

R-708

STATE OF HAWAII
BUREAU OF CONVEYANCES
RECORDED

SEP 24. 1992 11:26 AM

Doc No(s) 92-155436

/s/ S. FURUKAWA
REGISTRAR OF CONVEYANCES

CONVEYANCE TAX: \$0.00

LAND COURT SYSTEM

REGULAR SYSTEM

Return by Mail (x) Pickup () To:
Office of the County Clerk
County of Maui
200 South High Street
Wailuku, Maui, Hawaii 96793

16859-3/4672c

UNILATERAL AGREEMENT AND
DECLARATION FOR CONDITIONAL ZONING

THIS INDENTURE, made this 10th day of August,
1992, by 3521 CORP., a Hawaii corporation, whose place of
business is in Lahaina, Maui, Hawaii, and whose post office
address is 505 Front St., Lahaina, Maui, Hawaii 96761,
hereinafter referred to as "Declarant", and who is also the
recorded owner of that certain parcel of land located at
Kahana, Maui, Hawaii, identified for real property tax purposes
by Tax Map Key No. 4-3-01:70, comprised of approximately 5.316
acres, and more particularly described in Exhibit "1", which is
attached hereto and made a part hereof, and in Land Zoning Map
No. 975, which is on file in the Office of the County Clerk of

the County of Maui, and which is by reference made a part hereof, and hereinafter referred to as the "Property";

WITNESSETH:

WHEREAS, the Council of the County of Maui, State of Hawaii, hereinafter referred to as "Council", is considering the establishment of A-2 Apartment zoning for the Property; and

WHEREAS, the Council recommends through its Planning and Economic Development Committee, Committee Report No. 92-211, that said change in zoning be approved for passage on first reading subject to certain conditions pursuant to Section 19.510.050, Maui County Code; and

WHEREAS, Declarant proposes to develop the Property for affordable housing;

WHEREAS, Declarant has agreed to execute this instrument pursuant to the conditional zoning provisions of Section 19.510.050, Maui County Code;

NOW, THEREFORE, the Declarant hereby makes the following Declaration:

1. That this Declaration is made pursuant to the provisions of Section 19.510.050, Maui County Code, relating to conditional zoning.

2. That the Property, and all parts thereof, is and shall be held subject to the covenants, conditions and restrictions contained herein and that all of such covenants, conditions and restrictions shall be effective as to and shall run with the land as to the Property from and after the

recording of this Declaration with the Bureau of Conveyances or the Land Court of the State of Hawaii, as the case may be, without the execution, delivery or recordation of any further deed, instrument, document, agreement, declaration, covenant or the like with respect thereto by the Declarant, the County of Maui, or any heir, devisee, executor, administrator, personal representative, successor, and assign, as the case may be, or any of them, that the acquisition of any right, title or interest in or with respect to the Property by any person or persons, entity or entities, whomsoever, shall be deemed to constitute the acceptance of all of the covenants, conditions and restrictions of this Declaration by such person or persons, entity or entities, and that upon any transfer of any right, title or interest in or with respect to the Property the same shall be subject to, and the transferee shall assume and be bound and obligated to observe and perform, all of the covenants, conditions and restrictions of this Declaration.

3. This Declaration and all of the covenants, conditions and restrictions contained herein shall continue to be effective as to and run with the land in perpetuity, or until the same is released as to the Property or any part thereof by the County.

4. The term "Declarant" and any pronoun in reference thereto, wherever used herein, shall be construed to mean the singular or the plural, the masculine or the feminine or the neuter, and vice versa, and shall include any corporation, and

shall be held to mean and include the "Declarant", Declarant's heirs, devisees, executors, administrators, personal representatives, successors and assigns.

5. That the Declaration shall become fully effective on the effective date of the zoning ordinance approving the establishment of A-2 Apartment zoning for the Property and this Declaration shall be recorded in the Bureau of Conveyances or the Land Court of the State of Hawaii, as the case may be.

6. That the Declarant agrees to develop said Property in conformance with the conditions set forth in Exhibit "2", which is attached hereto and made a part hereof and which shall be made a part of the zoning ordinance.

7. That the conditions imposed are reasonable and rationally relate to the objective of preserving the public health, safety and general welfare and such conditions fulfill the need for the public service demands created by the proposed use.

