanical Name | Common Name |
|---|-----------------------|
| Aglaonema spp. | Aglaonema |
| Aloe vera | Aloe |
| Aptenia cordifolia | Hearts and flowers |
| Bacopa Mannieri | Bacopa |
| Batis maritime | Kulikuli-kai |
| Heliotropium anomalum | Hinahina |
| Heliotropium curassavicum | Seaside hinahina |
| Hemerocallis spp., | Daylily |
| Hemigraphis alternata | Metallic Plant |
| Hippeastrum puniceum | Amaryllis |
| Hylocereus undatus | Night-blooming cereus |
| Jacquemontia ovalifolia, subsp. sandwicensis | Pa'u o Hi'iaka |
| Jasminum multiflorum | Star Jasmine |
| Lantana camara | Lantana |

| | |
|----------------------------|---|
| Lantana montevidensis | Trailing lantana |
| Lipochaeta lavarum | Nehe |
| Lipochaeta rockii | Nehe |
| Liriope spicata | Creeping Lilyturf |
| Microlepis setosa | Palapalai |
| Microsorium scolopendria | Laua'e |
| Nephrolepis biserrata | Fishtail Fern |
| 'furcans' | |
| Nephrolepis exaltata | Kupukupu |
| Ophiopogon japonicus | Mondo Grass |
| Osteomeles anthyllidifolia | 'Ulei |
| * Peperomia leptostachya | 'Ala'ala Wai Nui, Hawaiian Peperomia |
| Plumbago zeylanica | 'Ilie'e |
| Portulaca lutea | Portulaca |
| Portulaca molokiniensis | Thi |
| Rhoeo discolor | Rhoeo |
| Ruellia ciliosa | Ruellia |
| Sesuvium portulacastrum | Akulikuli |
| Sida fallax | Ilima papa |
| Spathiphyllum spp. | Spathiphyllum |
| Trachelospermum | Confederate jasmine |
| jasminoides | |
| Vitex ovata | Pohinahina |
| Vitex rotundifolia | Pohinahina; Kolokolo kahakai |
| Wedelia trilobata | Wedelia |

GRASSES

| Botanical Name | Common Name |
|--------------------------------------|---------------------|
| Cortaderia selloana | Pampas grass |
| Cynodon dactylon | Common Bermuda |
| Cynodon dactylon x transvaalensis | Tifway |
| Cynodon magennisii | Sunturf |
| Cynodon spp. | Bermuda grass |
| Eremochloa ophiuroides | Centipede Grass |
| Paspalum vaginatum | Seashore Paspalum |
| Peimisetum setaceum | Fountaingrass |
| Stenotaphrum secundatum | St. Augustine Grass |
| Zoysia japonica | Zoysia Meyer Z-52 |
| Zoysia japonica x | 'Emerald' Zoysia |

Z. tenuifolia
Zoysia matrella
Zoysia spp.
Zoysia tenuifolia

Manila Grass
Zoysia Grass
Temple Grass

APPENDIX C - PROHIBITED PLANT LIST

The following may not be planted anywhere in the Property:

- Any species of tree or shrub whose growth characteristics may reasonably be expected to exceed the height limits as described in the Design Guidelines with the exception of those species specifically listed as approved by the Committee. Height of plantings may be controlled through periodic pruning.
- *Acacia mearnsii* (Black Wattle)
- *Acaena novae-zelandiae* (New Zealand Bur, Piripiri)
- *Acanthospermum hispidum* (Star Bur)
- *Acroptilon repens* (Russian Knapweed)
- *Aegilops triuncialis* (Barb Goatgrass)
- *Aeschynomene indica* (Kat Sola, Indian Jointvetch)
- *Ageratina adenophora* (Croftonweed, Maui Pamakani)
- *Ageratina altissima* (White Snakeroot)
- *Ageratina riparia* (Creeping Croftonweed, Hamakua Pamakani)
- *Alhagi maurorum* (Camelthorn)
- *Allium vineale* (Wild Garlic)
- *Amborisa* spp. (Ragweeds)
- *Andropogon bicomis* (West Indian Foxtail)
- *Andropogon virginicus* (Broomsedge)
- *Araucaria columnaris* (Cook Pine)
- *Araucaria heterophylla* (Norfolk Pine)
- *Ardisia elliptica* (Shoebuttan Ardisia)
- *Aristida* spp. (Three-awns)
- *Asclepias* spp. (Milkweeds)
- *Astragalus* spp. (Locoweeds)
- *Bocconia frutescens* (Plume Poppy)
- *Cardaria draba* (Hoary Cress)
- *Cardaria pubescens* (Hairy Whitetop)
- Any plant species, seed, spore, root stock or other variable plant form that is prohibited by the State of Hawaii from import into State, or any plant species, seed, spore, root stock or other viable plant form that has been listed as a noxious plant type by the State of Hawaii.

