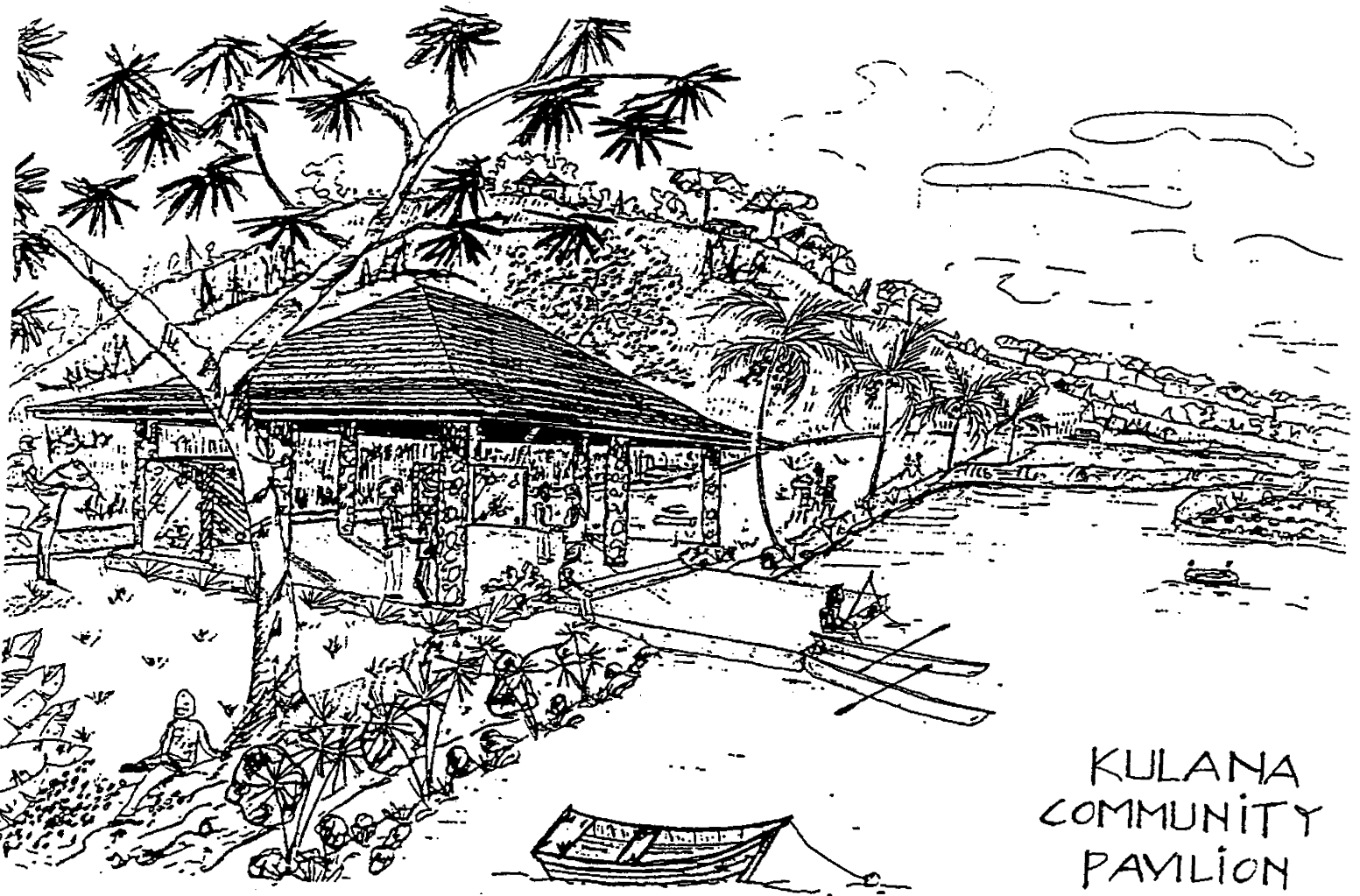


KŪLANA
SUBDIVISION
KAPAA, KAUAI, HAWAII



**KULANA
COMMUNITY
PAVILION**

DESIGN GUIDELINES

NOVEMBER 17, 2000

TMK # 4-3-03:05

EXHIBIT "C"

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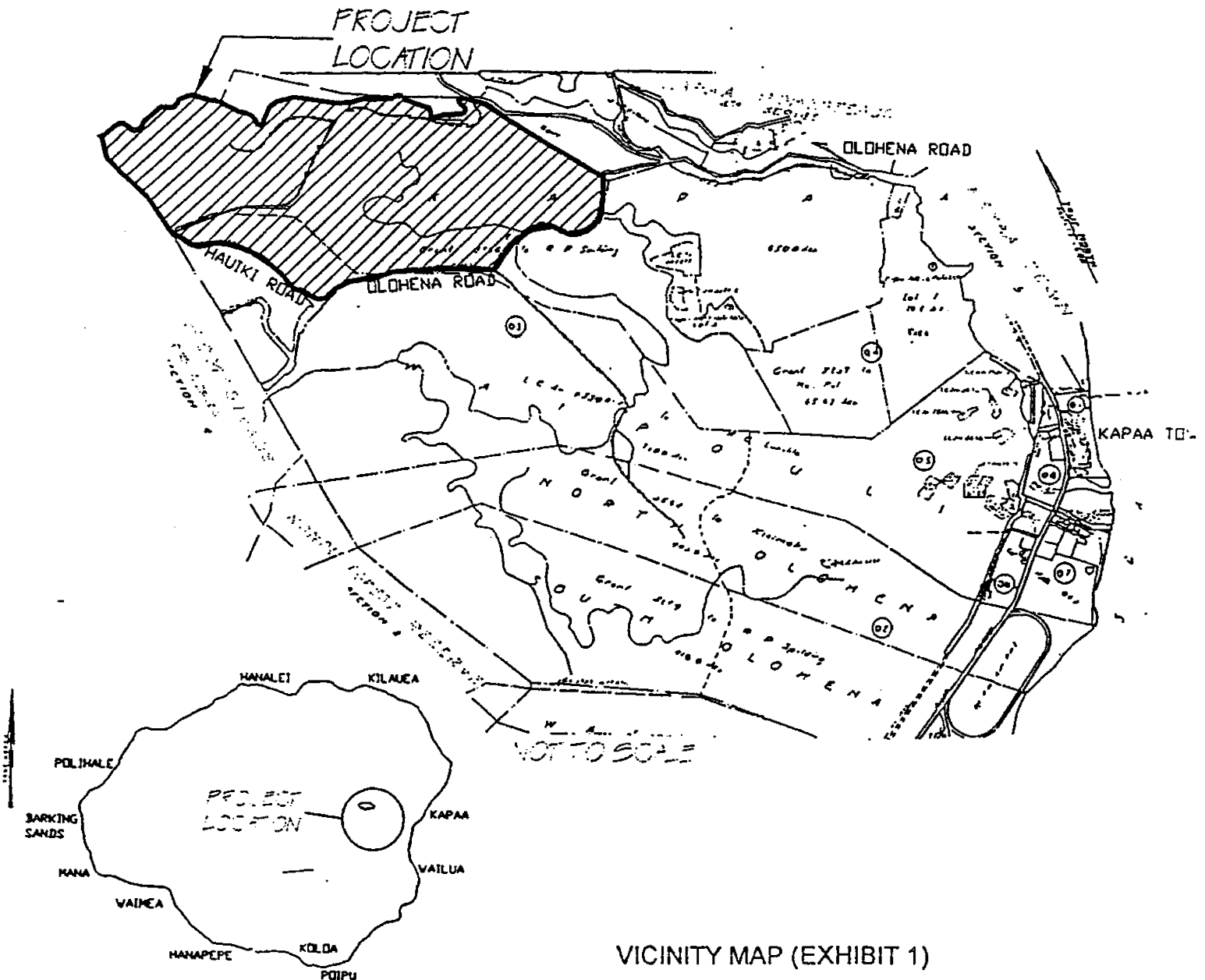
I. INTRODUCTION

A. Reading the Design Guidelines

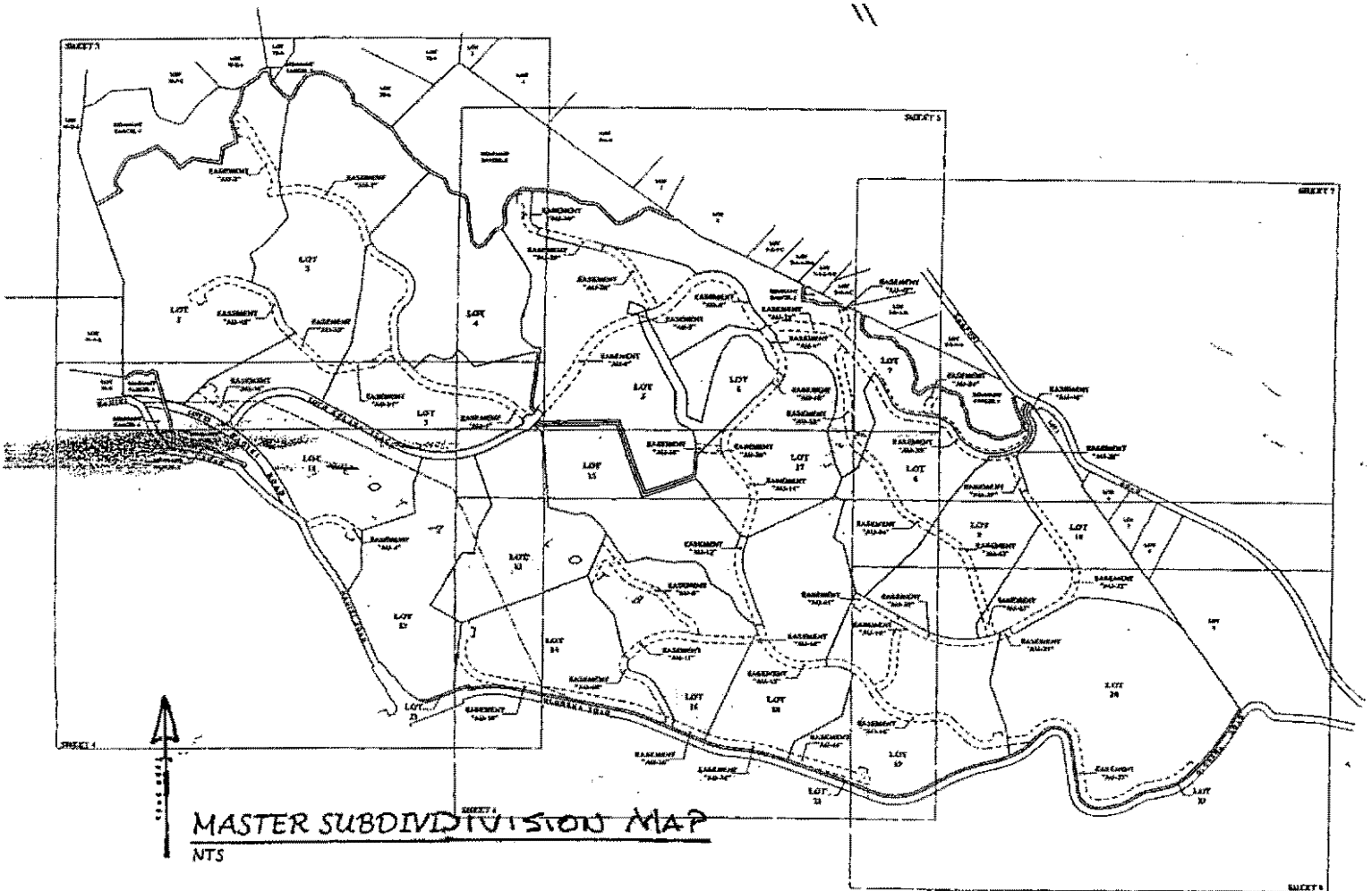
The term "lot" is used throughout these Design Guidelines whenever a Condominium Property Regime has been established on a lot. The term "lot" is meant to refer to any individual condominium unit ("unit") located on the lot or to multiple condominium units on a lot or lots.

B. Regional Location and Setting

Kūlana is located on the east shore of Kauai in the Kawaihau District. This 348 acre subdivision lies between Olohena, Kaapuni, and Hauiki Roads approximately two miles from the center of Kapaa. The Project is shown on the Regional Location Map attached hereto as Exhibit "1".



Kūlana Subdivision is situated amongst the valleys and ridges surrounding Kainahola Stream, the source of which is in the foothills above Kapaa. Kūlana includes 94 agricultural homesites, on lots divided into CPR units, ranging from 1.5 to 15 acres.



C. Purpose of the Design Guidelines

The purpose of these Design Guidelines is to provide the Kūlana Homeowners Association (Association) with a guide to ensure that a pleasant and distinctive residential character will be maintained throughout the project. The intent is that the custom homes will blend with the natural environment and provide a uniform aesthetic setting for the project as a whole.

The standards set forth in these Design Guidelines supplement the Declaration of Covenants, Conditions and Restrictions (CC&Rs). The CC&Rs shall control in the event of any inconsistency between these Design Guidelines and the CC&Rs.

The Design Guidelines also establish the criteria used in the Design Review Process and are written as a general theme to follow. The graphic examples presented in this document are not intended to depict any actual home, nor are they meant to represent any particular graphic scale, yet are open to interpretation by design professionals.

The Design Guidelines may be subject to change and may be amended as determined with the discretion of the Association pursuant to the terms and provisions of the CC&Rs.

D. Project Description and Design Concepts

Kūlana will utilize 348 acres of land to create 94 agricultural homesites on lots divided into CPR units and open space CPR units in the valleys and ridges surrounding Kainahola Stream between Olohena, Kaapuni, and Hauiki roads in Kapaa, Kauai. Agricultural homesites in the form of CPR units will range from 1.5 to 15 acres.

The overall aesthetic design of the project will be one of quality that evokes a sense of harmony with the surrounding community. This will be accomplished by maximizing the natural character of the area with the generous use of natural elements such as stone and wood coupled with lush tropical landscaping.

It is intended that the grading of lots should be minimal. Smooth transitions between lots shall be encouraged rather than harsh slope elevation changes. Gentle berming and lush landscape shall be introduced to minimize the visual impact of any proposed retaining walls. Ideally, a harmonious blend of individual lot site planning, architectural design, and landscape architectural planning will lay the foundation for a quality-oriented custom home community that will provide residents with a sense of permanence and identity.

E. General Provisions

1. Design Review Committee (DRC) Approval Required. Except as otherwise provided in the CC&Rs, no new improvement may be constructed, nor may any existing improvement be materially altered on any lot, except in accordance with plans, specifications, and other materials (the "Plans") submitted to and approved by the DRC, and in accordance with the CC&Rs and the applicable Design Guidelines.

2. Public Regulations. Each lot owner is responsible for being informed of and complying with the appropriate federal, state, and county laws, rules, regulations, codes, and ordinances that are applicable to his/her property. If a standard set forth herein differs from standards established by the various regulating agencies, the stricter standard shall apply.

3. Compliance with Declaration. All owners of lots in Kūlana shall comply with the provisions of the CC&Rs and these Design Guidelines.

4. Variances. The DRC may grant variances, from time to time, to these Design Guidelines as to any one or more individual lots, as provided in the CC&Rs. The approval or disapproval of any plans by the DRC in any one case shall not be deemed a waiver by the DRC of its right to approve, disapprove, object to, or consent to any of the features or elements embodied therein when the same features or elements are embodied in plans submitted in any other cases.

