

Transmittal Memorandum

TO : Honolulu City Council
Chair Ernest Martin
Vice Chair Ikaika Anderson

FROM : Calvert G. Chipchase

DATE : June 5, 2012

RE : Resolution 12-124, CD 1

RECEIVED
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CITY CLERK
HONOLULU, HAWAII

We are sending you the following:

REMARKS:

Please see the attached written testimony from Calvert Chipchase on behalf of the Mun family in opposition to Resolution 12-124, CD 1, which proposes to abandon and convey a portion of Kalia Road.

Please call 521-9220 if you have any questions.

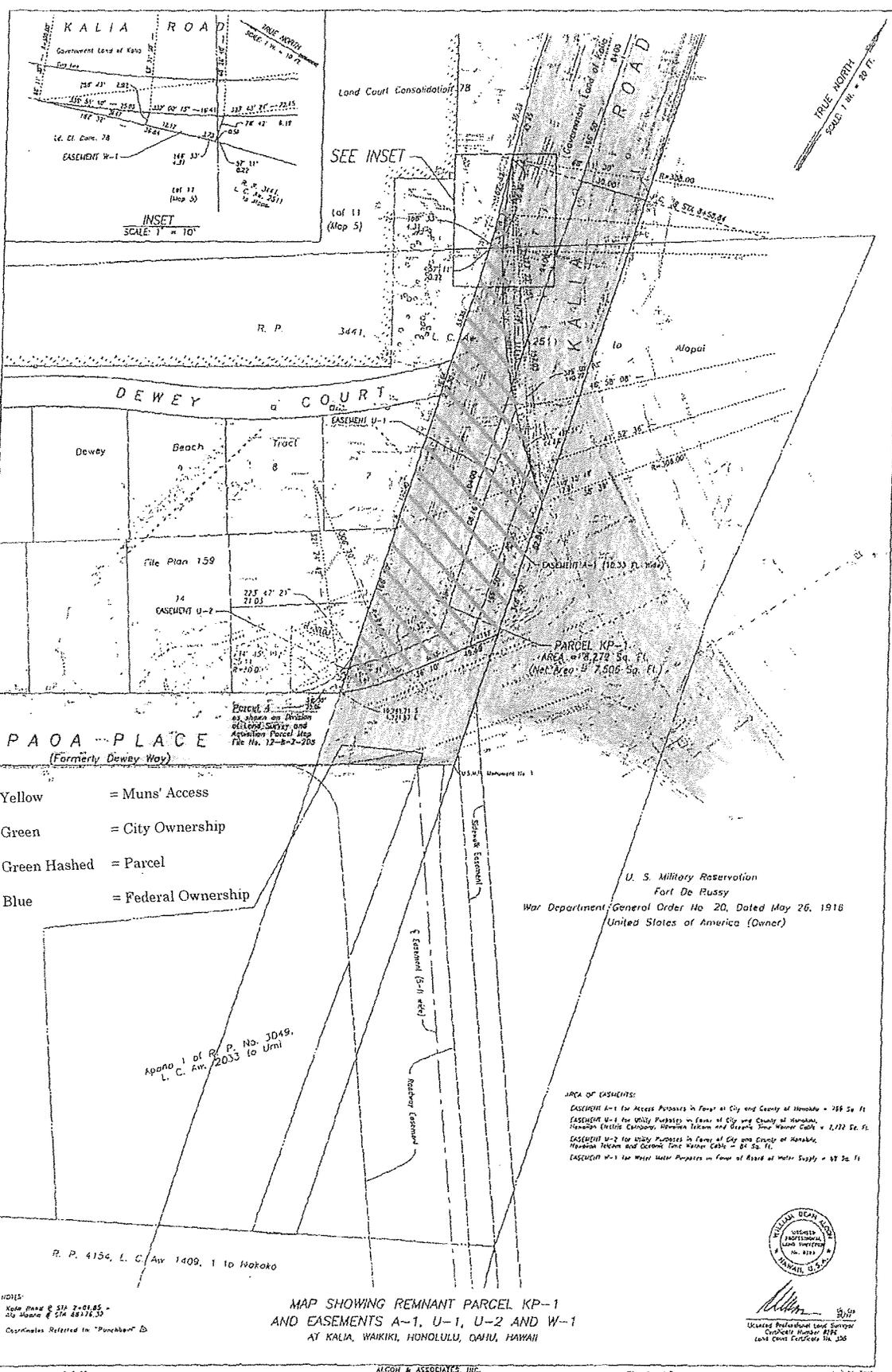
Thank you.