In addition to the plant types listed above, the following species are prohibited for planting or maintaining anywhere in the Property:

- *Carduus* spp. (Plumeless, Musk)
- *Centaurea solstitialis* (Yellow Starthistle)
- *Cereus uruguayanus* (Spiny Tree Cactus, Peruvian Apple)
- *Chromolaena odorata* (Siamweed, Bitterbush)
- *Chrysanthemum leucanthemum* (Oxeye Daisy)
- *Cirsium arvense* (Canada Thistle)
- *Clidemia hirta* var. *hirta* (Kosters Curse, Curse)
- *Coccinia grandis* (Ivy Gourd)
- *Convolvulus arvensis* (Field Binweed)
- *Convolvulus sepium* *Cortaderia jubata* (Hedge Binweed)
- *Crotalaria longirostata* (Longbeak Rattlepod)
- *Crotalaria spectabilis* (Showy Crotalaria)
- *Cupressus* spp. (Halio (?) Cypress)
- *Cuscuta* spp. (Dodders)
- *Cymbopogon refractus* (Barbwire Grass)
- *Cyperus esculentus* (Yellow Nutsedge)
- *Cytisus monspessulanus* (French Broom)
- *Cytisus scoparius* (Scotch Broom)
- *Dichrostachys nutans* (Marabu)
- *Elephantopus mollis* (Elephantopus, Elephant's Foot)
- *Elephantopus* spp. (Elephantopus)
- *Elytrigia repens* (Quackgrass)
- *Emex australis* (Emex)
- *Emex spinosa* (Spiny Emex)
- *Eriocereus martinii* (Moon Cactus)
- *Eucalyptus* spp. (Eucalyptus)
- *Euphorbia esula* (Leafy Spurge)
- *Euphorbia serrata* (Toothed Spurge)
- *Grevillea baiiksii* (Kahiliflower, Bank's Grevillea)
- *Guara* spp. (Guara)
- *Halogeton glomeratus* (Halogeton)
- *Helianthus ciliaris* (Blueweed)
- *Hypericum perforatum* (Common St. John's Wort)
- *Hyptis pectinata* (Comb Hyptis)
- *Hyptis suaveolens* (Wild Spikenard)
- *Imperata cylindrica* (Conggrass)
- *Lactuca pulchella* (Blue Lettuce)
- *Lagascea mollis* (Acuate)
- *Lepidium latifolium* (Perennial Pepperweed)
- *Malachra alceifolia* (Malachra)
- *Medinilla venosa*

-
- *Melastoma* spp. (Melastoma)
 - *Miconia* spp. (Miconia)
 - *Mikania micrantha* (Mile-a-Minute)
 - *Mikania scandens* (Climbing Hempweed)
 - *Mimosa invisa* (Giant Sensitiveplant)
 - *Mimosa pigra* (Thorny Sensitiveplant)
 - *Miscanthus floridulus* (Miscanthus, Japanese Silvergrass)
 - *Montanoa hibiscifolia* (Tree Daisy)
 - *Myrica faya* *Oxyspora paniculata* (Firetree, Candleberry Myrtle)
 - *Oxytropis* spp. (Locoweeds)
 - *Panicum repens* (Torpedograss)
 - *Passiflora mollissima* (Banana Passionfruit, Banana Poka)
 - *Passiflora pulchella* (Wingleaf Passionfruit)
 - *Pennisetum clandestinum* (Kikuyu Grass)
 - *Piper aduncum* (Spiked Pepper)
 - *Pittosporum undulatum* (Victorian Box)
 - *Prosopis juliflora*
 - *Pueraria phaseoloides* (Tropical Kudzu)
 - *Rhodomyrtus tomentosa* (Downy Rosemyrtle)
 - *Rorippa austriaca* (Austrian Fieldcress)
 - *Rubus argutus* (Prickly Florida Blackberry)
 - *Rubus ellipticus* var. *obcordatus* (Yellow Himalayan Raspberry)
 - *Rubus niveus* (Hill Raspberry)
 - *Rubus sieboldii* (Molucca Raspberry)
 - *Salsola kali* (Russian Thistle)
 - *Schinus terebinthifolius* (Christmas Berry)
 - *Senecio madagascariensis* (Fireweed)
 - *Solanum carolinense* (Horsenettle)
 - *Solanum elaeagnifolium* (Silverleaf Nightshade)
 - *Solanum robustum*
 - *Solanum rostratum* (Buffalobur)
 - *Solanum torvum* (Turkeyberry, Terongan)
 - *Sonchus arvensis* (Perennial Sowthistle)
 - *Sorghum almum* (Almum Sorghum)
 - *Sorghum halepense* (Johnsongrass)
 - *Spartium junceum* (Spanish Broom)
 - *Stipa* spp. (Needlegrasses)
 - *Stipa trichotoma* (Nasella Tussock)
 - *Striga* spp. (Witchweeds)
 - *Tacniatherum caput-medusae* (Medusahead)
 - *Tagetes minuta* (Wild Marigold)
 - *Themeda villosa* (Lyon's Grass)
 - *Tibouchina* spp. (Tibouchina)
 - *Tribulus terrestris* (Puncture Vine)

