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Beryl Blaich Mālama Māhā'ulepū

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> Grand Hyatt Kaua`i Resort & Spa Malama Māhā'ulepū, Sierra Club Captain Andy's Sailing Adventure

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Sam Lee Kōloa resident

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Saburo Yoshioka Kukuiolono Community Association

Members of the Lāwa'i Kai Community Advisory Group who joined in the 2^{nd} quarter of 2012 include:

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Hawaii

Wayne Katayama Kaua'i Coffee

Kurt Matsumoto Kukui'ula Development Company

Hawaii

Robert Miguel Kikui'ula Development Company

Hawaii

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Betty Snowden

Robert Nishimoto

Skippy Hau

Dunk, Aquatic Resources

Dunk, Boating and Recreation

Tommy Oi DLNR, Land Division
Kate Kastner Historic Hawai'i Foundation

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Director

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Cynthia Hunter University of Hawai'i, Biology

Department

Michael H. Kido University of Hawai'i, Hawai'i

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Stephanie Kreiger Researcher Matt Rossner Hydrologist

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Richard E. Hanna NTBG, Librarian Nadine Nakamura NKN Project Planning

Barbara Robeson Researcher

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17.0 APPENDICES

- A. Letter of Authorization from the Allerton Gardens Trust to the Department of Land and Natural Resources
- B. Management Plan: Goals and Objectives
- C. Proposed Rules for the Commercial and Public Recreational Vessels Using the Lāwa'i Kai Bay
- D. Proposed Rules for the Unencumbered Public Lands of Lāwa'i Kai Beach
- E. User Surveys and Methodology
- F. Preservation Planning for Historic Resources

Appendix A

J.P.Morgan

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October 21, 3009

Mr. Chapper Wichman, Director and CEGs National Tropical Botannial Garden 3530 Papulma Road Kadatoo, HJ 96741

Don't Mr. Wichman)

Subject: Läwa' i Kai Special Subzone Muster Plan & Management Plan. Läwa' i, Naua' i, Hawai i

As the Trustee of the Alienton Guideon Trust (AGT), greater of Alienton Guideo (cultimor), Katar's, Harval's, on TMKs (4) 2-6-600 percets; 001, 004, 005, 006, 007, 004, and 009 which property totals \$7.51 acres, I beeply authorize the Namonal Tropical Botancial Guideo (NTBC) to serve as the agent of AGT before the State of Haver's Department of Land and National Resources and the Country of Kasar's to change the State Conservation District authorize designation for the Alienton Guideo from the country Limited Subscene designation to the proposed Limiter's Kas Special Subscene designation.

Figure do not limitate to contain me of you have any questions concerning this authorization.

Smorrely

Timothy Flee attacks

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Appendix B

MANAGEMENT PLANS: Goals and Objectives Summary

HISTORIC RESOURCES

Goal 1	Protect and preserve the historic resources of the Lāwa'i Kai Special Subzone
Objective 1.1	Create Interpretation Plan for historical resources
Objective 1.2 Objective 1.3	Evaluate the possible nomination to State & National Registers of Historic Places Consider feasibility of designation as a Cultural Landscape
Objective 1.3 Objective 1.4	Develop Historic Preservation Plan for Allerton Garden
Objective 1.4 Objective 1.5	Update Disaster Management Plan to include preservation component
Objective 1.6	Maintain and repair historic structures
	LANDSCAPE RESOURCES
Goal 1	Preserve garden resources consistent with the historic Allerton Garden design
Objective 1.1	Develop a written safety plan and communicate procedures to appropriate staff and volunteers
Objective 2.1	Maintain an adequately-sized, trained, and knowledgeable workforce to maintain the historic integrity of the Garden
Objective 2.2	Maintain historic integrity and plant materials within the Garden
Objective 2.3	Stabilize and protect topography in areas prone to soil erosion and runoff using Best Management Practices (BMP)
Objective 3.1	Map, inventory, and document existing garden resources
Objective 3.2	Inventory and document vegetative features and their historic context
Objective 4.1	Minimize the visual impacts from adjacent developments
Goal 2	Preserve the integrity of the historic landscape by controlling alien animals
Objective 5.1	Exclude the pig population and other ungulates within the Lāwa'i Kai Special Subzone
Objective 5.2	Reduce or remove feral cat and dog populations
Objective 5.3	Reduce or remove chickens within the Garden area
Objective 5.4	Reduce or eliminate rat population
	INFRASTRUCTURE RESOURCES
Goal 1	Stabilize and improve the infrastructure to preserve the historic Allerton Garden
Objective 1.1	Upgrade tool sheds wastewater system
Objective 1.2	Upgrade guest house wastewater system
Objective 2.1	Maintain roadway surfaces and paths as funding permits
Objective 2.2	Improve roadway surfaces and paths as funding permits
Objective 2.3	Consider feasibility of rebuilding stream crossing/bridge in historical location to accommodate maintenance vehicles and pedestrians
Objective 3.1	Explore feasibility of changing water features to a closed loop system
Objective 3.2	Determine ways to improve the system for water features
Objective 3.3	Explore ways to prevent leakage while preserving the historical integrity of water features