Testimony in Opposition to Resolution 12-124, CD 1

- Resolution 12-124, CD1 would sell to Hilton Hawaiian Village the only legally guaranteed vehicular routes from the Muns' property located on Paoa Place and Dewey Court to Ala Moana Boulevard.
- The Muns' property currently has two legal vehicular access routes to Ala Moana Boulevard: The first route is along Paoa Place to Kalia Road and then to Ala Moana; the second route is along Dewey Court to Kalia Road and then to Ala Moana. A map showing these routes is attached as Exhibit A.
- Selling Kalia Road to Hilton would cut off both access routes and leave the Mun family without guaranteed legal access to their property.
- Hilton previously promised the Council that it would preserve the Muns' access rights:

Hilton will grant the Muns an access easement across the Remnant Parcel. Under this arrangement, if the Federal Government ever shut down Kalia Road such that access from Kalia Road to Paoa Place was not allowed, then Hilton would pay for and construct **an access road** over the Remnant Parcel in order to connect Kalia Road to Paoa Place. (A copy of Hilton's written assurance is attached as Exhibit B.)

- Contrary to Hilton's pledge, Resolution 12-124, CD1 reserves nothing for the Muns and only a 10.33-foot wide easement for the City. Assuming the Muns would have the benefit of the City's easement, a 10-foot easement is totally inadequate for an access road. The basic subdivision standard for an access road is 20 – 24 feet wide. Even an alley has to be 18-feet wide.
- The Muns are not willing to lose their legal access routes. Current access along Paoa Place and then over federal land at Fort DeRussy is not legal access. Despite the Muns' requests, neither the City nor the federal government can provide any document showing that the City has been granted permanent public access over the federal land.
- Even if the federal government were to grant permanent access from Paoa Place, the City cannot cut off the Muns' second legal access route over Dewey Court by selling the abutting public road to a private party.
- If the City persists in selling the road over the Muns' objection, the City must also offer the road to the Muns, who own a perpetual easement abutting the road, in order for the Muns to preserve their access rights. Thus far, the City has failed to do so.
- The Muns invoke their rights as abutters and, if the City persists in selling the road, agree to purchase it for the stated sale price of \$1,250,000.
- By copy of this written testimony, the Department of Budget and Finance is requested to terminate its efforts to sell the road remnant and to provide notice of all communications and actions concerning that road to the Muns.



NOTES:
 Kala Road & S.W. 2nd E.S. -
 City of Honolulu & S.W. 2nd E.S. -
 Court Records Referred to in "Punchboard" D

MAP SHOWING REMNANT PARCEL KP-1
 AND EASEMENTS A-1, U-1, U-2 AND W-1
 AT KALIA, WAIKIKI, HONOLULU, OAHU, HAWAII

ACCOB & ASSOCIATES, INC.
 ENGINEERS - SURVEYORS
 716 KUIA STREET, SUITE 250
 HONOLULU, HI 96813

Exhibit A



U.S. Military Reservation
 Fort De Russy
 War Department General Order No. 20, Dated May 26, 1918
 United States of America (Owner)

AREA OF EASEMENTS:
 EASEMENT A-1 for Access Purposes in Force at City and County of Honolulu = 255 Sq. Ft.
 EASEMENT U-1 for Utility Purposes in Force at City and County of Honolulu,
 Honolulu Electric Company, Telephone Traction and Electric Trolley Power Cable = 2,122 Sq. Ft.
 EASEMENT U-2 for Utility Purposes in Force at City and County of Honolulu,
 Hawaiian Traction and Electric Trolley Power Cable = 84 Sq. Ft.
 EASEMENT W-1 for Water Mains Purposes in Force at Board of Water Supply = 87 Sq. Ft.