5. Limited Liability. By the establishment and/or enforcement of these Design Guidelines, neither the Declarant, nor the DRC, nor any of the members, employees, officers, or directors of the Association or any of the foregoing shall be deemed to have made any representation whatsoever concerning the view, if any, available to a particular lot or any improvement constructed thereon. Neither the Declarant, nor the DRC, nor any of the members, employees, officers, or directors of any of the foregoing shall be liable to any owner or any other person for any damage, loss, or prejudice suffered or claimed on account of the following, provided that the person against whom the claim is made was, upon the basis of such information as may be actually possessed by him, acted in good faith and without intentional misconduct:

a) the approval or disapproval of any plans, specifications, and other materials, whether or not defective; or

b) the requiring of modifications to any plans as a condition of the DRC approval thereof; or

c) the construction or performance of any work, whether or not pursuant to approved plans, specifications, and other materials; or

d) the development or manner of development of any land within Kūlana; or

e) the performance of any other function pursuant to the provisions of the CC&Rs or these Design Guidelines.

F. Definitions

ARCHITECT

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

BUILDER/OWNER BUILDER

A person or entity engaged for the purpose of constructing any improvement within the project. The builder and owner may be one and the same. If the builder and owner are not one and the same, the builder must be a currently licensed and bonded general contractor in the State of Hawaii.

BUILDING COVERAGE, SQUARE FOOTAGE

The relationship between the total land area of a lot and the total land area of the lot taken up by a custom home, garage, accessory buildings, all roofed or covered areas, interior and exterior and impervious paving. Additionally, building square footage shall include trellised areas or structures, including swimming pools. Building square footage shall include decks or walkways constructed above 30 inches from existing or finished grade, whichever is lower.

BUILDING ENVELOPE

That portion of a lot which encompasses the maximum, allowable, developable area of the lot. The building envelope is defined by the applicable setback requirements and height limits set forth in these Design Guidelines.

BUILDING HEIGHTS

Is the total height of the structure. The building height shall be measured from grade at building entry to the top of the highest roof.

BUILDING PERMIT PLANS

Building permits must be obtained from the County of Kauai Building Department. Any and all earthwork calculations and erosion control must be shown, as well as existing and proposed contours.

CIVIL ENGINEER

A person registered to practice civil engineering in the State of Hawaii.

COVENANTS, CONDITIONS, AND RESTRICTIONS (CC&Rs)

The Declaration of Covenants, Conditions, and Restrictions for the Association, as amended periodically.

DECLARANT

Kapaa 382, LLC, as the owners and developers of the project.

DESIGN REVIEW COMMITTEE (DRC)

A committee within the Association which will have the responsibility of administering the Design Guidelines.

DISCOURAGED

For the purposes of these guidelines, the term "discouraged" shall mean prohibited unless owner, builder, and/or architect can offer a reasonable justification for its use in a particular context.

ENCOURAGED

Means this is the essence and quality in which original designers had envisioned for the project.

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, subsoil, or any grading of the surface.

FILL

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

KŪLANA HOMEOWNERS ASSOCIATION

The Kūlana Homeowners Association will be established as a nonprofit corporation, incorporated under the laws of the State of Hawaii, its successors and assigns, for the purpose of managing the project. The Declarant shall appoint a Design Review Committee as provided in the Covenants, Conditions, and Restrictions (CC&Rs) to review and recommend approval or disapproval of proposals and/or plans and specifications for the construction, reconstruction, exterior additions, changes or alterations, or installation of improvements within Kūlana.

HARDSCAPE

Inorganic, impervious building and paving material placed on the ground to form a permanent driving or walking surface (e.g., driveways, walkways, patios, and pool decks).

IMPROVEMENTS

Any changes, alterations, or additions to a lot, including any excavation, fill, buildings, outbuildings, roads, driveways, parking areas, walls, retaining walls, stairs, patios, courtyards, hedges, poles,

signs, and any structure or appurtenance thereto of every type and kind.

LANDSCAPE ARCHITECT

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

LOT

A subdivided lot in Kūlana as approved by the County of Kauai and subject to the jurisdiction of the Association. "Lot" shall mean any lot of record which is subject to the CC&Rs. The term also refers to any condominium unit located on a lot.

CONDOMINIUM UNIT (CPR UNIT)

A horizontal property regime apartment unit limited common element as provided in a Declaration of Condominium Property Regime recorded with the Bureau of Conveyances relative to a particular Kūlana lot. A CPR unit may include no more than one family farm dwelling and, in limited circumstances, one guest house. One agricultural building and one detached garage will also be allowed within each CPR unit.

OWNER

Person or persons, including the Declarant, who either:

- holds fee simple title; or
- a lessee of a lot under a recorded lease from the owner of the fee simple title to said lot for a term of not less than ten (10) years, in which case the lessor, under any such lease, shall cease to be the owner while the lease is in effect.

PROJECT

Refers to the custom lots of Kūlana and all other property subject to the CC&Rs.

STREETSCAPE

Design elements connected with a street, its right-of-way, and immediately adjacent land. The streetscape consists primarily of plants, trees, hardscape, and lighting.

STRUCTURE

This means anything constructed or erected on a lot, the use of which requires location on the ground or attachment to something having location on the ground.

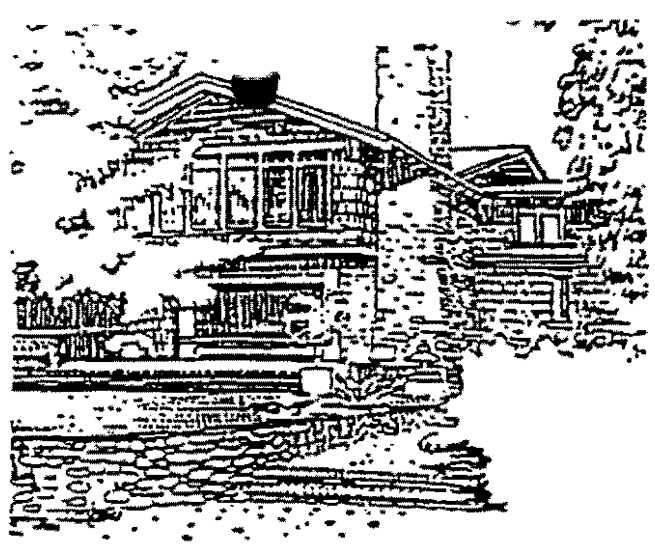
TEMPORARY/PERMANENT

A structure that is said to be temporary cannot remain on site for over a period of thirty (30) days. Permanent structures are structures that are intended to remain on the site for an undetermined amount of time.

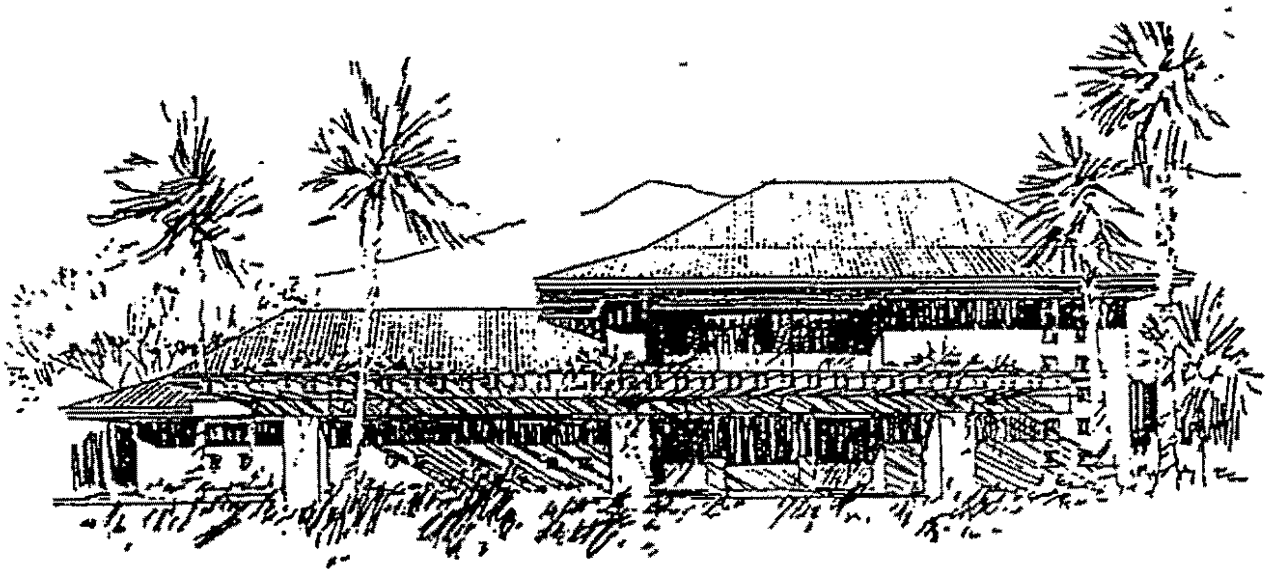
II. ARCHITECTURAL DESIGN GUIDELINES

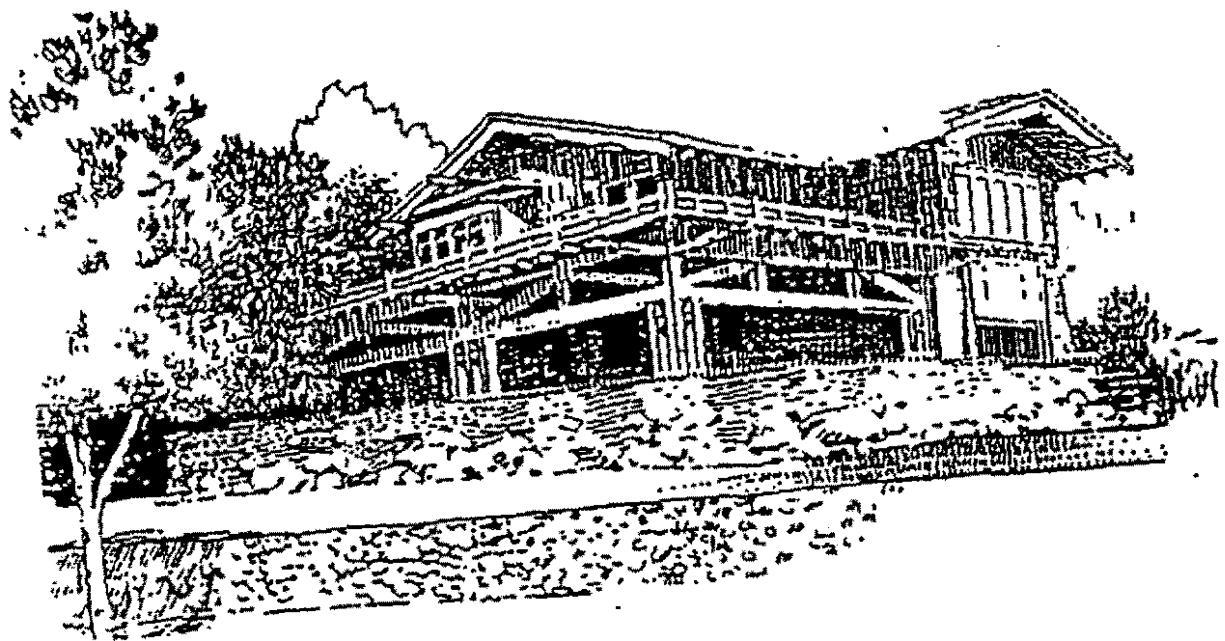
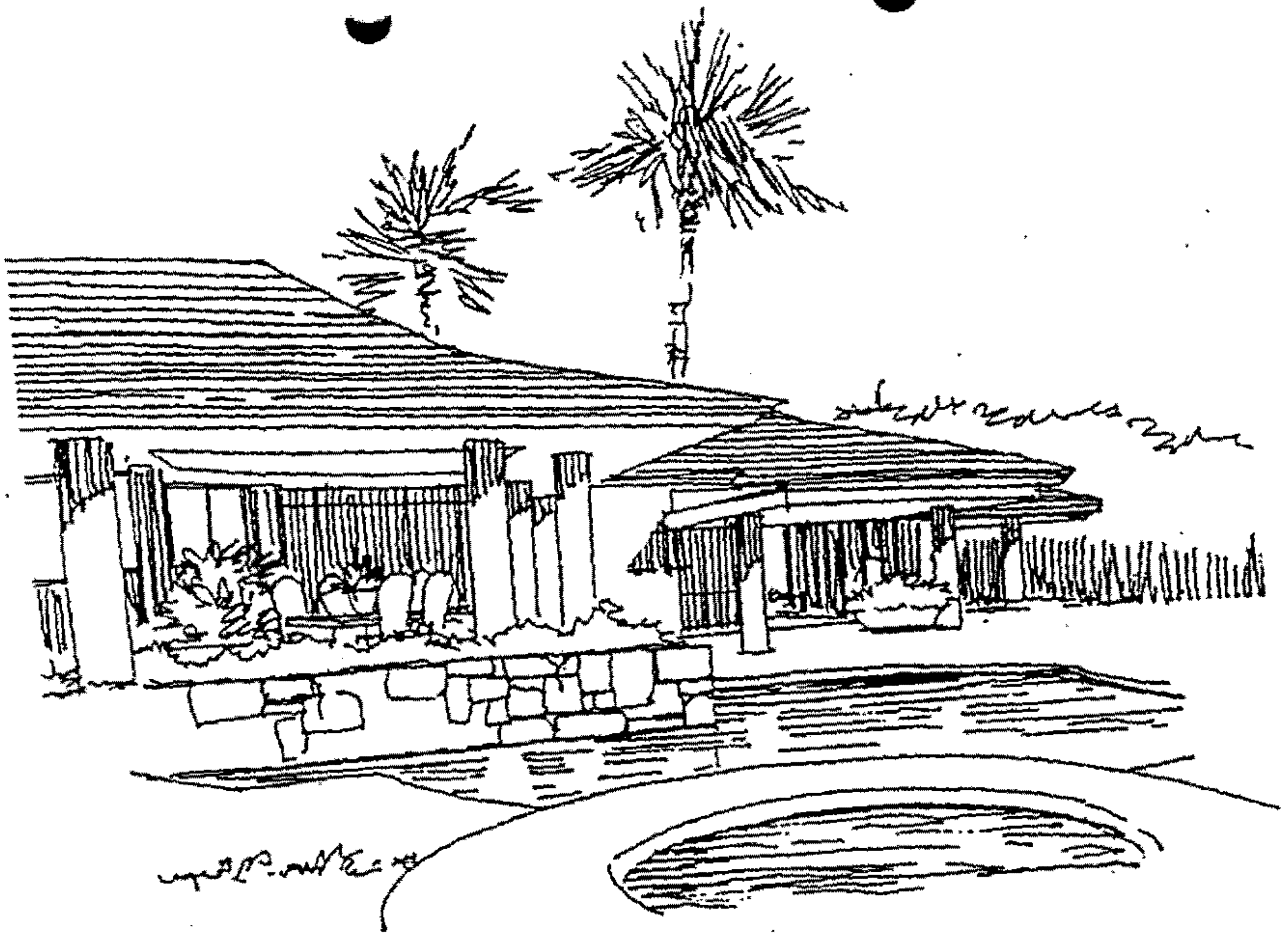
A. Architectural Design Concept

To achieve a harmonious image and identity for Kūlana, it is necessary to create and maintain a consistent architectural style that reflects both traditional and contemporary Hawaiian architecture, along with complementary modern architecture. The climate, cultural influences, and the beauty of the unique communities of Kauai demand attention and care in the design process. Therefore, the architecture of this development is intended to enhance this existing treasure and encourage owners to nestle homes into the natural landscape. These home sites offer unique design opportunities. The purpose of these guidelines is to assist an owner in improving the individuality of their new home while enhancing the community.