Objective 4.1	Examine alternative sources of potable water from the east and west sides of Lāwa'i Valley
Objective 4.2	Upgrade existing water system if no alternatives are available
Objective 5.1	Improve the Pump 6 water system
Objective 5.2	Consider ways to separate the irrigation system from the water features system
Objective 5.3	Design and install a more efficient water distribution system
Objective 5.4	Analyze ways to become more energy efficient and explore us of renewable energy
	for powering Pump 6
Objective 6.1	Finalize a permanent vehicular access from Visitor Center over KDCH property
Objective 6.2	Explore the feasibility of installing a fence on the east and west sides of the Garden
Objective 7.1	Maintain and preserve rock walls and steps as funding permits
Objective 7.2	Study new routing of electrical and telephone lines

ARCHAEOLOGICAL RESOURCES

Goal 1	Protect and Preserve the Archaeological Sites within Allerton Garden
Objective 1.1	Continue to provide access to the sites for traditional and cultural uses by lineal descendents
Objective 2.1	Continue to implement maintenance plan for Allerton Garden
Objective 2.2	Manage human activity on the beach through adoption of rules
Objective 3.1	Include identified archaeological resources if Allerton Garden is nominated to the State and National Registers of Historic Places
Objective 3.2	Explore funding opportunities and collaborations with independent researchers, graduate students, and cultural preservation groups
Objective 3.3	Develop an Archaeological Preservation Plan for identified archaeological sites
Objective 3.4	Develop interpretive plan and materials on the pre-contact history of Lāwa'i Valley that are consistent with State Historic Preservation Office guidelines

LĀWA'I ESTUARY AND STREAM RESOURCES

Goal 1	Improve water quality & ecological health of $L\bar{a}$ wa'i Kai estuary, stream, and coastal waters.
Objective 1.1	Develop baseline data and monitor water quality in stream and estuary
Objective 1.2	Develop Best Management Practices for bank management within the project area along stream corridor
Objective 1.3	Contain and control non-native vegetation within the Garden area. Monitor for invasive trends and remove invasives
Objective 1.4	Educate the public about the benefits of using BMPs for the ecological restoration of estuary and bay
Objective 1.5	Maintain the natural connection (sandbar) between the estuary and stream
Objective 1.6	Delineate wetland areas
Objective 1.7	Consider feasibility of hardening earthen roads with permeable surfaces within the project area
Objective 1.8	Explore feasibility of fishpond restoration
Coal 2	Pastone and protect native agreetic species in 1 7 was Vai Estram and Stream

Goal 2 Restore and protect native aquatic species in Lāwa'i Kai Estuary and Stream

Objective 2.1 Manage and reduce the number of alien aquatic species such as guppies, tilapia, Tahitian prawn, Samoan crab

Objective 2.2 Improve natural habitat in stream and estuary to allow for the recruitment and return

of native species. Explore the establishment of permanent in-stream flow minima to maintain aquatic habitats through drought conditions, in cooperation with other