HILTON HAWAIIAN VILLAGE, LLC
SMA / PD-R APPLICATIONS
UPDATE RE MUN FAMILY ISSUES
November 8, 2011

OVERVIEW

Following the Council Zoning and Planning Committee meeting on October 10th, Hilton has had numerous discussions and meetings with the Muns and their attorneys to attempt to resolve the various issues raised by the Muns. Hilton has also made its principal architect for the project, Norman Hong at Group 70, available to the Muns for consultation. While there appears to be conceptual agreement for how to solve the access issues raised by the Muns, the "single zoning lot" issue remains open. The Muns are asking Hilton to resolve all the challenges they face concerning developability of their parcel as a condition to supporting Hilton's applications. Hilton believes the Muns are over-reaching and is not willing to be coerced into solving the Muns' development problems as part of the lease renewal process. Hilton further believes this is a private matter to be resolved in lease renegotiations and that it should not be used as leverage by the Muns to slow down Hilton's permit application process.

SPECIFIC ISSUES (*See Map attached*)

- 1) Remnant Parcel - The Muns expressed concern that if the City conveys the Remnant Parcel to Hilton, then the Mun Parcel could be land locked if the Federal government were for some reason to shut down the federally-owned portion of Kalia Road. While Hilton believes this is a highly remote outcome, in order to address this concern Hilton has informed the Muns that Hilton will grant the Muns an access easement across the Remnant Parcel. Under this arrangement, if the Federal Government ever shut down Kalia Road such that access from Kalia Road to Paoa Place was not allowed, then Hilton would pay for and construct an access road over the Remnant Parcel in order to connect Kalia Road to Paoa Place. Hilton prepared a draft easement document and provided it to the Muns' attorney (Gino Gabrio) for review. Mr. Gabrio reacted favorably to the initial draft. There is some technical language remaining to be worked out between the attorneys, but there is conceptual agreement. (A courtesy copy of the draft easement document is attached for your information)
- 2) Dewey Court - Hilton took title to Dewey Court in 1978 when it received a deed to Dewey Court from the remaining heir of Harry Culman, deceased. Prior to 1978, the Muns, Hilton and Ms. Taran all held paper access easements over Dewey Court and Dewey Court connected to Kalia Road. (Dewey Court has not been used for actual access to Kalia Road for many decades). After the Federal Government realigned Kalia Road almost 20 years ago, Dewey Court no longer connected to Kalia Road. Accordingly, Hilton believes that the purpose of the access easement was frustrated, and that the access easement terminated as a matter of law. Nevertheless, in an effort to resolve this issue, Hilton has offered to relocate Dewey Court to a mutually agreeable location East (Diamond Head) of its existing location. (*See Map*). The Muns expressed initial favorable reaction to the relocated Dewey Court. Hilton believes that by agreeing to move Dewey Court any concerns the Muns may have had about accessing Kalia Road