Hawaiian architecture evokes a richness of materials and detailing of elements that is timeless and is characterized by the use of forms that provide protection from the elements, be it wind, harsh sunlight, or tropical rainstorms. Hawaii is outdoor living, and Hawaiian architecture utilizes generous overhangs (of at least 3-foot width), covered lanais, outdoor courtyards, and lush landscaping. With attention to these features, Kūlana will become one of the more elegant and natural residential communities in Hawaii.





B. Statement of Objectives

In order to achieve the desired architectural qualities of Kūlana, the following objectives and methods to accomplish them have been incorporated into the design guidelines.

Objective: To create a community that is both timeless and elegant.

Method: Ensure that the architectural style of each home and the corresponding improvements of each home site is consistent with itself and harmonious with adjoining properties, by means of the design review process.

Objective: To promote the flow of interior and exterior space.

Method: Encourage covered lanais, courtyards, and large expanses of openable walls and windows.

Objective: To provide architecture that fits into its environment.

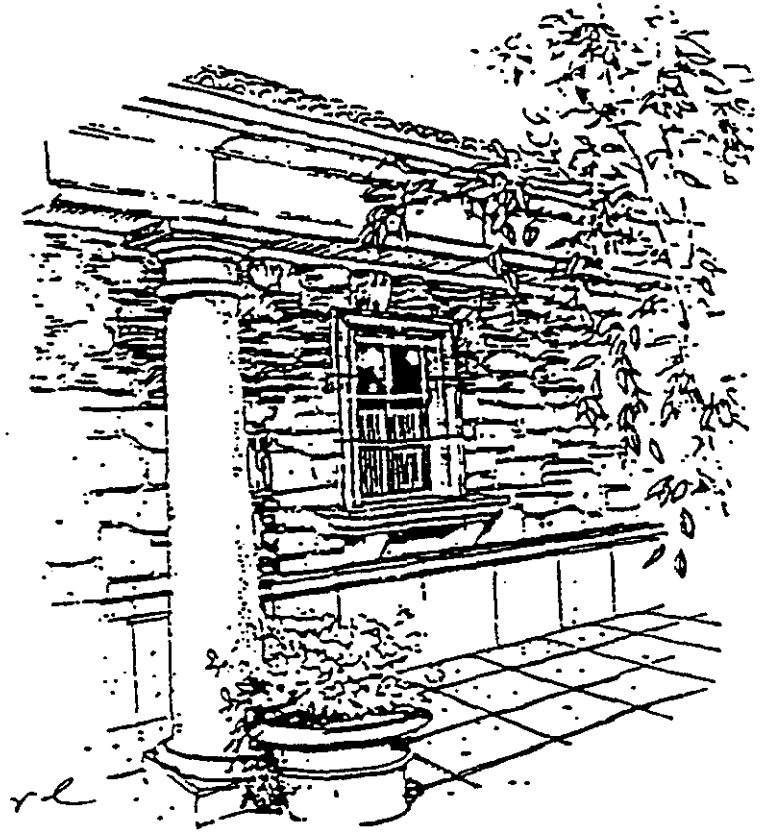
Method: Encourage slab on grade foundations or enclosure of elevated subfloors, require the use of nonreflective roofing materials, limit the height of buildings.

Objective: To create a sense of community.

Method: Utilize consistent tropical plantings in both common areas and residential lots and require earth tone colors that will blend with the environment.

C. Architectural Features

Materials of high quality that will endure the ravages of time should be used at Kūlana. The following materials and colors are either encouraged or discouraged. Used materials are never permitted unless appropriate for aesthetic or historical purposes.



FOUNDATION

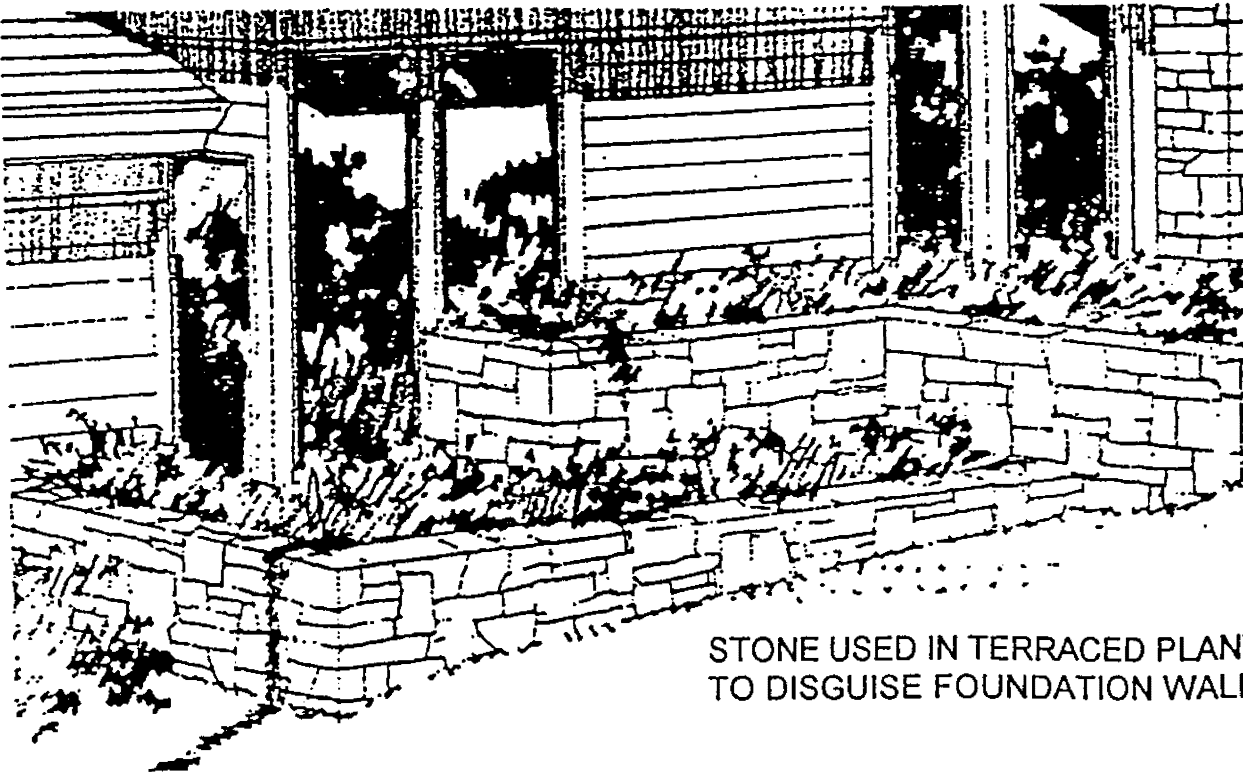
Foundation walls are defined as the space between the lowest floor and the finish grade at the perimeter of the building.

For slab-on-grade construction with retaining walls above grade, exposed foundation wall surfaces are to be finished with painted cement plaster or equivalent, unless stone, split-face concrete block, or decorative concrete is used.

For elevated subfloors, the exposed perimeter must be enclosed, and a continuation of the proposed siding material or well detailed lattice is encouraged.



THE USE OF DETAILING IS
ENCOURAGED AT PERIMETER

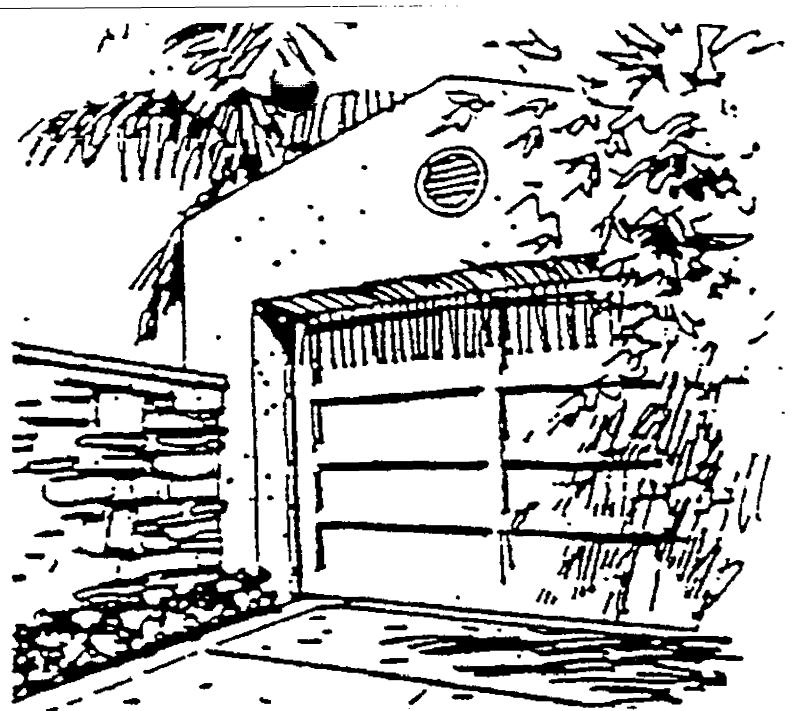


STONE USED IN TERRACED PLANTER
TO DISGUISE FOUNDATION WALLS.

GARAGE

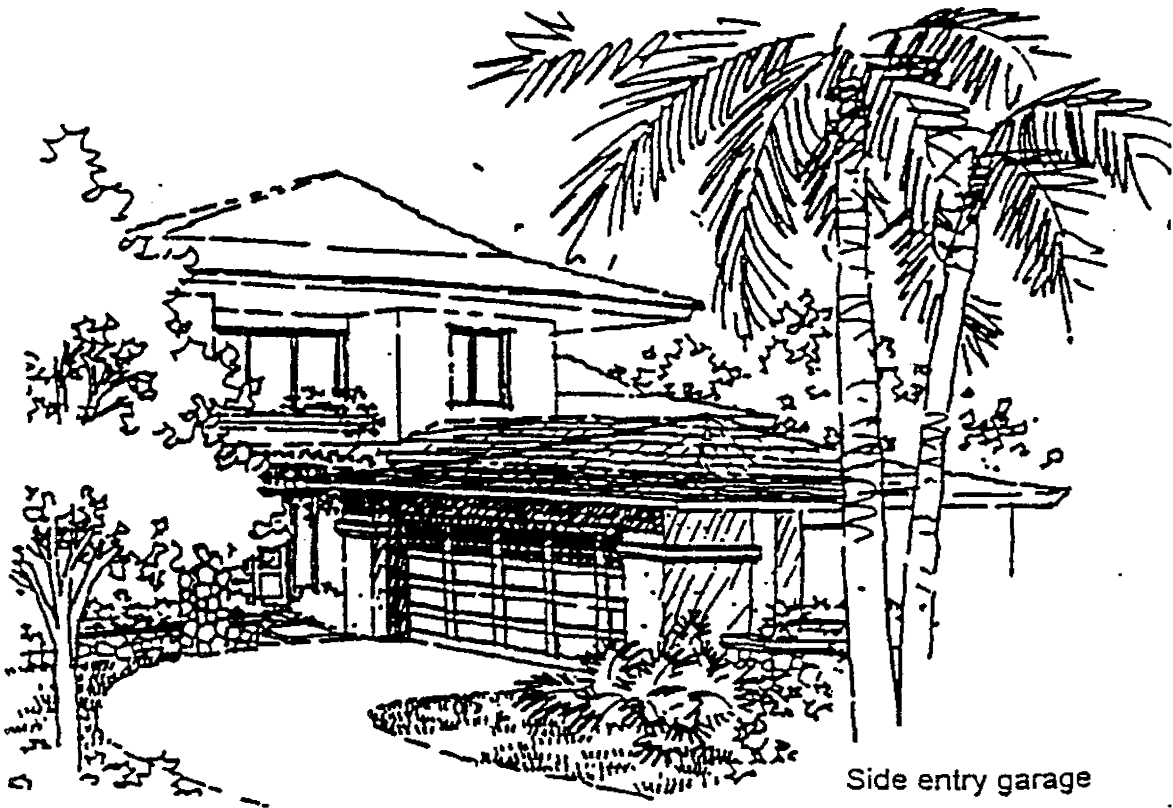
All garages must be located within the building setback lines.

Encouraged: Side entry garages are encouraged. These are desirable because they avoid the possibility of a monotonous streetscape. Front-loaded garages are permitted with appropriate design to enhance visual appeal. Colors used on the garage door must also be used on the home itself, either as the main body color or as the trim color.



RECESSED GARAGE DOOR

Discouraged: Autos that are exposed to view from the street or to adjoining neighbors view. Garage doors that attract visual attention or are painted with more than one color.

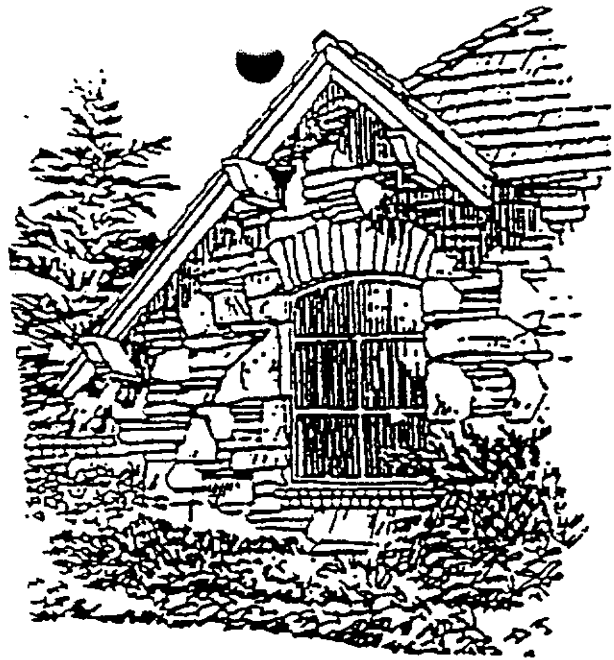


Side entry garage

WINDOWS

Most times of the year, the trade winds provide the island of Kauai its own free air conditioning. Owners and their architects are encouraged to make use of this. Thus, large, ventable areas that provide for cross-ventilation are not only desirable, but also necessary. (Minimum window area is 1/8 of floor area, 1/2 of which must be openable, on a room-by-room basis.)

Encouraged: Dark anodized or painted aluminum frames, vinyl-clad and wood-framed windows. Nonreflective glass and wood-louvered windows, expansive picture windows. True divided light windows are encouraged at front and other prominent elevations. Clear and tinted skylights that have a low side profile (flat glass or acrylic preferred) parallel to the roof slope.



TRUE DIVIDED LIGHT WINDOWS

Discouraged: Reflective glazing, mirrored glass, reflective sunscreens, or other highly reflective materials for exterior surfaces shall be prohibited where it would have a negative visual impact.