landowners in the watershed

COASTAL AND MARINE RESOURCES

Goal 1	Restore native coastal ecosystem on Lāwaʻi Kai Beach
Objective 1.1	Assist State and Federal agencies in tracking and monitoring green sea turtle activities, habitat, and populations
Objective 1.2	Improve and maintain nesting habitat for green sea turtles
Objective 1.3	Ban nighttime lighting on beach and coastal areas
Objective 1.4	Eliminate maintenance vehicle tracks on beach
Objective 2.1	Maintain Lāwa'i Kai as a safe haven for monk seals
Objective 3.2	Reduce or remove feral cat populations (same as Landscape Resource Plan, Objective 5.2)
Goal 2	Educate the public about the unique resources and ecosystem of Lāwa'i Kai Beach and Bay
Objective 4.1	Train staff, tour guides, and volunteers to educate the public
Goal 3	Improve the marine resources of Lāwaʻi Kai Bay
Objective 5.1	Improve the marine habitats in Lāwa'i Kai Bay for feeding, resting, and reproduction of resource species.
Objective 5.2	Gather and record traditional knowledge of cultural practices of the area.

RECREATION AND COMMERCIAL

Goal 1	anage recreational and commercial activities at Lāwa`i Kai Beach and Bay			
Objective 1.1	Create the Lāwa'i Kai Special Subzone to encourage an integrated resource management approach			
Objective 1.2	Manage human activity on the beach through adoption of rules			
Objective 2.1	Ban nighttime lighting on beach and coastal area			
Objective 3.1	Form the Lāwa'i Kai Resource Advisory Committee to create a strong relationship between the community and the DLNR			
Objective 3.2	Establish a "Makai Watch" program for coastal and marine resources			
Objective 4.1	Maintain numbers of motorized and non-motorized activity at existing levels.			

Appendix C

STATE OF HAWAII HAWAI'I ADMINISTRATIVE RULES TITLE 13

DEPARTMENT OF LAND AND NATURAL RESOURCES
SUBTITLE 11

OCEAN RECREATION AND COASTAL AREAS

PART 3

OCEAN WATERS, NAVIGABLE STREAMS AND BEACHES
CHAPTER 256

OCEAN RECREATION MANAGEMENT RULES

AMEND SUBCHAPTER 3

SOUTH SHORE KAUA'I OCEAN RECREATION MANAGEMENT AREAS §13-256-57 Lawai Kai Bay ocean waters restricted area

§13-256-57 <u>Lawai Kai Bay ocean waters restricted zones.</u>

- (a) <u>Purpose:</u> The purpose of these rules is to (1) protect and preserve the natural environment and unique experience of Lawai Kai Bay ocean waters within the Special Subzone area, (2) continue the existing levels of public recreational and commercial uses of Lawai Kai Bay ocean waters, and (3) protect and preserve the habitats of the green sea turtle and Hawaiian monk seal within the Special Subzone.
- (b) Definitions:

"Lawai Kai Bay ocean waters" mea	ns all ocean waters within the Lāwa'i
Kai Special Subzone area ar	nd confined by the boundaries shown
on Exhibit "X" dated	, located at the end of this subchapter
and described as follows:	

[DLNR to add legal description]

"Ingress/Egress Corridor" means the area established daily by the users of the corridor to determine the best direction for approach to or departure from the shoreline under existing wind and sea conditions.

- (c) Zone A, Lawai Kai Bay ocean waters.
 - (1) Zone A, Lawai Kay Bay ocean waters means the ocean waters confined by the boundaries for said zones as shown on Exhibit X, dated _____, located at the end of this subchapter. The boundaries of Zone A are as follows:

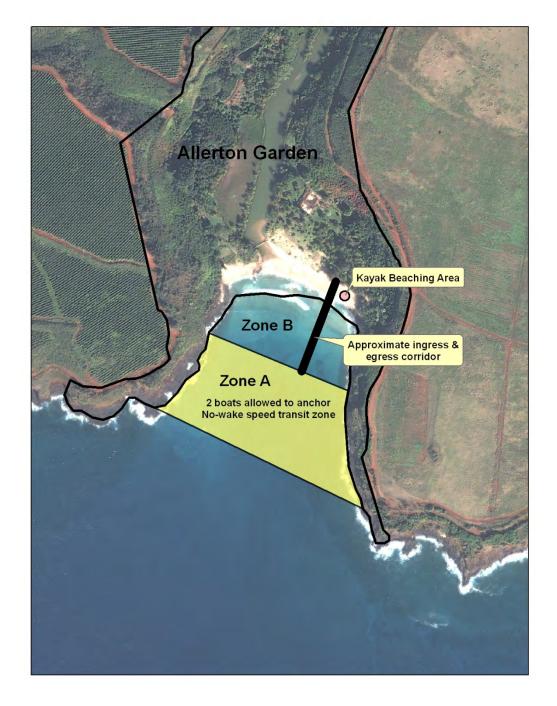
 [DLNR to add legal description]
 - (2) General restrictions. Zone A, Lawai Kai Bay ocean waters.
 - (a) In addition to all federal, state, and county laws, rules, and ordinances, the following restrictions shall apply to all activities in Lāwa'i Kai Bay ocean waters.
 - (b) All recreational and commercial motorized vessels operating, anchoring, or transiting Lawai Kai Bay ocean waters are restricted to Zone A, and are prohibited from landing on the beach.
 - (c) No commercial vessel shall load or unload passengers in Lāwa'i Kai Bay ocean waters or the lands adjacent thereto without a Special Management Area permit first issued by the County of Kaua'i, and then a permit issued by the Department of Land and Natural Resources.
 - (d) No person shall operate a vessel at a speed in excess of "slow-no-wake" speed within Zone A.
 - (e) No person shall navigate a motorboat or self-propelled vessel within three hundred feet of a diver or swimmer's buoy, flag or other safety marker.
 - (f) No more than two motorized vessels shall be permitted to anchor within Zone A at any given time.

- (g) Anchoring in Lāwa'i Kai Bay ocean waters shall be restricted to the sandy bottom area only.
- (h) No motorized vessels shall anchor for more than two (2) hours within Zone A.
- (i) All thrillcraft and jet skis are prohibited within the Lawai Kai Bay ocean waters.
- (j) Fishing is prohibited within Zone A and Zone B. This restriction shall not apply to non-motorized vessels engaged in small scale surround net fishing, ¹ pole fishing or crabbing.
- (3) <u>Commercial vessel restrictions. Zone A, Lawai Kai Bay ocean</u> waters.
 - (a) Commercial motorized vessels are restricted to Zone A only.
 - (b) Passengers on commercial motorized vessels are restricted to Zone A for swimming, snorkeling, scuba other waterbased activities, and walking along the western coastline, and prohibited from swimming to Lawai Kai Beach from Zone A.
 - (c) Commercial non-motorized vessels with valid State of Hawaii, Department of Land and Natural Resources, Division of Boating and Ocean Recreation (DBOR) permits shall:
 - i. Land on Lawai Kai Beach only by transiting through
 Zone A and the designated Ingress/Egress corridor.
 - ii. Not be permitted beyond Zone A or to land on the beach during turtle nesting season May 1 through September 30. These dates may be adjusted to earlier than May 1, or later than September 30 if green sea turtles are found nesting in the area.

¹ Surround net fishing refers to the cultural and traditional practice of using a small vessel to catch fish by surrounding the school of fish, then gathering the fish within the net.

- (4) <u>Recreational vessel restrictions. Zone A, Lawai Kai Bay ocean</u> waters.
 - (a) Motorized recreational vessels are restricted to Zone A.
 - (b) Recreational non-motorized vessels shall not be permitted beyond Zone A or to land on the beach on unencumbered public lands during turtle nesting season May 1 through September 30. These dates may be adjusted to earlier than May 1, or later than September 30 if green sea turtles are found nesting in the area.
- (d) Zone B, Lawai Kai Bay ocean waters.
 - (1) Zone B, Lawai Kay Bay ocean waters mean the ocean waters confined by the boundaries for said zones as shown on Exhibit X, dated _____, located at the end of this subchapter. Zone B includes an Ingress/Egress corridor. The boundaries of Zone B are as follows:
 - [DLNR to add legal description]
 - (2) Zone B, Ingress/Egress corridor. The Ingress/Egress corridor is the area established daily by the users of the corridor to determine the best direction for approach to or departure from the shoreline under existing wind and sea conditions. The Ingress/Egress corridor is restricted to non-motorized vessels only.
- (e) <u>General restrictions, Zone B, Lawai Kai Bay ocean waters.</u>
 - (1) All federal, state, and county laws, rules, and ordinances shall apply to all activities in Lāwa'i Kai Bay ocean waters.
- (f) <u>Exempted activities</u>, <u>Lawai Kai Bay ocean waters</u>.
 - (1) Exempted commercial uses in Zone A include snorkeling, scuba, and other water-based activities, and shall be limited to daylight hours and must be accompanied by proper buoys, flags, and markers, identifying them for safety reasons.