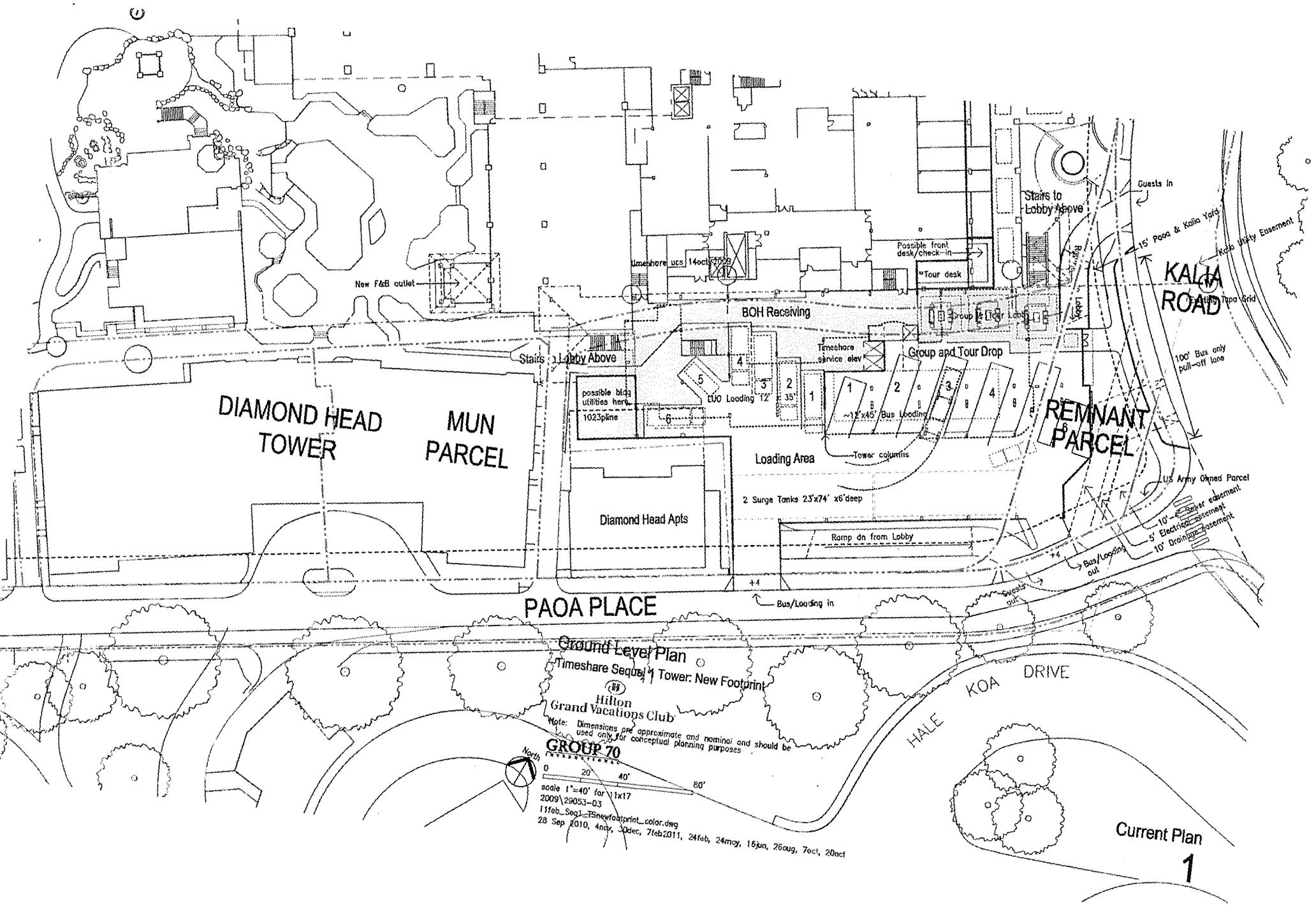
over Dewey Court should be resolved. (Three maps, one showing the current plan, and two maps showing alternate possible locations for moving Dewey Court, are attached for your information).

- 3) Paoa Place - The City is considering requiring Hilton to acquire Paoa Place as a condition of Hilton acquiring the Remnant Parcel. The Muns do not want Hilton to acquire Paoa Place as they do not believe it is appropriate for a private party to take title to a public road. Hilton and the Muns are in alignment on this issue, as Hilton does not want to own Paoa Place. The City has suggested that Paoa Place primarily serves Hilton. However, Hilton recently conducted a traffic survey and determined that it is responsible for only about 1/3 of the vehicular and pedestrian traffic along Paoa Place, and that approximately 2/3 of that traffic is associated with Fort DeRussy and the general public. Moreover, Hilton believes that requiring Hilton to acquire Paoa Place would create substantial delays in the project, and potentially be a practical impossibility to complete. Hilton is in active discussions with DPP in an effort to demonstrate that Hilton should not be required to obtain Paoa Place as a condition to acquiring the Remnant Parcel. Moreover, even if Hilton is forced by the City to acquire Paoa Place, then Hilton has informed the Muns that it is willing to grant access easements across Paoa Place to the Muns so that the Muns are assured their parcel will continue to enjoy access to Paoa Place. (A traffic survey count summary and anticipated schedule concerning Paoa Place acquisition are attached for your information).