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- *Triumfetta rhomboidea* (Paroquet Bur)
 - *Triumfetta semitriloba* (Sacramento Bur)
 - *Ulex europaeus* (Gorse)
 - *Urena lobata* (Caesarweed)
 - *Verbascum thapsus* (Mullein)
 - *Xanthium* spp. (Cockleburs)

APPENDIX D-LOT DESIGNATION TABLE

| Lot | Lot Type |
|------------|-----------------|
| 1. | ESTATE |
| 2. | ESTATE |
| 3. | ESTATE |
| 4. | ESTATE |
| 5. | ESTATE |
| 6. | ESTATE |
| 7. | ESTATE |
| 8. | ESTATE |
| 9. | ESTATE |
| 10. | ESTATE |
| 11. | ESTATE |
| 12. | ESTATE |
| 13. | ESTATE |
| 14. | ESTATE |
| 15. | ESTATE |
| 16. | ESTATE |
| 17. | ESTATE |
| 18. | ESTATE |
| 19. | ESTATE |
| 20. | ESTATE |
| 21. | ESTATE |
| 22. | ESTATE |
| 23. | ESTATE |
| 24. | ESTATE |
| 25. | ESTATE |
| 26. | ESTATE |
| 27. | ESTATE |
| 28. | ESTATE |
| 29. | ESTATE |

APPENDIX E-BUILDING HEIGHT

| Lot | Stories | Sport/ Tennis | Building Height | Pad Elevation |
|------------|----------------|----------------------|------------------------|----------------------|
| 1 | Two | Yes | 30 Feet | 1326' |
| 2 | One | No | 22 Feet | 1304' |
| 3 | One | No | 22 Feet | 1266' |
| 4 | One | No | 22 Feet | 1224' |
| 5 | One | No | 22 Feet | 1181' |
| 6 | One | No | 22 Feet | 1220' |
| 7 | One | No | 22 Feet | 1248' |
| 8 | One | No | 22 Feet | 1277' |
| 9 | Two | Yes | 30 Feet | 1300' |
| 10 | Two | Yes | 30 Feet | 1278' |
| 11 | Two | Yes | 30 Feet | 1262' |
| 12 | Two | Yes | 30 Feet | 1256' |
| 13 | One | No | 22 Feet | 1226' |
| 14 | One | No | 22 Feet | 1226' |
| 15 | One | No | 22 Feet | 1240' |
| 16 | One | No | 22 Feet | 1256' |
| 17 | One | No | 22 Feet | 1202' |
| 18 | One | No | 20 Feet | 1180' |
| 19 | One | No | 20 Feet | 1158' |
| 20 | One | No | 20 Feet | 1132' |
| 21 | One | No | 20 Feet | 1160' |
| 22 | One | No | 22 Feet | 1198' |
| 23 | Two | No | 26 Feet | 1182' |
| 24 | One | No | 22 Feet | 1138' |
| 25 | Two | Yes | 30 Feet | 1140'/1128' |
| 26 | Two | Yes | 30 Feet | 1140'/1128' |
| 27 | One | No | 22 Feet | 1084' |
| 28 | One | No | 22 Feet | 1088 |
| 29 | One | No | 22 Feet | 1100' |

APPENDIX F-LOT SURVEY REQUIREMENTS

The following format and information should be used in the compilation of each individual Kona View Estates Homesite. These standards will allow for easier review and coordination of the designs within the entire project.