(2) Exempted recreational uses in Zone A and Zone B include snorkeling, scuba, spear fishing and other water-based activities, shall be limited to daylight hours, and must be accompanied by proper buoys, flags, and markers, identifying them for safety reasons.



Proposed Lāwa'i Kai Bay ocean waters restricted area.

Appendix D

HAWAI'I ADMINISTRATIVE RULES TITLE 13 DEPARTMENT OF LAND AND NATURAL RESOURCES SUB-TITLE 10 LAND MANAGEMENT CHAPTER 221 UNENCUMBERED PUBLIC LANDS

AMENDMENT: Add Subchapter, Lāwa'i Kai Unencumbered Public Lands (DLNR)

SUBCHAPTER X GENERAL PROVISIONS

§ 13-221-1 History. The Lāwa'i Kai Special Subzone was established in _____.

These unencumbered public lands are regulated by the Department of Land and Natural Resources Administrative Rules 13-5. The Special Subzone is in the Conservation District, and includes the Lāwa'i Kai Bay, Lāwa'i Kai Beach, and the National Tropical Botanical Garden's Allerton Garden properties. [NOTE: possible revisions after adoption of the Lāwa'i Kai Special Subzone and signing of revised 13-5 by Governor]

The objective of the Special Subzone is to provide for areas possessing unique developmental qualities which complement the natural resources of the area. The beach and shoreline areas are well-documented nesting and hatching area for threatened Green Sea Turtles (Honu • Chelonia mydas) and hauling out area for the endangered Hawaiian Monk Seal (Monachus schauinslandi). The nesting and hatching season for the turtles runs annually between May through October. Monk

seals² have been observed year round, hunting for fish, especially the *moi*, in the sandy waters, and occasionally hauling out.

§ 13-221-2 <u>Purpose</u>. The purpose of this chapter is to control public activities on unencumbered public lands. The unencumbered public lands specific to this chapter include the beach and shoreline areas within the Lāwa'i Kai Special Subzone area.

§ 13-221-3 <u>Definitions</u>.

"Lāwa'i Kai Unencumbered Public Lands" means the land area confined by the boundaries for said zone as shown in Exhibit X, dated ____ [to be determined by the DLNR].

"Turtle Nesting Area" means the restricted area around a nest that has been dug that season, between the high tide mark and the inland boundary of the Lāwa'i Kai Special Subzone Unencumbered Public Land Area.

"Unencumbered public lands" means any lands defined as public lands by section 171-2, HRS, and which have not been:

- (1) Set aside for any purpose, by statute, executive order or otherwise, to a government agency, or
- (2) Encumbered by lease, license, permit, easement or otherwise issued by the department.³

Unencumbered public lands include, but are not limited to, beach and coastal areas, submerged lands, and mountainous non-forest reserve, wildlife, or park areas.

_

² Monk Seals are protected by the Marine Mammal Protection Act of 1972 (MMPA) and further protected by the Endangered Species Act of 1973 (ESA) and under Hawai'i State Law.

³ 13-221-2, Definitions also states that unencumbered public lands include, but are not limited to, beach and coastal areas, submerged lands, and mountainous non-forest reserve, wildlife, or park areas (hereinafter called the "premises".

- § 13-221-4 <u>Permitted Uses and Activities</u>: (a) Public recreational activities such as sun bathing, recreational swimming, boarding activities, pole fishing, throw net fishing, diving, spear-fishing, and other water-based uses are all permitted.
 - (b) Non-motorized recreational vessels may land on the unencumbered lands of the beach or coastal areas within the Lāwa'i Kai Special Subzone.
 - (c) Non-motorized commercial vessels may land on the unencumbered lands of the beach or coastal areas within the Lāwa'i Kai Special Subzone under the following conditions:
 - All commercial operations shall operate from a state facility under a permit system administered by the DLNR, Division of Boating and Ocean Recreation.⁴
 - ii. The daily limit shall be 20 persons per day, and up to 10 persons at any given time.