AND IT IS EXPRESSLY UNDERSTOOD AND AGREED that the conditions imposed in this Declaration shall run with the land identified hereinabove and shall bind and constitute notice to all subsequent lessees, grantees, assignees, mortgagees, lienors and any other persons who claim an interest in the said land, and the County of Maui shall have the right to enforce this Declaration by appropriate action at law or suit in equity against all such persons, provided that the Declarant or its successor and assigns may at any time file a petition for the

removal of the conditions and terminate this Unilateral Agreement, such petition to be processed in the same manner as petitions for change in zoning.

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

DECLARANT:

3521 CORP., a Hawaii Corporation

By

MAURICE JOYAL
Its President

APPROVED AS TO FORM:

Paul R. Mancini

PAUL R. MANCINI
Attorney for Declarant

APPROVED AS TO FORM AND LEGALITY:

Gary W. Zarkon

GARY W. ZARKON
Deputy Corporation Counsel
County of Maui

STATE OF HAWAII)
) SS.
COUNTY OF MAUI)

On this 10th day of August, 1992,
before me personally appeared MAURICE JOYAL, to me personally
known, who, being by me duly sworn, did say that he is the
President of 3521 CORP., a Hawaii corporation, and that the
seal affixed to the foregoing instrument is the corporate seal
of said corporation and that said instrument was signed and
sealed in behalf of said corporation by authority of its Board
of Directors, and said officer acknowledged said instrument to
be the free act and deed of said corporation.

Helder A. Fernandes LS
Notary Public, State of Hawaii
My commission expires: 7/13/94

PORTION OF PARCEL 70

TAX MAP KEY 4-3-01

SITUATED ON THE EASTERLY SIDE OF HONOAPIILANI HIGHWAY

[F.A.P. RF-030-1(5)]

AT KAHANA, LAHAINA, MAUI, HAWAII

BEING A PORTION OF GRANT 1166 TO D. BALDWIN,

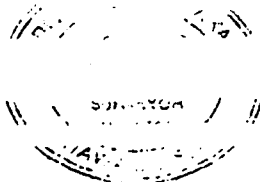
J.F. POGUE & S.E. BISHOP

BEING ALSO A PORTION OF LOT 2-A, M. L. & P. -

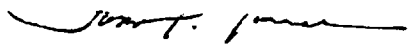
N.H.L.C. SUBDIVISION, CIVIL NO. 3673

Beginning at a point on the Southerly boundary of this parcel of land, being also the Northerly corner of Lot 1, Kahana Hui Subdivision, the coordinates of said point of beginning referred to Government Survey Triangulation Station "MANINI" being 15,201.02 feet North and 9,484.08 feet West and running by azimuths measured clockwise from True South:

1. 122° 44' 30" 29.40 feet along Honoapiilani Highway [F.A.P. RF-030-1(5)];
2. 192° 30' 43" 151.67 feet along Honoapiilani Highway [F.A.P. RF-030-1(5)];
3. 180° 01' 56" 101.65 feet along Honoapiilani Highway [F.A.P. RF-030-1(5)];
4. 290° 00' 20" 752.03 feet along the remainder of Grant 1166 to D. Baldwin, J.F. Pogue & S.E. Bishop;
5. 20° 00' 20" 403.56 feet along the remainder of Grant 1166 to D. Baldwin, J.F. Pogue & S.E. Bishop;
6. 122° 44' 30" 685.72 feet along Lots 3, 2 and 1, Kahana Hui Subdivision to the point of beginning and containing an area of 5.316 Acres.



R. T. TANAKA ENGINEERS, INC.


Registered Professional Surveyor
Certificate No. 1754

871 Kolu Street, Suite 201
Wailuku, Hawaii 96793

August 6, 1991

EXHIBIT "1"

EXHIBIT "2"

The development of the Property shall be subject to the conditions, covenants and restrictions of an affordable housing agreement as approved by the Council of the County of Maui and executed pursuant to the affordable housing provisions of the Maui County Code, as amended, the obligations of which shall be satisfied within 5 years from the effective date of this agreement.

The Declarant agrees to enter into an agreement to participate with the Department of Water Supply in the construction of a water transmission line prior to the development of the proposed project.

END OF EXHIBIT "2"