All drawings should be delivered in AutoCAD R14 with the coordinate system and vertical datum conforming to Bruce Witcher (the project engineer) coordinate system, which will be provided at the request of the surveyor. All AutoCAD entities (line types, colors, etc.) to be 'by layer'. All line type scales set at 1. Survey drawn at 1/1 formatted in architectural units. The survey is to be plotted at 1"=20' for review purposes. X-refs should be placed on individual specific layers (i.e. x-diagram).

The following items should be shown on separate layers - Property boundaries, Building Envelope and Transition Areas, easements, all utilities including but not limited to the following:

1. Electrical
2. Potable water
3. Gas
4. Fiber Optics / Cable TV lines
5. Non-potable water service (irrigation).

Utilities to show, where possible, depth of bury, location and points and sizes of service. The following site elements are to be shown on the survey -

1. Location of existing ponds with spot grades
2. Lava outcrops with spot grades at base and high points
3. Existing vegetation with spot grades at trunk. Type of tree or palm to be shown with trunk diameter and approximate height and spread of canopy.
4. Existing walls with TW and BW grades
5. Notable features such as lava tubes, edges of crunched lava, etc.
6. Edges of existing pavement

All Mauka Homesites to show grades drawn with polylines at 2' intervals with 10' intervals shown as a separate layer. All polylines to have zero width. Top and bottoms of slopes are to be shown with a dashed line without zero width. Show spot grades at drive cuts. Show all edge of pavement grades.

Other information may be required by the permitting authorities, and it is the lot surveyor's responsibility to ensure that the survey meets those requirements.

Design Guideline Summary

In order to assist in the building process the following general outline of some of the key elements of the Design Guidelines may be of help.

1. Building Heights:

Building Height Measurement:

Building height shall be measured from the pad elevation shown on the Plot Plan to the ridge of the highest sloping roof.

2. The Building Envelope is separated into two areas:

- **The Private Area** is that portion of the Building Envelope where vertical construction may occur which includes buildings and outdoor private spaces. The Private Area may not be more than 25% of a Lots gross square footage. The buildings within the Private Area must conform to the maximum height requirements set forth in these Design Guidelines to protect and enhance views from neighboring Homesites. Most of the landscape within this area is not visible from neighboring Homesites or the street because it is screened by privacy walls, buildings and/or other landscape elements.
- **The Transition Areas** are those areas visible from the street, Common Areas or adjacent Homesites. No buildings may be located in the Transition Area, but pools, patios, spas, other horizontal landscape Improvements, and low walls are allowed.

3. Natural Area

- **The Natural Area** is that portion of the Homesite as shown on the Plot Plan that lies outside of the Building Envelope and may remain in an essentially undisturbed, natural condition or be landscaped or cultivated by the Owner. With the rare exception of non-significant improvements as may be approved by the DRC, no building Improvements of any kind may be done in this area.

4. Building Coverage and Maximum and Minimum Floor Areas

- Total Lot Coverage (the Envelope, Private Area and Transition Area excluding driveway) shall not exceed 55% of the Lot as shown on the Plot Plan.

- Minimum Floor Area for interior area (exclusive of Garage and Lanais) is 1,800 square feet for all homes. An area equal to fifteen percent (15%) of the interior area exclusive of garages shall be Lanais. The total area of paved surfaces, excluding those lots which allow Sport/Tennis Courts, shall not exceed thirty percent (30%) of the portion of the lot covered by the building structure.

5. Roof Slopes:

- Roof Slopes shall not exceed 8:12 or be less than 4:12.
- Each main building elevation shall have a minimum of six (6) roof corners with a change of direction for each corner being a minimum of four (4) feet. The maximum unbroken eave line shall be forty three (43) feet.
- Eave depths of a 4 feet minimum

6. Exterior Walls and Finishes

- The exterior walls of buildings shall use a maximum of three materials, with one material clearly dominating over the others.
- The maximum unbroken exterior wall length shall be thirty five (35) feet.
- In general, the maximum exterior wall height from finish floor to top of wall plate is 12 feet. In special instances wall heights over 12 feet may be allowed by the DRC depending on their articulation and treatment.