- 4) Lease Renegotiation / Single Zoning Lot - Hilton's ground lease for the Mun Parcel is scheduled to expire on December 31, 2012 (approximately thirteen and one half months from now). The Muns have expressed concern that, if the lease renewal negotiations are not successful with Hilton, the Muns' parcel would have to stand on its own as a single separate zoning lot without provisions for meeting parking, access, and other zoning requirements. It is Hilton's understanding that the DPP has viewed the Mun Parcel as part of the Hilton Hawaiian Village since the time the Diamond Head Tower was constructed over the Hilton and Mun parcels in the early 1960's. Hilton also understands that DPP may view the Mun Parcel as part of a single zoning lot with HHV even if the lease between Hilton and the Muns is not renewed, and that the Muns would have to take affirmative action to remove their lot from the single zoning lot. The Muns have informed Hilton that, if Hilton agrees to solve the lot's development challenges for the Muns by providing the Muns with parking in the Hilton garage, and utility and access easements over the Hilton Hawaiian Village campus, then the Muns will support Hilton's SMA / PD-R applications. While Hilton is optimistic that the lease renegotiations will ultimately be successful, Hilton is not amenable to granting such provisions, which HHV is not legally obligated to provide, which significantly increase the value of the Muns' property, and which could allow the Muns to lease the property to a competitor of Hilton to operate the property as an independent hotel. Stated simply, Hilton will not be coerced to provide the Muns additional rights in return for their support of Hilton's permit applications. From Hilton's understanding, this is the one issue that remains unresolved with the Muns. Hilton also believes that this issue is only between the respective property owners, is not an issue to be addressed by DPP, and should not affect the current PD-R/SMA process going forward.

Attachments:

Maps (x3) (current plan; Dewey Court Alternative 1; Dewey Court Alternative 1A)
Draft Easement document
Traffic count study for Paoa Place
Projected Timeline for Acquisition of Paoa Place



DIAMOND HEAD TOWER
MUN PARCEL

REMNANT PARCEL

Diamond Head Apts

PAOA PLACE

HALE KOA DRIVE

Ground Level Plan
Timeshare Sequel Tower: New Footprint
Hilton Grand Vacations Club

Note: Dimensions are approximate and nominal and should be used only for conceptual planning purposes.

GROUP 70



0 20 40 80'