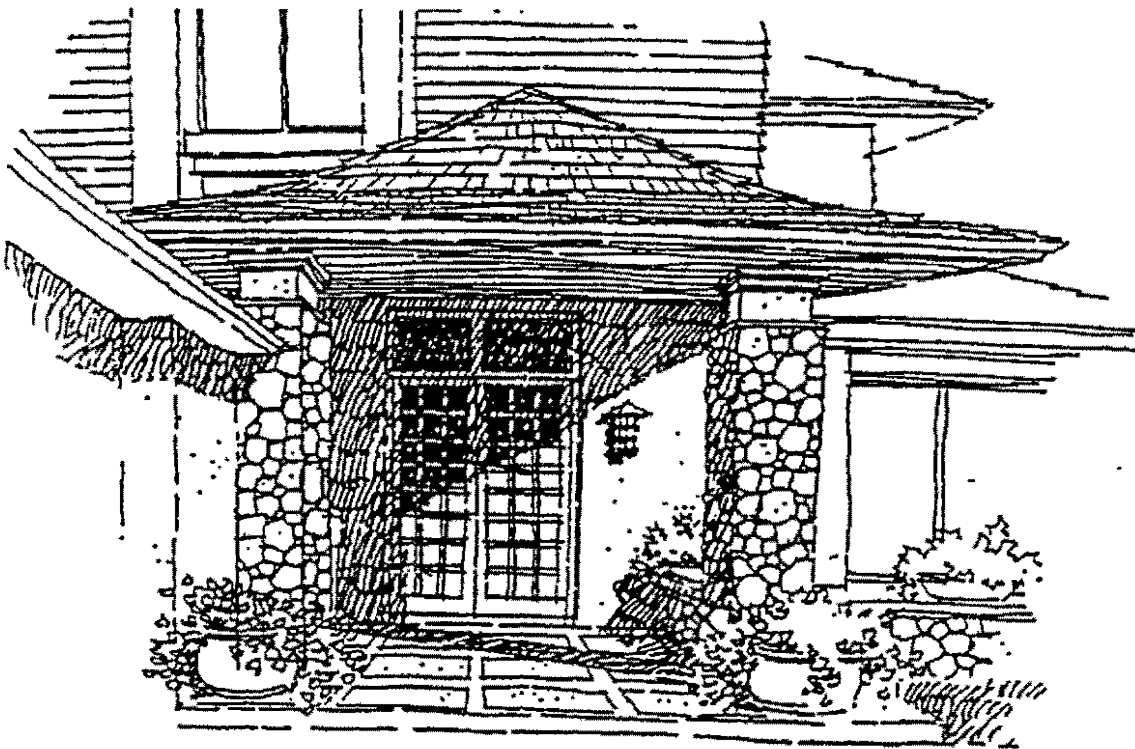
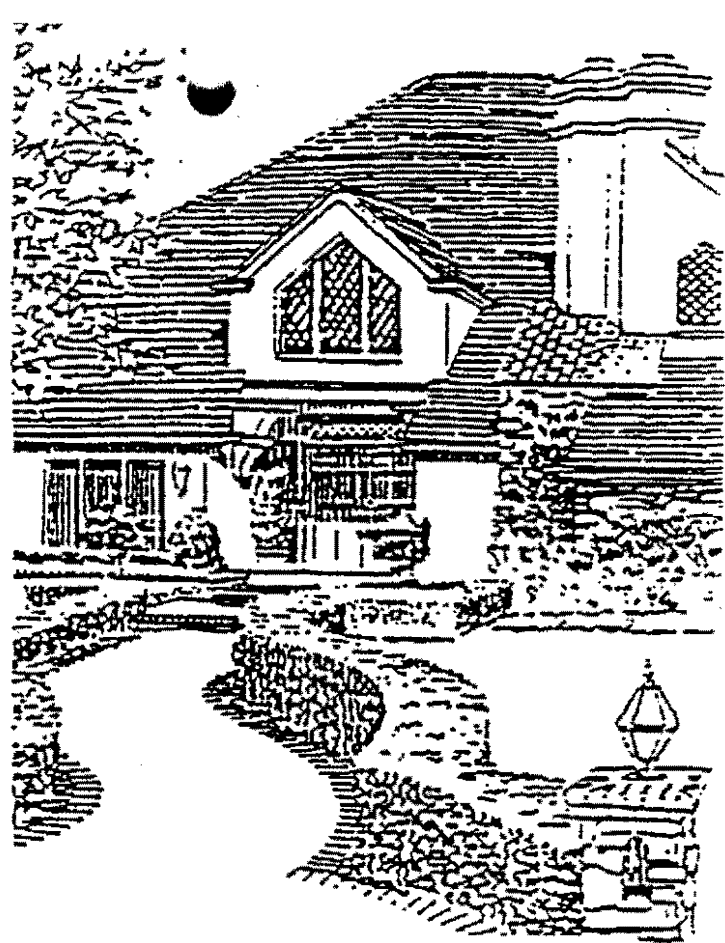


DOORS

The main entrance doors should integrate unobtrusively with the character of the home.

Encouraged: Wood, copper, brass, vinyl, or a combination of these materials with glass.

Discouraged: Brightly painted doors that are in contrast to the colors and architecture of the home. Bright metal finishes, etc., for the body of the door.

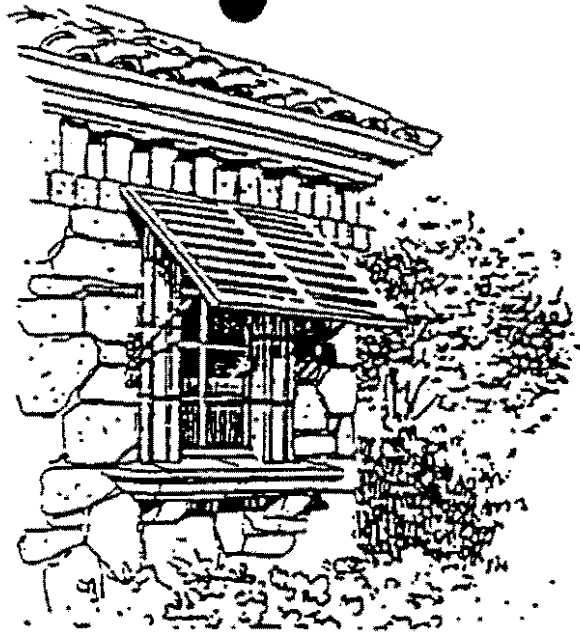


SIMPLE AND ELEGANT GLASS PANE DOORS

EXTERIOR WALLS

Within the scope of traditional and contemporary Hawaiian and modern complementary architecture, a wide range of building materials is acceptable. It is not so much the materials used, but how they are used that becomes important. Interrupting walls with insets and pop-outs can create depth in otherwise flat walls. Uninterrupted wall heights shall not exceed 12 feet.

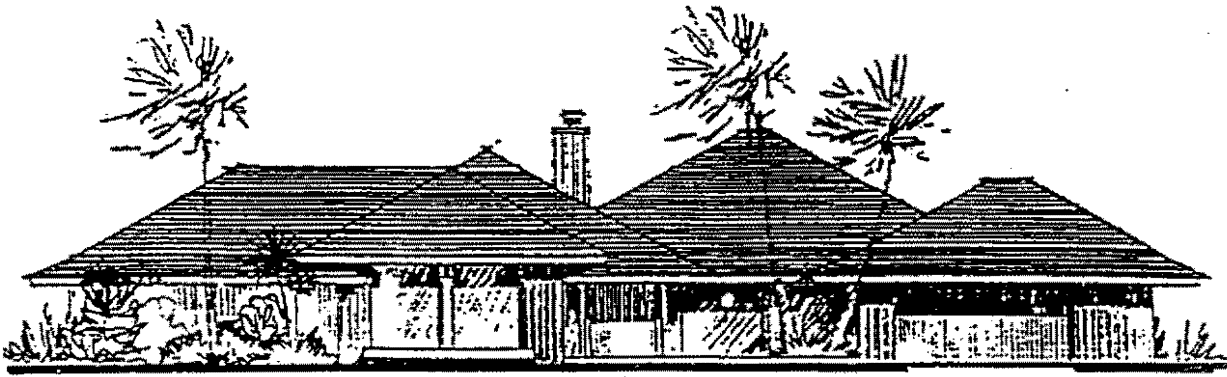
Encouraged: Cement plaster, synthetic plaster (Sto, Dryvit, etc.), stone, horizontal or vertical siding (cedar or redwood). Ruffsawn plywood siding may be used, provided that 1 x 3 or larger vertical battens are used spaced at a maximum of 16" O.C. The combination of any two materials is encouraged.



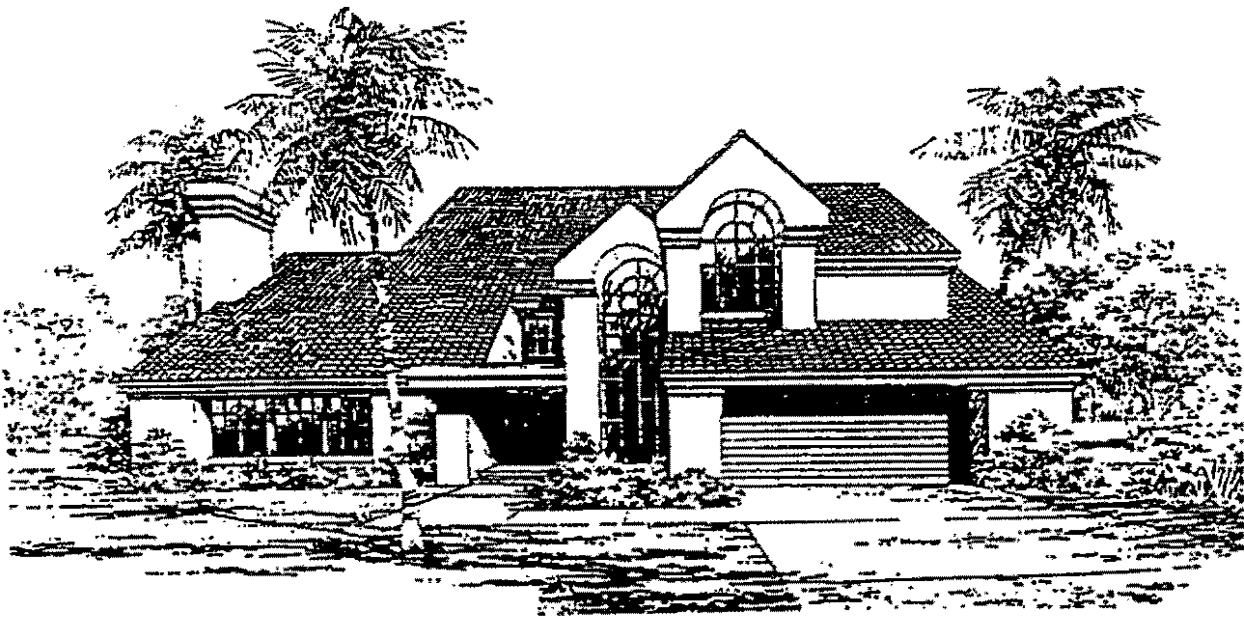
Discouraged: Reflective glazing, mirrored glass, reflective sunscreens or other highly reflective materials for exterior surfaces shall be discouraged.



REDWOOD T & G ON BOLD GABLES



1 X 3 BATTENS OVER RUFFSAWN PLYWOOD



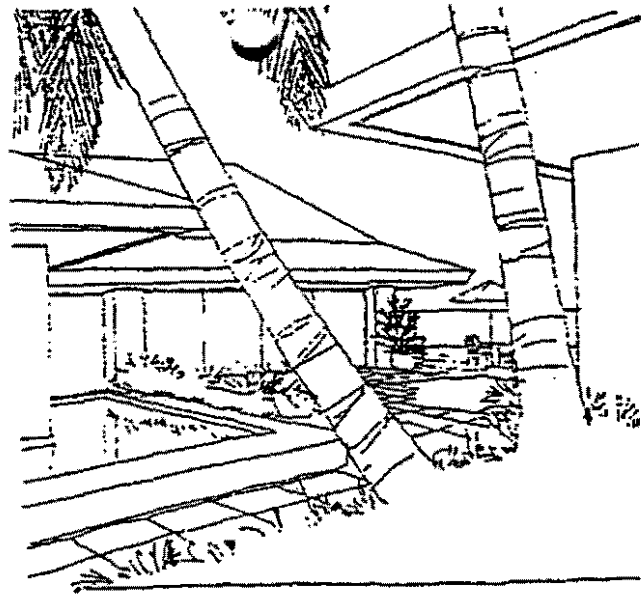
STUCCO WITH INSETS AND POP-OUTS

ROOF AND ROOF LINES

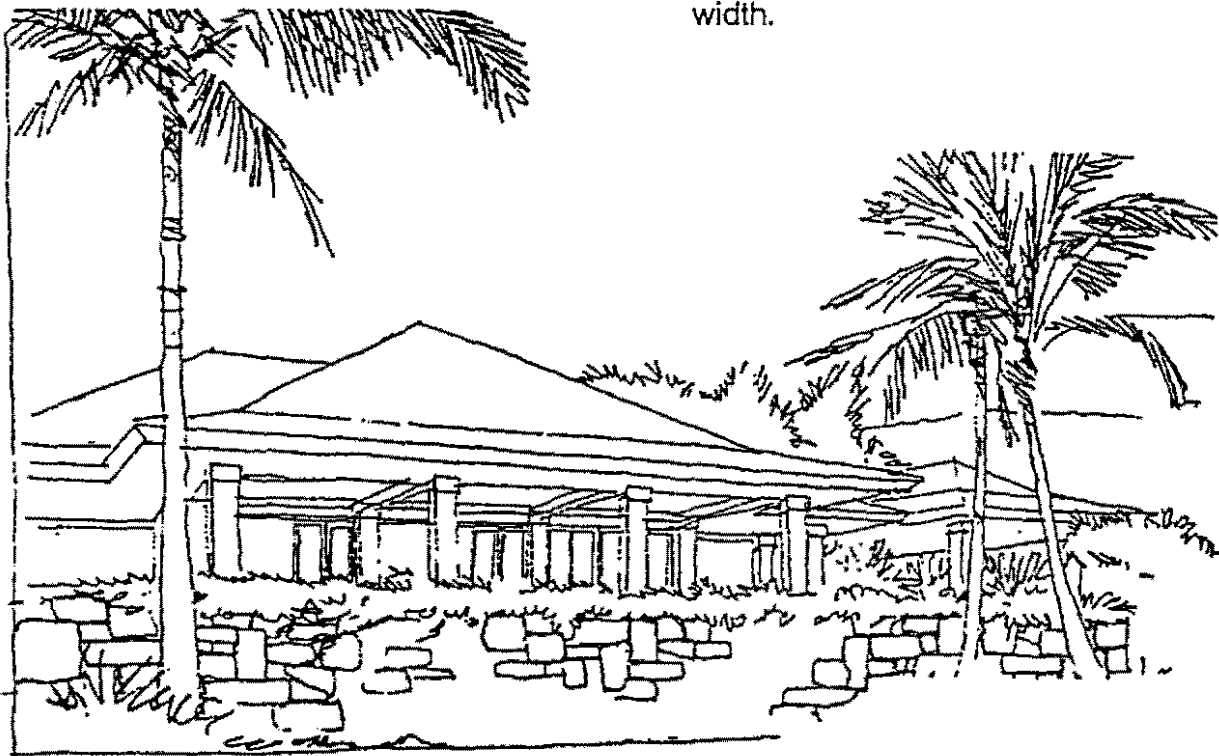
In Hawaii, the roof performs two tasks. Not only does it provide protection from the tropical rainstorms, but it also provides shade from direct sunlight.

This is why the "Hawaiian style" or "double pitch" roof evolved. The double pitch roof is a lower pitched roof that changes to a steeper pitched roof.