7. Driveways

- All driveways are to follow alignments that minimize grading or other disruption of the site.
- In general, one driveway entry will be permitted for each Lot.
- Approved materials for driveways include turf block, colored and/or patterned concrete and precast concrete pavers. Asphalt may be used for longer driveways. Black coloring is required.
- Driveways shall be a maximum of 14 feet wide, except at the driveway apron to garage entrances and/or where they provide a turnaround at a garage and/or off-street parking. Parking and turnaround areas must be located within the Building Envelope.

- The common use of one driveway, and the establishment of an access easement, is required for Lots 1, 2 and 8; Lots 9, 10, 15 and 16; Lots 11, 12, 13 and 14; Lots 25 and 26; and Lots 27 and 28.

8. Garages, Paving and Parking

- All Lots shall include an enclosed garage which can accommodate a minimum of two cars.
- Guest parking-Each Lot shall contain a minimum of two additional guest parking.
- Garages shall have a minimum dimension of 20 feet by 20 feet.
- Garages must be sited and located so that visibility from the street is minimized. Side loading is required.
- Recessed garage doors (minimum of 12") are required.

9. Swimming Pools

- Swimming pools, spas and ponds shall be set back a minimum of 35 feet from the property line.

10. Fences

- In general, driveway or pedestrian gates are to be located within the Building Envelope.
- Walls and fences may not exceed 6 feet in height except in areas where a partial retaining condition exists.
- Privacy walls should be used only when absolutely necessary and should be located so as not to impact views from adjacent Homesites. Landscape solutions, like berming and dense planting, are preferred.
- Approved materials for walls include lava rock and multi-hued and textured cement plaster.
- No vinyl fence, chain link or other metal fences shall be permitted unless reviewed and approved by the DRC.

- In no event shall fences be built within the County of Hawaii set back lines adjacent to a roadway unless there is a demonstrated need and a variance will require prior approval by the DRC.

11. Design Review Process

- Design Review Process takes place in four steps:
 1. Pre-Design Conference
 2. Preliminary Design Review
 3. Final Design Review
 4. Construction Monitoring
- On or before fifteen days (15) prior to the first day of the following month, the DRC will set the date for design review (“Review Meeting Date”). This shall be the only day the DRC will review submittals.

11. Application Fees

| | <u>Initial Improvements</u> | <u>Subsequent Remodel</u> | <u>Minor Improvements</u> |
|--|---------------------------------|-------------------------------|-------------------------------|
| Fee for DRC Review | \$2,700 | \$250 | \$0 |
| Fee for Resubmission | \$500 | \$250 | \$250 |
| Each Site Inspection Fee | \$300 | | |
| Initial Contribution to the HOA at Closing | \$1,000.00 | | |
| Transfer Fee to the HOA upon Resale | \$1,000.00 | | |

12. Lot Details

| Lot | Stories | Sport/ Tennis | Building Height | Pad Elevation |
|------------|----------------|----------------------|------------------------|----------------------|
| 1 | Two | Yes | 30 Feet | 1326' |
| 2 | One | No | 22 Feet | 1304' |
| 3 | One | No | 22 Feet | 1266' |
| 4 | One | No | 22 Feet | 1224' |
| 5 | One | No | 22 Feet | 1181' |
| 6 | One | No | 22 Feet | 1220' |
| 7 | One | No | 22 Feet | 1248' |
| 8 | One | No | 22 Feet | 1277' |
| 9 | Two | Yes | 30 Feet | 1300' |

| | | | | |
|----|---------|-----|---------|-------------|
| 10 | Two | Yes | 30 Feet | 1278' |
| 11 | Two | Yes | 30 Feet | 1262' |
| 12 | Two | Yes | 30 Feet | 1256' |
| 13 | One | No | 22 Feet | 1226' |
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| 17 | One | No | 22 Feet | 1202' |
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| 19 | One | No | 20 Feet | 1158' |
| 20 | One | No | 20 Feet | 1132' |
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| 25 | One/Two | Yes | 30 Feet | 1140'/1128' |
| 26 | One/Two | Yes | 30 Feet | 1140'/1128' |
| 27 | One | No | 22 Feet | 1084' |
| 28 | One | No | 22 Feet | 1088 |
| 29 | One | No | 22 Feet | 1100' |

The foregoing summary is not intended to be comprehensive. The Owner and Builder must read the Design Guidelines completely and refer to them often if they wish to avoid unnecessary expense and delay during the design approval and construction process.