scale 1"=40' for 11x17

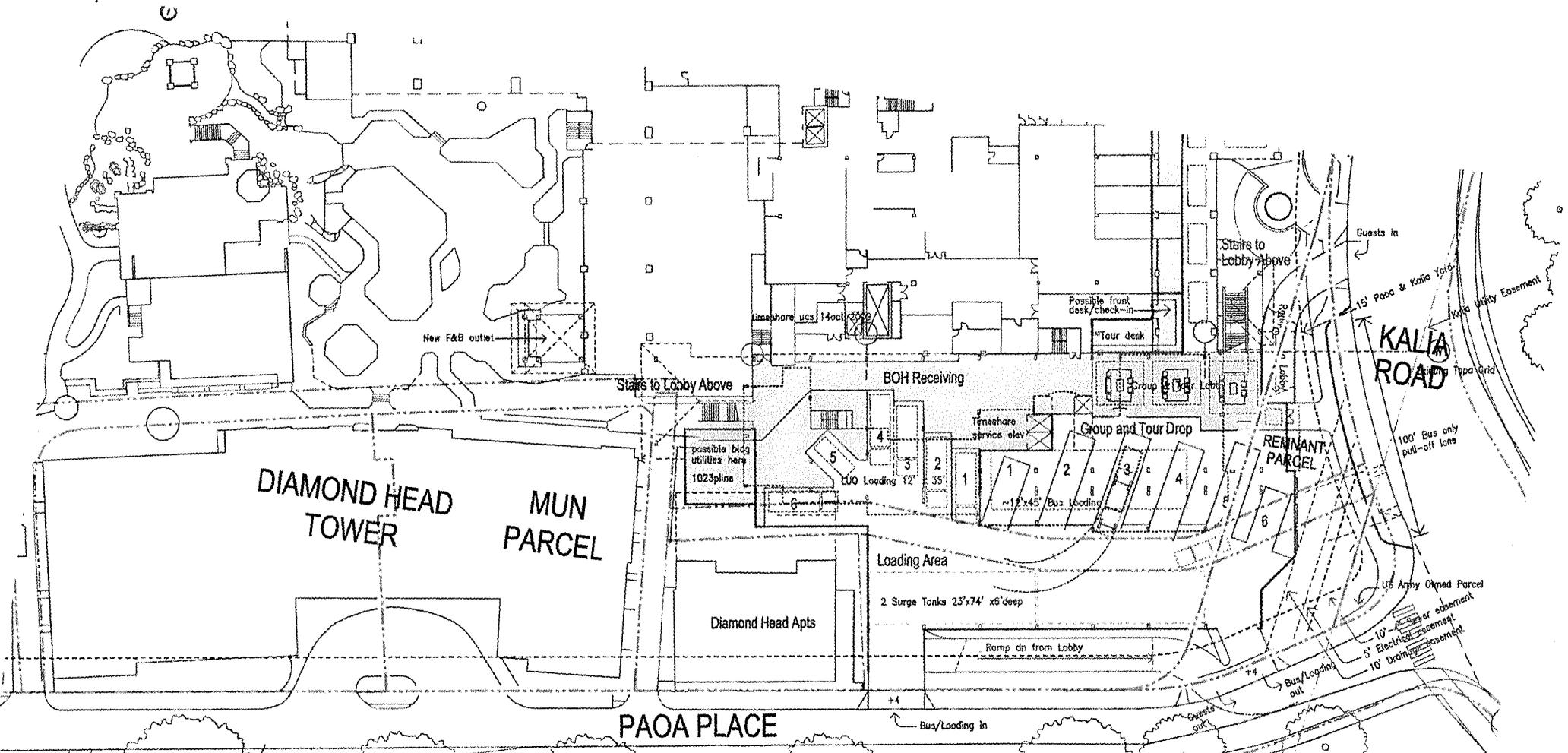
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28 Sep 2010, 4ndy, 30dec, 7feb2011, 24feb, 24may, 16jun, 26aug, 7oct, 20oct

Current Plan

1



DIAMOND HEAD TOWER
MUN PARCEL

Stairs to Lobby Above

BOH Receiving

Group and Tour Drop

REMNANT PARCEL

possible bldg utilities here 1023pline

120 Loading 12'

Loading Area

Diamond Head Apts

2 Surge Tanks 23'x74' x6'deep

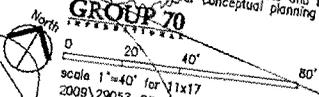
Ramp dn from Lobby

PAOA PLACE

Bus/Loading in

Ground Level Plan
Timeshare Sequel Tower: New Footprint
Hilton Grand Vacations Club

Note: Dimensions are approximate and nominal and should be used only for conceptual planning purposes.
GROUP 70



scale 1"=40' for 11x17
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28 Sep 2010, 4nov, 30dec, 7feb2011, 24feb, 24may, 16jun, 26aug, 7oct, 20oct