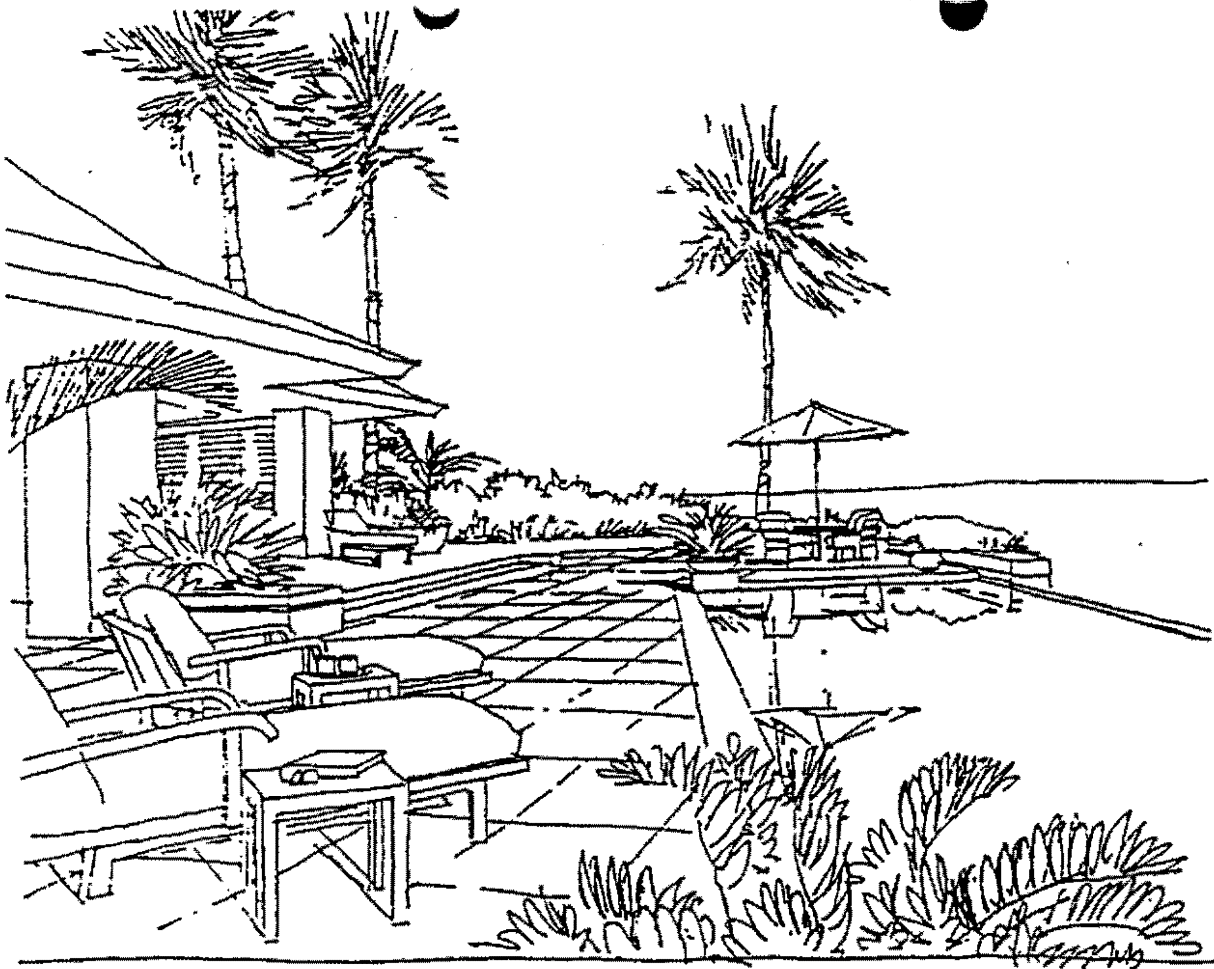
All roofs on each structure shall be sloped with a minimum pitch of 4(vertical) to 12(horizontal).



Generous overhangs of the lower pitched roof protect doors and windows from the sun and rain while letting in the cool trade winds. Most often, these roofs utilize the true hip geometry. However, a combination of hip and gable end roofs are often found in the true Hawaiian style. Overhangs should be of a 3-foot minimum width.



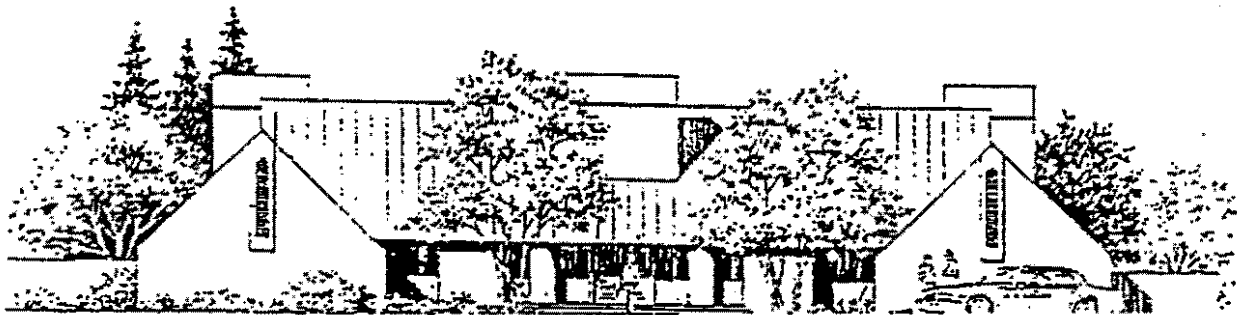
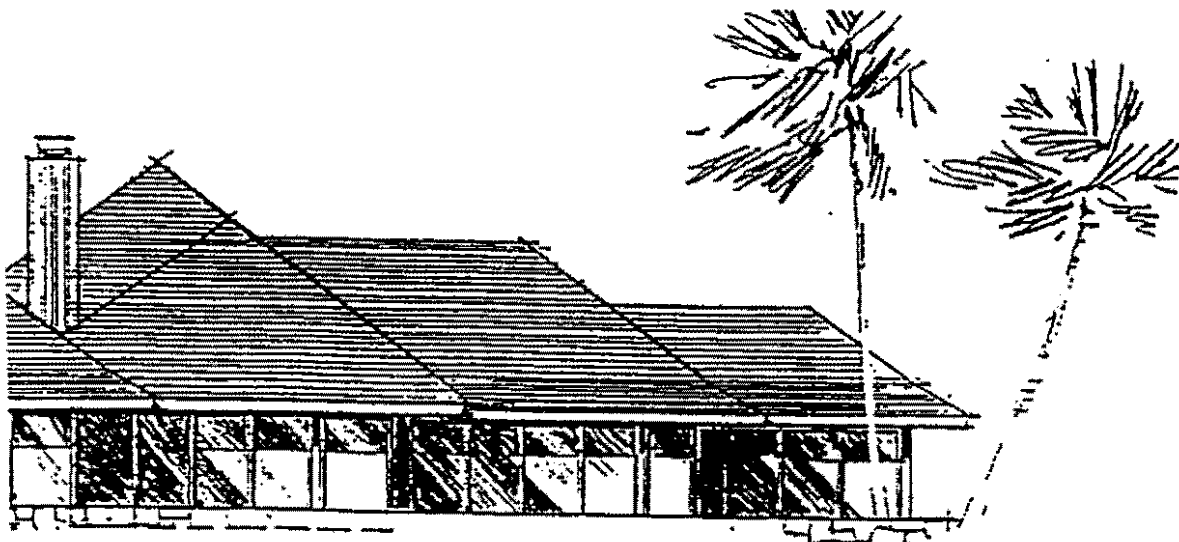
HAWAIIAN STYLE ROOF (EXHIBIT 3)



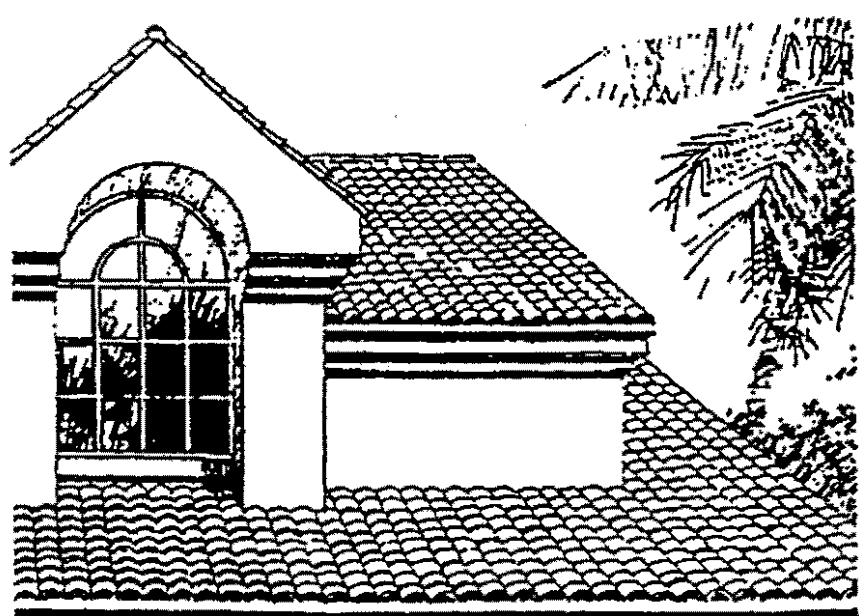
INDOOR-OUTDOOR LIVING WITH LARGE OVERHANGS



Encouraged: Barrel or flat terra cotta clay tile, ceramic tile, flat integral color concrete tile, slate tile, wood shingles, metal roofs (these must have nonreflective earthtone colors), matte glazed Japanese tile (no high gloss finishes), copper roofs, and asphalt shingle. Flat roofs are allowed where appropriate when combined with an acceptable architectural form. Hipped roofs are encouraged; high gloss roofing is discouraged.



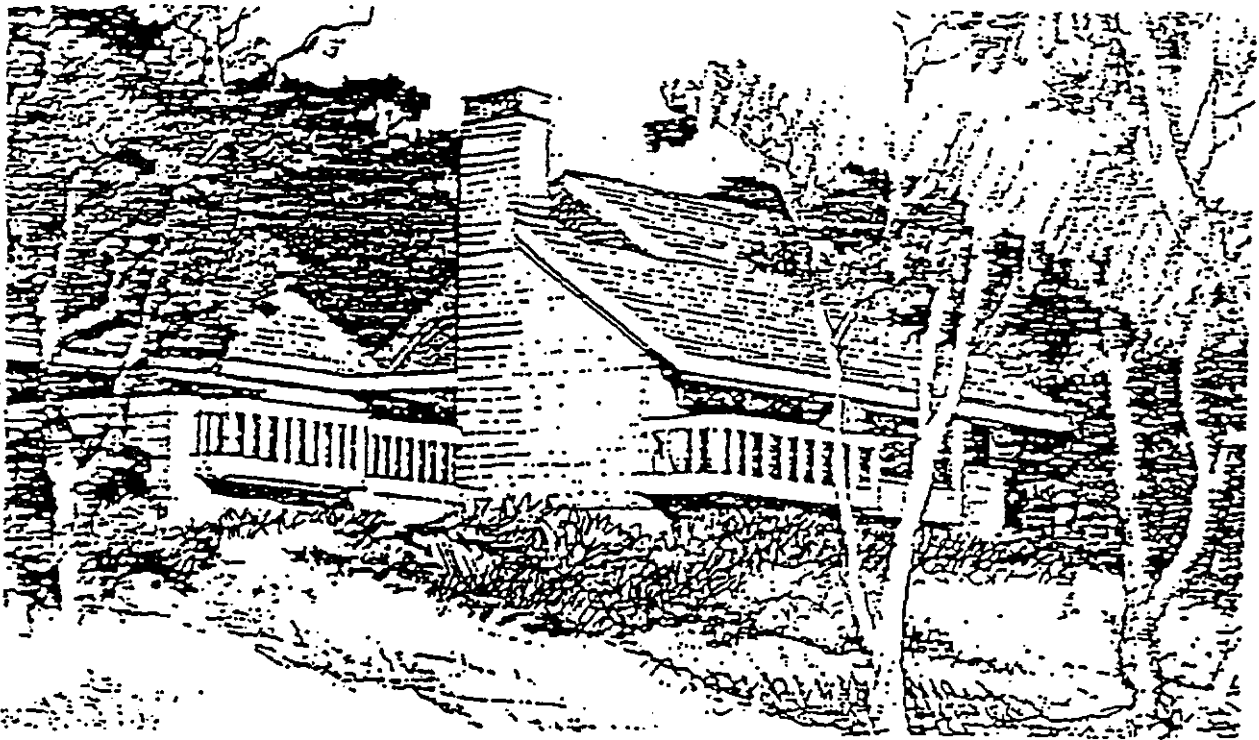
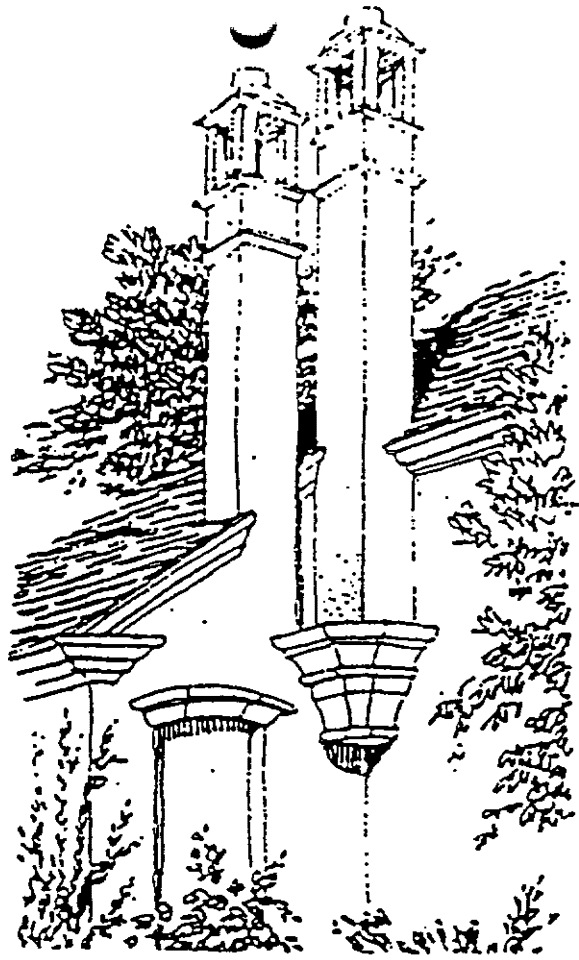
STANDING SEAM METAL ROOFING



FASCIA DESIGN AND DETAIL

CHIMNEYS

Chimneys can provide welcome vertical accents within the composition of building forms; however, they should not be allowed to dominate the design. Chimneys may not exceed the maximum height limit of 30 feet. The finish on the chimney should be of the same material as the exterior walls of the home, unless the chimney finish material is consistent from ground to top. In other words, the chimney could be stone or stucco in contrast to adjacent walls.





FASCIAS

Fascias are an important design detail. They must be of a material and scale that is compatible with the design theme of the home. Fascia boards, if used, are to be an 8-inch height, minimum. Exposed rafter tails are permitted, provided that they are rounded off, trimmed, or have an appropriate decorative treatment. Colors should be only a few shades darker or lighter than the body color, and stark contrasts are discouraged.

GUTTERS AND DOWNSPOUTS

Gutters and downspouts must be unobtrusive unless designed as a continuous architectural feature. Exposed gutters used as an architectural feature may be used providing they are colored to complement the surface to which they are attached.