HALE KOA DRIVE

Dewey Court Easement Relocation
Alternate 1

KALIA ROAD

Guests in

Stairs to Lobby Above

Possible front desk/check-in
Tour desk

15' Paoa & Kalia Topog

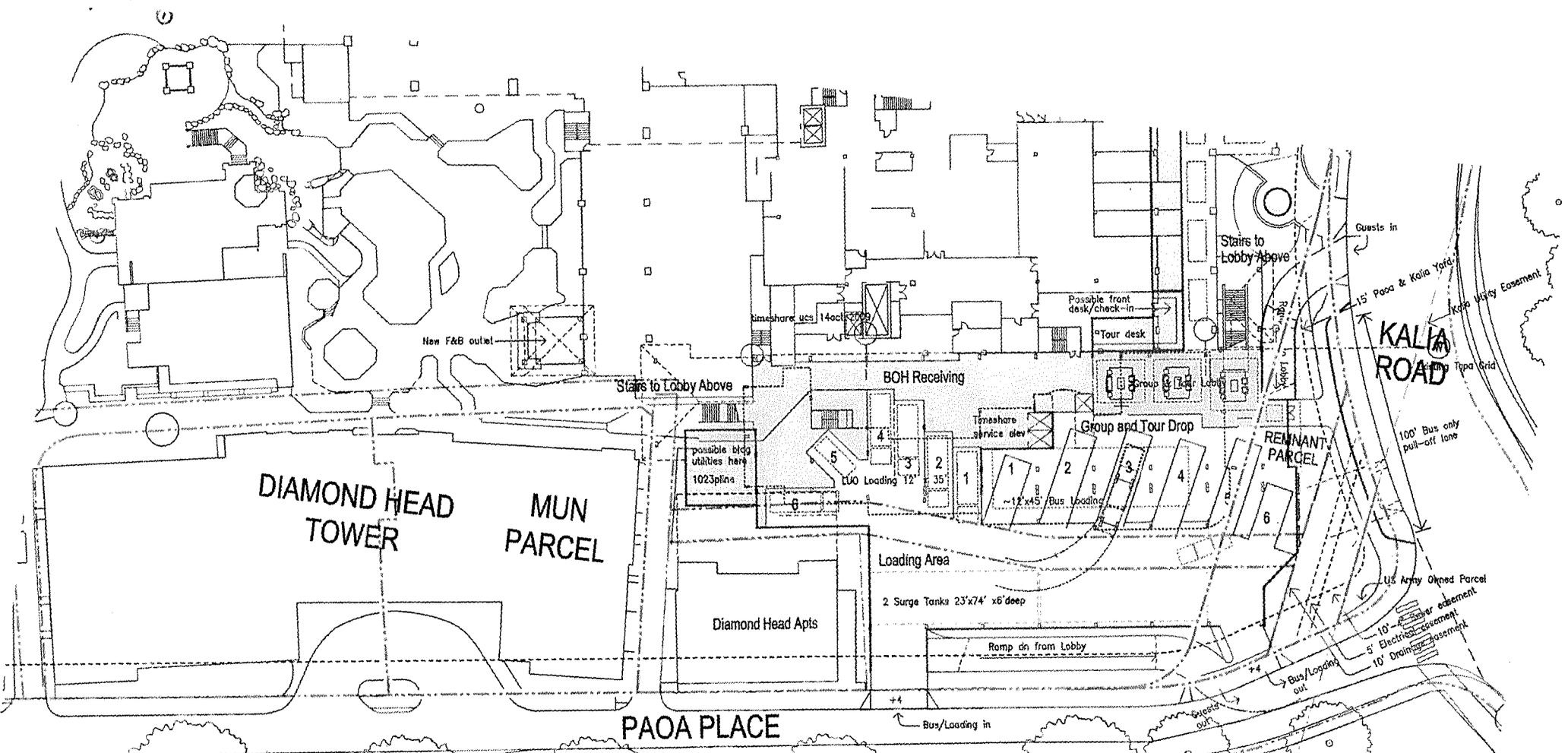
Kalia Utility Easement

100' Bus only pull-off lane

US Army Owned Parcel

10' Over easement
5' Electrical easement
10' Drainage easement

Bus/Loading out



DIAMOND HEAD TOWER
MUN PARCEL

possible bldg utilities here
1023plina

BOH Receiving

Group and Tour Drop

REMNANT PARCEL

Diamond Head Apts

Loading Area

2 Surge Tanks 23'x74' x6' deep

Ramp on from Lobby

PAOA PLACE

KALIA ROAD

Ground Level Plan
Timeshare Sequel Tower. New Footprint

Hilton
Grand Vacations Club

Note: Dimensions are approximate and nominal and should be used only for conceptual planning purposes.

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0 20' 40' 80'

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28 Sep 2010, 4nov, 30dec, 7feb2011, 24feb, 24may, 16jun, 28aug, 7oct, 20oct

Dewey Court
Easement Relocation
Alternate 1A