ANTENNAE AND SATELLITE DISHES

The use of micro scale residential antennae and micro scale satellite dishes is allowed if screened from view.

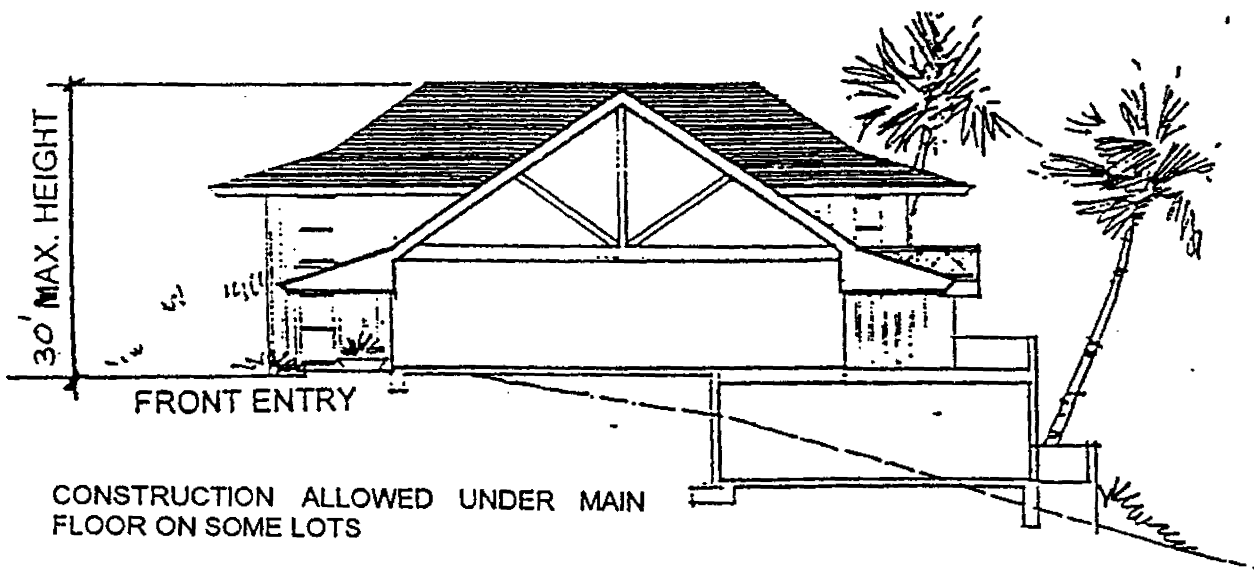
SOLAR HEATING SYSTEMS

Photo voltaic panels and solar heating systems may be used provided they are integrated into the roof design. All panels and frames shall be bronzed, anodized, or colored to match adjacent roofing materials, and they must be flush mounted to the roof such that the visual impact of all solar equipment is minimized. Before any equipment is installed, the design must be submitted for approval.

D. Lot Development Standards

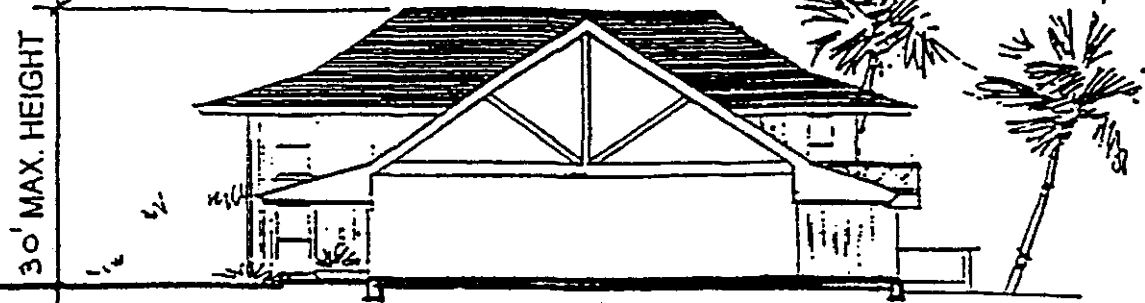
BUILDING HEIGHTS

No farm family dwelling shall be more than two (2) stories above and one (1) story below from the finished grade at the main entry, over twenty (20) feet measured from the finished grade at the main entry to the highest exterior wall plate line, and over thirty (30) feet to the highest point of the roof measured from the finished grade at the main entry. For the purpose of determining the number of stories in a farm family dwelling, a loft shall be considered a story. Agricultural buildings shall be a maximum of nineteen (19) feet measured from the finished grade at the main entry to the highest point of the roof. Agricultural buildings shall be one story only, with a loft area of 400 sf or less.



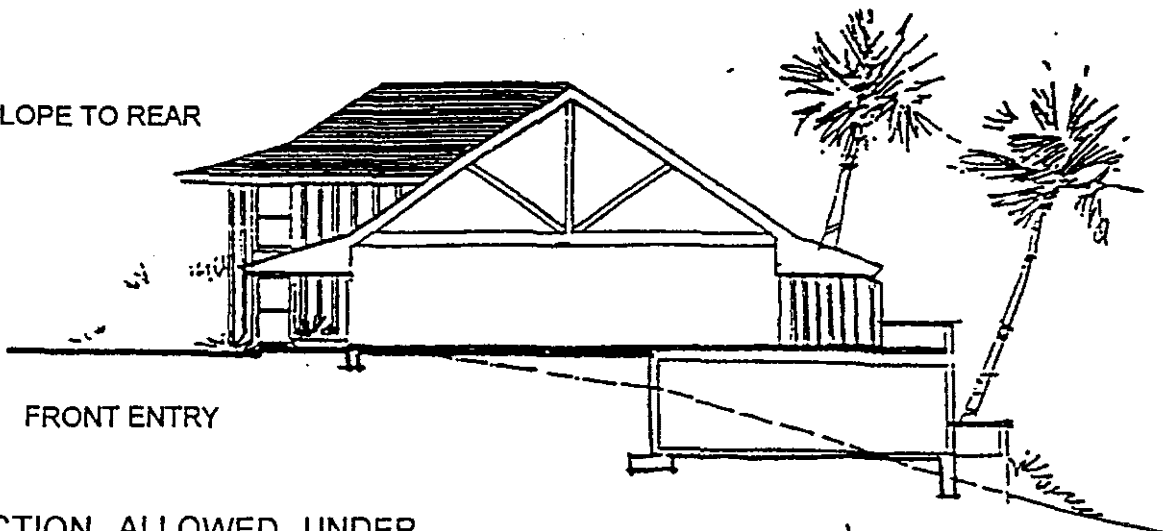
HEIGHT LIMIT REQUIREMENT
(EXHIBIT 4)

FLAT LOTS



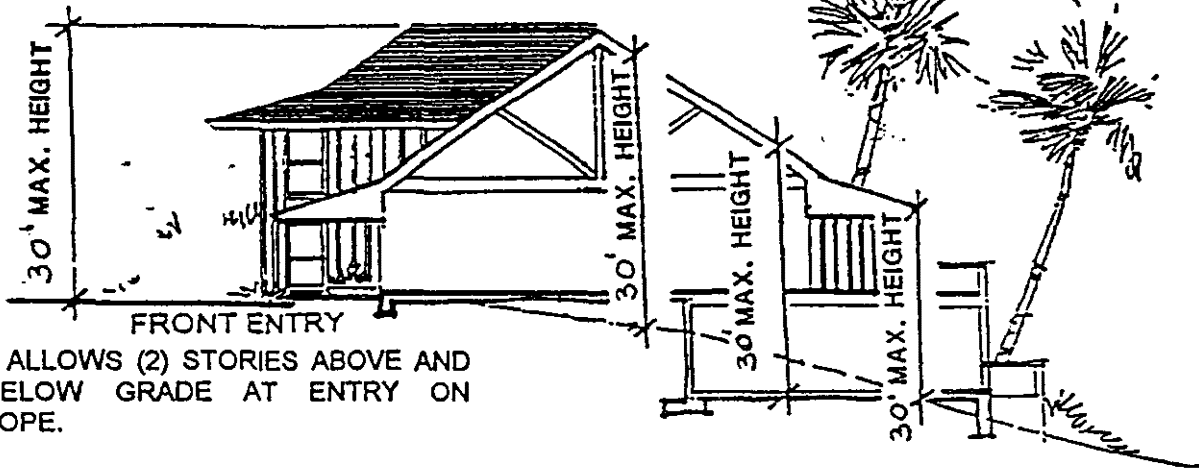
FRONT ENTRY

LOTS WITH SLOPE TO REAR



FRONT ENTRY

CONSTRUCTION ALLOWED UNDER MAIN FLOOR ON SOME UNITS



FRONT ENTRY

COUNTY ALLOWS (2) STORIES ABOVE AND AREA BELOW GRADE AT ENTRY ON DOWNSLOPE.

HEIGHT LIMIT REQUIREMENT (EXHIBIT 5)

SETBACK AND SITE PLANNING

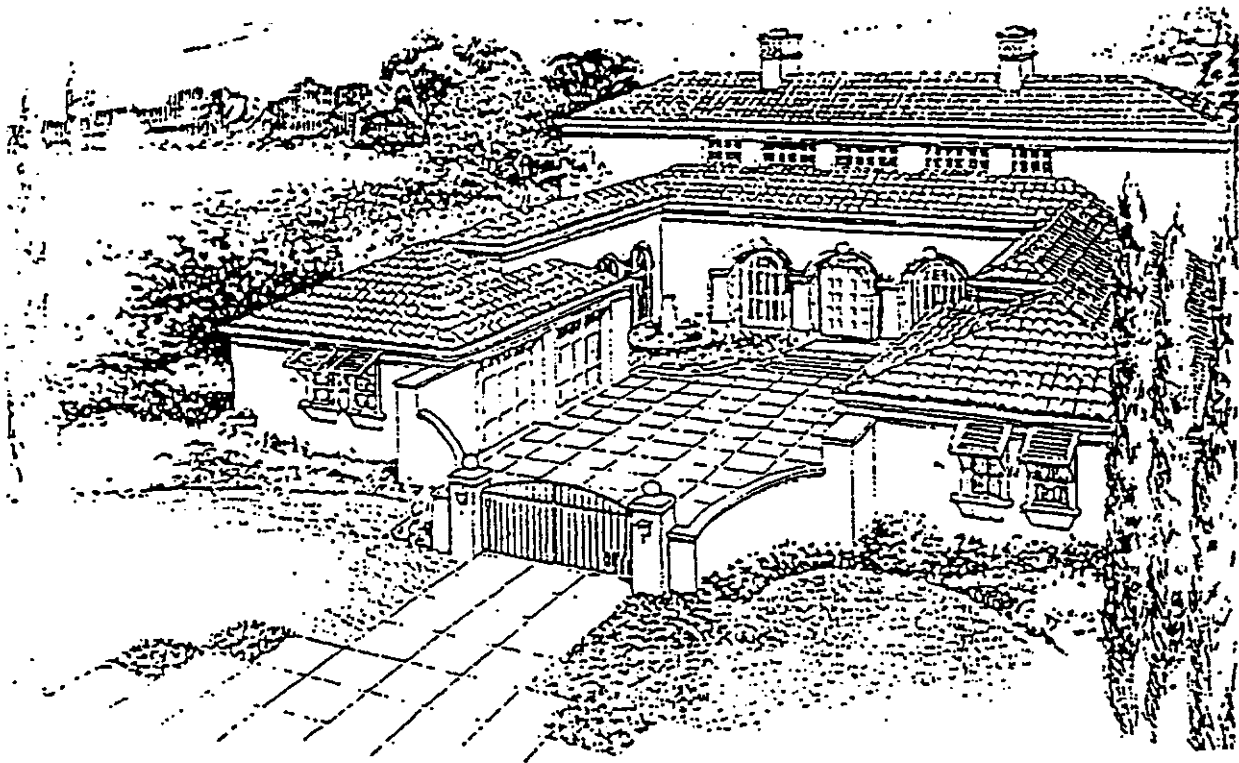
The minimum setback requirement is 25 feet along all lot and CPR unit lines. Accessory uses and structures, including but not limited to decks 30 inches above finished grade, storage buildings, swimming pools, and light fixtures shall be prohibited in the setback area. There shall be a 25-foot setback of all accessory uses and structures along Kūlana Place. Fencing, hedges, and entrance elements must be a minimum of three feet from any lot or CPR unit line, and 25 feet from Kūlana Place.

NOTE: There are NO BUILD ZONES and RESTRICTIVE LANDSCAPE ZONES that are specific to individual CPR units, which must be adhered to.

NOTE: There are community walking, biking, and riding trails that are easements along some roads. Refer to individual CPR unit maps for applicable easements.

BUILDING MASS AND FORM

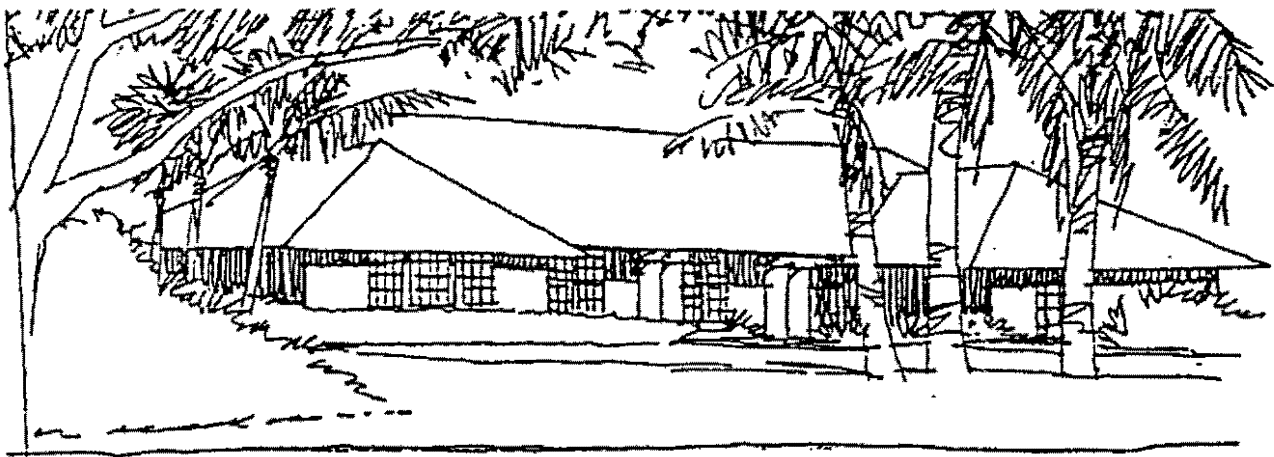
It is recommended that buildings within Kūlana use simple forms that are considerate of not only their immediate neighbors, but the development as a whole. While two story homes are allowed within the appropriate setbacks, they should be softened by stepping back the second floor in some locations to minimize continuous two-story walls. Note that there may be some lots that have a one-story building restriction. Another way to handle this situation is to provide a covered lanai on the first floor, creating the look of a setback to the second floor.





Second floor interior areas (floor above main floor) shall not be more than 80% of the gross first floor area, including attached garages and covered lanais. In cases where the natural slope allows construction under the main floor level as shown in Exhibit 4, not more than 60% of the main floor interior area will be allowed.

All side and rear elevations will be reviewed as critically as front elevations. These elevations will require the same careful design of form, materials, and detailing.



BUILDING COVERAGE AND ENVELOPE

Refer to CPR documents for NO BUILD ZONES and RESTRICTED LANDSCAPE ZONES specific to individual CPR units.

The size of homes, subject to mass and form requirements, is not limited.

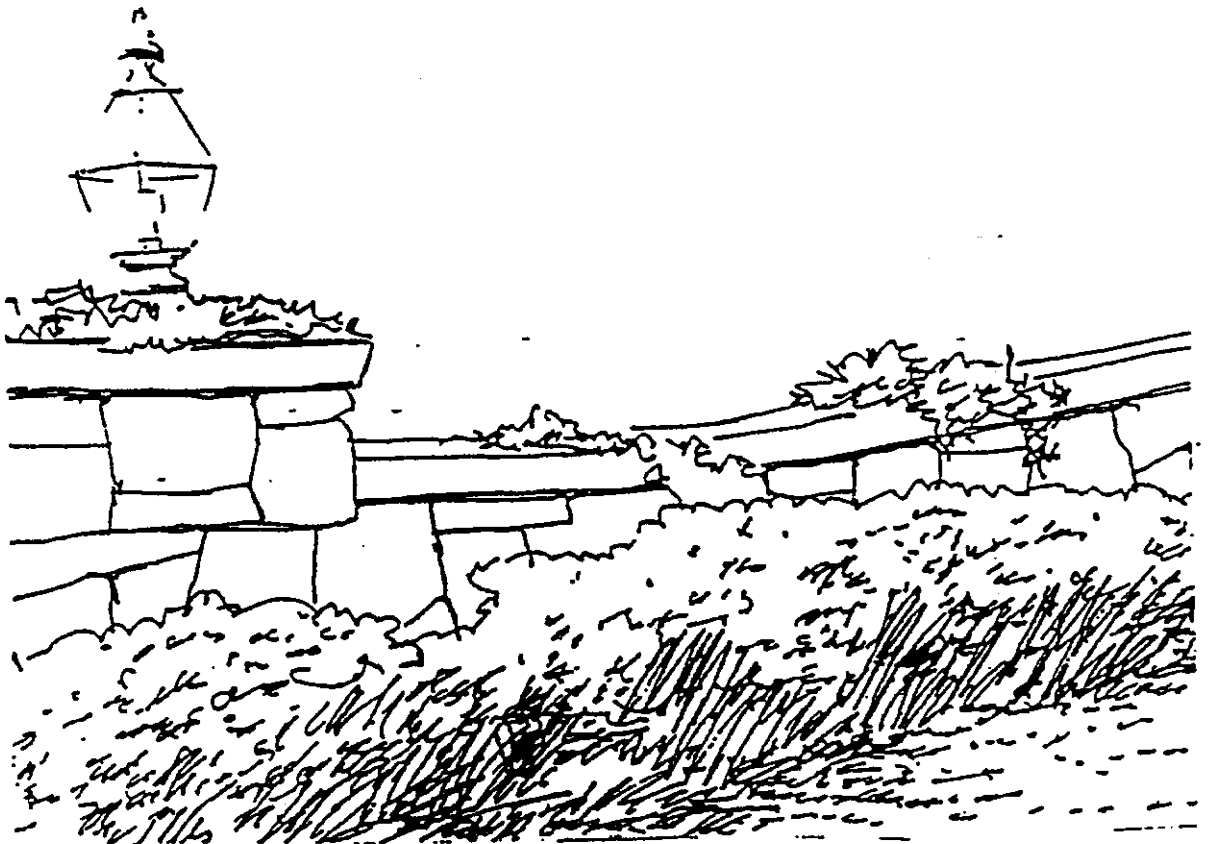
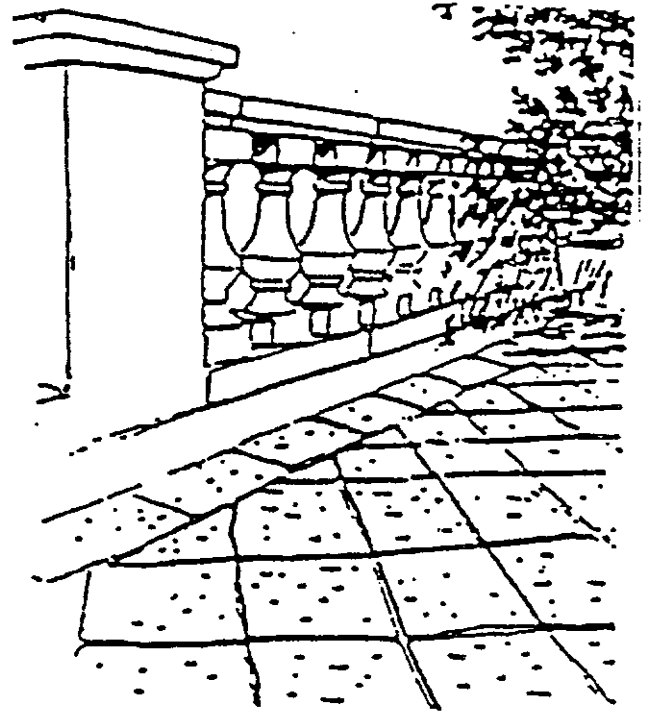
FENCES AND WALLS

Elements such as walls, fences, and arbors can play a vital role in promoting the architectural continuity of a home. Due to the high visibility of walls and fences, their design will have a direct effect on the overall appearance of the site. It is essential that the patterns, textures, and materials chosen complement the surrounding architecture.

The maximum height of fencing is six feet, with the finished surface of fencing facing the exterior of the lot.

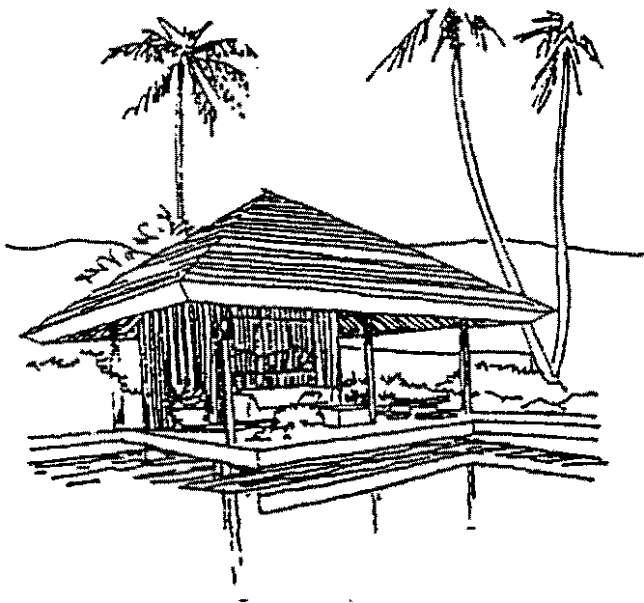
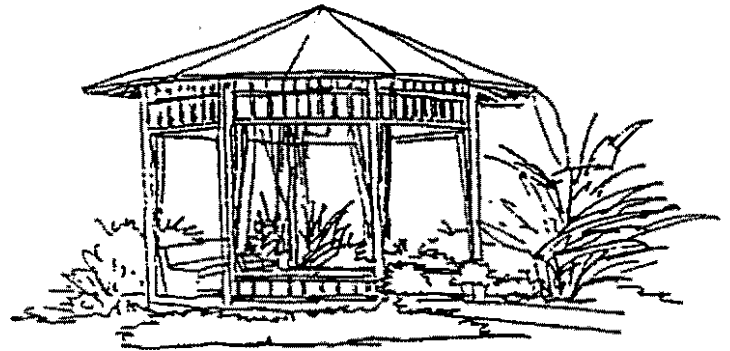
Encouraged: Natural stone walls, stucco-finished concrete block, wood fencing that matches the exterior siding of the house, decorative metal fencing in earth tones, green vinyl-coated metal fencing with associated landscaping.

Discouraged: Barbed wire.



AUXILIARY STRUCTURES

A. Trellis: Shaded areas for outdoor living in Hawaii are a positive design element. A trellis should be built of materials that complement the basic structure of the house. It should have a visual mass that has sufficient bulk to look substantial, and it should align with other trim elements of the home to have balanced proportions. The colors should be the same as the trim. All auxiliary structures must be of permanent construction and built with a building permit.



B. Patio structures, sun shades, and gazebos: These structures should also be built of materials complementary to the basic structure of the house and should also use colors that are being used on the main residence.

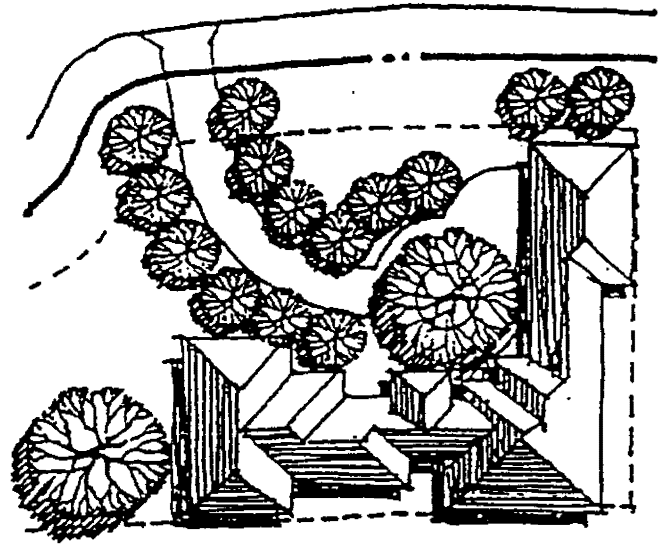
C. Sun decks: Wood decks may be appropriate if detailed and finished to match the adjacent structures. Raised decks should use walls of masonry, stone, or be screened by landscaping so that the framing is not visible.

ELECTRIC METER PANEL

Electric meters, where at all possible, should be hidden from view, yet be easily accessible. They should be located on the side elevation of your proposed home or in a separate meter structure near the boundary. It is recommended that they be built into walls with a matching door access such that the glass meter is the only element visible.

DRIVEWAYS

Driveways may be asphalt or concrete. However, wide expanses of paved areas are discouraged unless they are interrupted with patterns and interspersed with planting. Turf block, gravel, coral, textured, stamped, and colored concrete resembling natural or ceramic materials are also encouraged.



COLOR

Encouraged: Warm toned earth colors including creams, rusts, buffs, beige, ochre, terra cottas, greens, and off-whites. Trim colors should be a few shades darker or lighter and may be somewhat brighter to accent, but they must be appropriate. White trim may be allowed in certain instances. Color and material boards must be submitted at time of plan submittal.

Discouraged: Stark white, bright pastels, bright intense colors in large expanses and/or the use of mirrored glass, reflective sunscreens, or other highly reflective materials for exterior surfaces.

TEMPORARY STRUCTURES

Temporary buildings for construction shall be located in an area approved by the DRC and must be removed from the building site within thirty days of occupying the permanent structure.

UNSIGHTLY ITEMS

It is in the interest of the community of Kūlana to have an uncluttered and attractive neighborhood (keep your junk out of sight). The "keep it hidden" list includes clotheslines, greenhouses, or shade houses, which are all subject to DRC review and approval. All garages, whether attached or detached, must be enclosed.

III. LANDSCAPE ARCHITECTURAL GUIDELINES AND STANDARDS

A. Landscape Concept

Landscaping is an important element contributing to the identity, unity, and overall aesthetics of Kūlana. The landscape character should be one that is distinctive yet cohesive with the natural ambiance of the surrounding environment.

There should be an abundance of flowering and fruiting trees, shrubs, groundcovers, and vines blooming at various times throughout the year. Mature trees should frame or screen the houses appropriately and should soften the visual effect of the structures. Throughout the project, it is encouraged to landscape with edible plants wherever feasible.

The purpose of these landscape standards is to establish a framework for site planning and landscaping that will ensure a unified, high-quality environment.

B. Landscape Zones

FRONT YARDS

Along the streets, within the front yard building setback, owners are encouraged to provide a continuous landscaped effect. Lawn and groundcover areas should be allowed to flow and merge together from lot to lot along the street. Variety in types of different groundcovers,

shrubs, and trees, rather than hard, straight lines, should be used to express the individuality of each property. This continuous landscaping within the streetscape will create the feeling of the houses being a part of a large country estate rather than a suburban subdivision.

Trees and shrubs should be used to soften the visual effect of the house and garage from the street.

SIDE YARDS

Side yards should be landscaped to maximize screening and a sense of privacy between lots. The use of hedges, walls, or fences as visual barriers or sound buffers are encouraged in these areas. These barriers are not to obstruct the neighboring properties off-site views and are subject to view easements and restricted landscape areas that may be found in the individual CPR unit maps.

REAR YARDS

Typically, the rear yard is the area having the most variety of uses and the greatest diversity of landscaping. Landscape concerns and recommendations in this area are the following.

As each lot is landscaped, consideration must be shown for view channels of adjacent owners in the placement of trees and shrubs.

AGRICULTURAL PLANTINGS

Agricultural use of the land and associated planting are encouraged. Refer to the County of Kauai standards for planting agricultural products.

RESTRICTED LANDSCAPE AREAS

Note that there are NO BUILD ZONES and RESTRICTED LANDSCAPE ZONES specific to individual CPR units. Refer to CPR maps.

WALLS/FENCES

It is the design intent of these guidelines to maintain an open feeling within the streetscape of Kūlana, thus, freestanding walls are not recommended within the front yard building setback area. Walls and fences must be set back five feet from the rear and side lot boundary line.

Walls within side yard areas are allowed to a maximum height of six feet. Walls alongside property lines should not intrude into the front yard building setback area.

Walls along rear property lines should be set back sufficiently to allow for landscaping to visually soften the wall as seen from outside the property boundary. The height of retaining walls along the rear property line should not exceed four feet. Where cuts or fills greater than four feet are involved, the use of terraced wall concepts are encouraged. Each successively higher terrace wall should be set back six feet from the face of the lower wall to provide vertical relief.

C. Landscape Responsibilities

EASEMENT CONDITIONS

The Developer will be responsible for installing, and the Association will be responsible for maintaining the following:

- ditches,
- Kūlana Drive,
- other paved roads,
- common easement roads,
- reservoir/stream,
- common areas,
- three major entries, and
- pedestrian and horse trails.

COMMON AREAS

- Reservoir lot and adjacent common area CPR units
- Pedestrian and horse trails
- Ponds in the valley parallel to Olohena Road
- Vehicular entries and common roadways
- Agricultural irrigation system
- Central waterfall located on Lot 5

D. Unit Landscape Standards

Detailed landscape plans are to be prepared for each individual lot.

It is recommended that all planting and irrigation installation work be undertaken by a landscape contractor licensed to perform such work in the State of Hawaii.

Landscape plans shall be included with the plan check submittals and will be approved by the Developer and/or the DRC.

All landscaping improvements are required to be completed within 90 days of moving in.

IRRIGATION

It is suggested that in all landscaped areas a permanent automatic irrigation system be installed, to ensure proper plant growth.

The irrigation system shall be designed and operated to prevent or minimize runoff and discharge of irrigation water onto roadways, driveways, adjacent properties, and any area not under control of the user.

Landscaping requirements for erosion control areas will be identified for each lot.

County drinking water may not be used for agricultural irrigation.

CONCEPTUAL OPEN SPACE
LANDSCAPE PLAN (EXHIBIT 10)

(Reservoir drawing here by Marketing
Consultant)

Areas of separate landscaping maintenance shall be controlled by separate controllers and/or separate control valves.

Approved backflow prevention devices or anti-siphon type valves must be installed at point of connection (POC) on any irrigation system.

To minimize visual impacts, all automatic valves, backflow prevention devices, and controllers shall be installed in valve boxes and/or screened with appropriate plant material to minimize visibility.

MAINTENANCE

Other than the Developer and/or the Association maintained areas, all landscaped portions of each lot shall be maintained by the lot owner in accordance with the best industry standards for professional landscape maintenance. Such maintenance shall include:

- Continuous maintenance for all planted and hardscape areas within the site, keeping it in a neat and clean condition free of weeds, debris, and rubbish.
- Maintaining plant materials in a thriving condition of growth by participating in proper horticultural techniques of pruning, mowing, watering, rolling, edging, trimming, fertilizing, and pest control.
- Natural or "wild" landscaped areas are also encouraged.

If these requirements have not been met, the Association will give the owner written notice that this condition has not been met. If proper maintenance has not been undertaken within 30 days of this written

notice, the Association will arrange to have this work done and will have the appropriate costs billed to the owner.

E. Site Planning Considerations

GRADING STANDARDS

All site work must be executed only in accordance with approved plans and specifications of the County of Kauai, State Health Department, and the DRC.

If any single site grading activity will require more than 100 cubic yards of earthwork, lot owners must submit a grading plan along with their development plans for the individual lots. Grading plans must be prepared in conformance with Kauai County Codes by a civil engineer licensed in the State of Hawaii.

Grading plans submitted to the DRC for approval must include the following information:

- Existing and proposed contours, indicating one-foot intervals up to a slope of 2:1, at which point two-foot contours will suffice;
- Finished elevations of all building pads;
- Top and bottom elevations of any and all retaining walls;
- All drainage provisions, including top of grate and invert elevations for subsurface drainage; and
- Existing trees with spot elevations at base of trunk.

Grading of individual lots shall blend into existing grades along all property boundaries except where retaining walls are used.

All retaining walls in excess of three feet in height must be designed by a licensed

civil or structural engineer and approved by the County of Kauai Building Department.

LOT DRAINAGE

Grading must be designed so that the final subdivision approved drainage report flow of surface water is maintained and dispersed without causing erosion or damage to all affected lots and adjacent properties. Where substantial roofed structures are being designed, rain gutter systems should be installed to contain and disperse excessive runoff without adverse effect to adjoining properties.

Where existing drainage patterns or swales are disturbed by site preparation activities, the lot owner will be responsible for their effective restoration. Restoration may include, but may not be limited to, sand bags, hay bales, hydromulching, and/or geotextile fabrics.

All grading operations must take place within the confines of the individual lot, except where written permission and approval from the adjacent lot owner and the Association has been obtained.

SWIMMING POOLS, SPAS, AND WATER FEATURES

Other water features may occur on a lot within the same setback dimensions as fences and shrubs.

All pumps and filter systems shall be screened from view, sound buffered, and located as far as possible from adjacent lots. All pools should be appropriately landscaped to minimize their visual impact upon adjacent lots.

Swimming pools, spas, and water features shall conform to all applicable County and State requirements.

EXTERIOR LIGHTING

All lighting fixtures must be oriented toward the interior of each lot. No lighting fixtures should be directed toward the streets, neighboring properties, bluff, or common areas. All light sources should be shielded by a hood or baffle so that "hot spots" or glare will be minimized to all adjacent areas.

The quality of light produced should be either white or a warm incandescence. Colored lenses or colored bulbs will not be permitted. Low wattage white Christmas lights shall be permitted in December. Such lights may twinkle but not flash.

If low voltage lights are used, all transformers must be screened from common view.

The use of indirect upward projecting landscape lighting shall not be permitted. All lighting will have a downward projection or internal lighting or illumination systems.

IV. SUBMITTAL AND APPROVAL PROCESS

A. Submittal Process

SUBMITTAL PROCEDURE

Submittal of plans and specifications for the construction or installation of any and all improvements on any lots within Kūlana shall be made to the Kūlana Homeowners Association (Association), Design Review Committee (DRC) at the following address:

**Kūlana Homeowners Association
Attn: Design Review Committee
P. O. Box _____
Kapaa, Kauai, Hawaii 96746**

The Board of Directors of the Association has the power to change the address for the submittal of plans and specifications.

Under sole and absolute discretion, all improvement plans are required to be submitted to the DRC for approval prior to the Kauai County Building permit submittal.

COUNTY AND OTHER APPROVAL

Approval of any project by the DRC does not waive the requirements of the County of Kauai permits, nor does obtaining all required County of Kauai permits waive the need for the DRC approval. It is the

responsibility of the lot owner to adhere to all County of Kauai building and zoning codes and the DRC will not knowingly approve a project that violates the County of Kauai building or zoning codes or those of any other governmental agency or entity. The DRC takes no responsibility for plan conformance to any governmental criteria.

SUBMISSIONS REQUIRED

The submissions must include the following items on a *Submittal Application* (in duplicate) provided to the owner by the DRC.

- Lot Owner's Name**
- Lot Owner's Representative (if applicable)**
- Mailing Address**
- Business and Residence Phone Numbers (including area codes)**
- Lot and Unit and Tax Map Key Numbers (site of proposed construction)**
- Address of Site**
- Name, Address, and Phone Number of Architect**
- List or Number of Drawings Enclosed**

Two submissions (each in duplicate) are required in the design review and approval process for improvements to Kūlana custom lots. In addition, conceptual approval (discussed in item C of this section) is encouraged. The first required submission must show preliminary design; the final submission must consist of working drawings. On completion of the review and approval process, one set of each submission is to be retained by the DRC and one set returned to the owner.

All architectural drawings are to be prepared, stamped, and signed by an architect licensed in the State of Hawaii, except for patio and landscape drawings.

**NO REPRESENTATION BY THE
DESIGN REVIEW COMMITTEE (DRC):
NON-LIABILITY**

No review or approval by the DRC of any item submitted to the DRC pursuant to the CC&Rs shall in any manner constitute the DRC's (or any DRC member's), Declarant's, the Association's, or its Board of Directors (Board) representation, warranty, or agreement that such item (1) has been prepared free of defects or is of good workmanship or design, or will result in improvements that are readily marketable or free of design or construction defects; (2) complies with any or all applicable laws (including uniform building code requirements); or (3) will result in liability by any Committee (or any member thereof) Declarant, the Association, the Board (or any member thereof) to any owner or any other person for any damage, loss or prejudice suffered or claimed on account of (a) the DRC's (or any DRC member's) mistake in judgment or negligence; (b) the approval

or rejecting of, or the failure to approve or reject, any plans, drawings, specifications, or other request or item, whether or not defective; (c) the construction of any improvements or performance of any work, whether or not such construction or performance complies with this Declaration, the Design Guidelines, or the terms of any approval of the DRC; (d) the manner, maintained or operated; (e) the erroneous execution of an estoppel certificate; (f) the failure of any plan, drawing, specification, or any other item approved by the DRC to comply with any or all applicable laws (including building code requirements); or (g) any other matter, decision, act, or omission; provided that such member(s) shall not have acted intentionally in bad faith.

B. Fees

The applicant shall pay the following reasonable applicant fees at the time of submittal to the DRC, the amount to be determined by the DRC and modified from time to time:

1. A submission fee to cover the cost of the DRC to review plans and specifications for the proposed improvements.
 - a) An optional fee for the optional conceptual review of architectural and landscape architectural drawings.
 - b) A fee for both the preliminary and working drawing reviews of architectural and landscape architectural drawings.

2. An inspection fee to cover the DRC field inspection over the construction period.
 - a) This fee will include inspections of foundations, floor plans, roofs, substantial completion, landscaping, and proper cleanup.
3. Additional Fees
 - a) For other proposed improvements (i.e., additions or design revisions), there will be a submission and inspection fee. This fee shall be paid at the time of submission of plans and specifications.

Note: Fees stated in this document do not include fees required by the County of Kauai or any other governmental agency. The fees below are subject to modification by a majority vote by the Board of Directors.

C. Plan Submittals and Review Process

CONCEPTUAL SUBMITTAL (Optional)

The DRC strongly recommends that once the lot owner has completed his or her review of these Design Guidelines and selected an architect, the lot owner informally meets with the DRC to submit preliminary or conceptual plans for improvements to the lot. These drawings should be schematic design drawings drawn to 1/8" = 1'0" minimum scale. Dimensions of the home and other improvements and building envelope should be shown. All submittals shall include two sets of drawings. The DRC will review and comment upon the drawings within two weeks of their receipt.

Suggested Schematic Drawings

- Floor Plan
- Roof Plan
- Elevations
- Sections
- Exterior Colors
- Construction Materials

PRELIMINARY SUBMITTAL

Two sets of drawings are required for the preliminary submittal and they must be prepared to scale. The preliminary submittal must include all of the following at one time to be considered for review.

Plot Plan: (Minimum Scale: 1" = 50'0")

1. Show lot lines accurately, including length, angles, and amount of curve.
2. Show all buildings, structures, fences, setbacks, sidewalks, slopes, and street rights-of-way adjacent to the lot.
3. Show all dimensions on work to be considered, distances between existing and proposed work, and distances between proposed work and property lines.
4. Show required building envelope.
5. Summarize the square footage of the first floor, second floor, garage, basement, and attic. Include FAR calculations.
6. Identify setbacks.

Preliminary Grading Plan: (Minimum Scale: 1" = 50'0")

1. Show existing contours and proposed changes to finished grade.
2. Show slope stabilization (if applicable).
3. Show finish floor elevations.

Landscape Plan: (Minimum Scale: 1" = 50'0")

1. Show all fences, walls, trellises, arbors, gazebos, water features (including swimming pools and spas), and mechanical equipment locations.
2. Show all trees, drainage control and disposal, slope stabilization, and grading.
3. Show all hardscape and identify all exterior landscape lighting locations.
4. Identify all plant types (must be consistent with the landscape standards set forth in these Design Guidelines).

Floor Plans and Roof Plans: (Minimum Scale: 1/8" = 1'0")

1. Indicate all walls, columns, openings, and any conditions or features that will affect the exterior design of the building.
2. Show accurate dimensions for all items and parts of plans and details, including balconies, decks, atriiums, carports, garages, storage buildings, square footage of total living area or residence, pools, recreation areas, and lanai areas.

3. Show plans of all proposed roofs with slope pitches and ridge heights above pad elevation.
4. Indicate any unusual conditions or construction detail.
5. Include notes on all items of the exterior that cannot be clearly noted on the elevations.
6. Show all proposed exterior finish materials.

Elevations: (Minimum Scale: 1/8" = 1'0")

1. Provide exterior elevations of all proposed buildings to scale. All horizontal elevation points must be shown on the elevations (i.e., roof pitches, ridgelines, balconies, and terraces).
2. Show all proposed exterior finish materials.
3. Show the maximum permitted building envelope in relation to the proposed home for all elevations.

Exterior Colors and Finishes

A color and material sample board consistent with the color and material palette of these Design Guidelines, or an elevation sheet with color chips attached with a clear indication to which surface the colors relate, and a sample of finish roofing material must be provided. Also, the manufacturers of these colors must be indicated.

Fence and Wall Plans

Drawings must include specifications of materials, color, and height. Heights shall also be shown in relation to adjacent

ground elevations. The plot plan shall clearly indicate the location of proposed construction including location and height of existing fences, walls, and structures.

Perspective, Isometric, Rendering, or Scale Models

These additional drawings are not a standard requirement; however, they may help the DRC to understand the proposal.

REVIEW OF PRELIMINARY SUBMITTAL

When the DRC has determined that all requirements for Preliminary Submittal have been met, the DRC will, within fifteen (15) calendar days, meet and approve, suggest modifications, or reject the proposed improvement application. Failure of the DRC to act within this fifteen (15) day period will constitute an approval of the Preliminary Submittal.

Should the DRC disapprove or reject any submittal, the owner has the right to appeal the decision subject to procedures for appeals established by the Board of Directors of the Association.

Upon the DRC's approval of the Preliminary Submittal, the owner may proceed to submit his or her plans and specifications to the County of Kauai Building and Planning Departments for review prior to the preparation of final working drawings.

FINAL SUBMITTAL

Upon approval of the Preliminary Submittal by the DRC, the lot owner may proceed to the Final Submittal. For the Final Submittal, the lot owner shall submit to the DRC four (4) copies of the final working drawings. The final working drawings must be prepared to scale and include all of the following at one time to be considered for review.

Working Drawings: (Minimum Scale: 1/8" = 1'0")

1. Provide working drawings of all approved Preliminary Submittal drawings including any revisions by the DRC after Preliminary Submittal review.
2. Provide written specifications for all proposed work.

Grading Plan

1. Show contours, flow lines, finished grades, and finish floor elevations.
2. Provide a grading plan prepared by a licensed civil engineer or landscape architect that shows all changes to the finish grade.

Landscape Plan

1. Indicate drainage of surface and subsurface, including direction flow, type, and size of facility. These plans must also show the location of the on-site drywells or drainfields and leachfields.
2. Indicate soil preparation, irrigation plan, and precise grading if changed from preliminary submittal.
3. Indicate type, size, and location of all plant materials.
4. Indicate location of all fences, walls, trellises, arbors, and gazebos. Details should include building methods and colors and materials used.
5. Indicate location of all hardscape and the methods used for paving.
6. Indicate all exterior landscape lighting locations and types of fixtures and equipment used.

Termite Treatment

Soil under all concrete slabs on ground and under all building floors, whether on ground or over air space, and under all footings and masonry foundation walls shall be treated against subterranean termites by a reliable, established, and licensed termite control agency, or shall be isolated from the building foundation by the construction of a termite barrier system approved by the DRC.

Pool Plans

Include plans for drainage, pool equipment, and construction in conformance with the Design Guidelines and all County and State Requirements.

REVIEW OF FINAL SUBMITTAL

Upon determination by the DRC that all requirements for the Final Submittal have been met, the DRC will review this submittal in accordance with the procedures and time periods used for the review of the Preliminary Submittal

This review will include, but is not limited to, a determination of whether or not a submittal is consistent with the Preliminary Submittal. If it is not, the reasons for any discrepancies must be noted and are subject to approval or disapproval.

All plans submitted to the County of Kauai for approval and issuance of permits must first be stamped with the approval of the DRC.

Any proposed changes or deviations from the approved plans that occur during construction must be submitted to the DRC for approval prior to the execution of such changes.

D. Standards of Review

In reviewing plans, specifications, and other materials submitted to it, the DRC shall consider: (a) the suitability of the proposed building, landscaping, grading, or other improvement or use for the area in which it will be located; (b) their compliance with these Design Guidelines; (c) the quality of the materials to be used in construction; and (d) the effect of the proposed building, landscaping, grading, or other improvement or use in Kūlana, including without limitation the effect thereof on view planes of other lot owners. The DRC shall require that the overall visual character of Kūlana be one of natural materials, natural textures, natural colors, and forms compatible with those occurring in the surrounding landscape and that the roofs and other exterior portions of all buildings and other improvements in Kūlana conform to aesthetic standards contained in and/or be constructed with materials specified in these Design Guidelines.

Due to the creation of new building materials and/or building methods, the DRC may grant variances from time to time from the requirements of these Design Guidelines, provided that the variance does not violate any of the standards set forth herein, or in the CC&Rs, and also provided that the proposed building, landscaping, grading, or other improvement would be suitable for the site in which it is to be located.

The approval or rejection of any plans or specifications or other materials by the DRC in any one case shall not be deemed a waiver by the DRC of its right to approve, reject, object to, or consent to any of the features or elements embodied therein when the same features or elements are embodied in plans submitted in any other cases.