§ 13-221-5 Restrictions:

- a) There shall be no new commercial permits issued by the Board of Land and Natural Resources for the use of the Lāwa`i Kai Special Subzone Unencumbered Public Land Area, and not withstanding above Section § 13-221-4(c).
- b) No person shall:
 - Enter the premises with dogs unless they are on a leash. This section shall not apply to seeing-eye dogs accompanying their masters.
 - ii. Engage in horseback riding on the beach.
 - iii. Dispose of garbage, trash, or waste materials in the shoreline area.

• Permits are valid for one year. Permits shall automatically terminate on the expiration date and there shall be no presumption or implication of a right to renew.

Lāwa'i Kai Special Subzone Master & Management Plan

⁴ DBOR rules may include the following conditions:

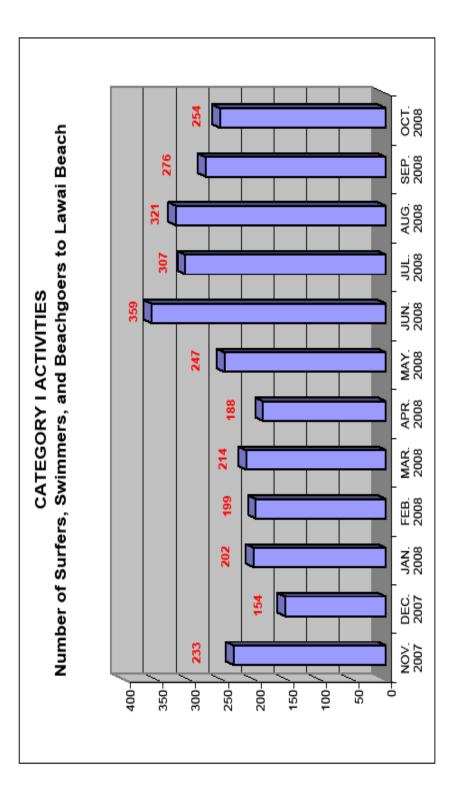
Permits are not transferable between people, partners, corporations, etc.

[•] An application for a commercial use permit shall be made in writing to the department on the form provided by the department.

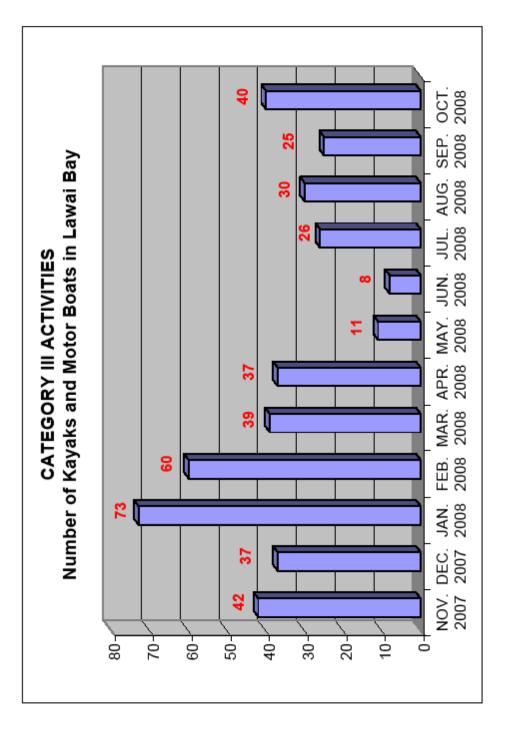
The DLNR/DBOR may reduce the number of permits, vessels, passengers, landings, etc. over time.

- iv. Molest, disturb, injure, trap, take, catch, possess, poison, or kill any wild bird or mammal, or disturb their habitat within the Lāwa'i Kai Special Subzone Unencumbered Public Land area, except when otherwise authorized by all applicable federal, state and county laws and rules.
- v. Operate, beach, park commercial vessels on the premises without a written authorization of the Board of Land and Natural Resources or its authorized representative.
- c) There shall be no nighttime use of beach/shoreline area.
- d) There shall be no fires, or overnight camping.
- e) There shall be no nighttime lights during months of May 1 through September 30.
- f) Wildlife restrictions:
 - i. When Hawaiian Monk Seals are present on the beach or shoreline area, all persons must stay at least 150 feet from away from all seals and not cross the beach between a mother seal and her pup.⁵
 - ii. Activities and uses on the beach during Green Sea Turtle nesting and hatching periods of May 1 through September 30 are restricted to areas outside the demarcated Turtle Nesting Area.

⁵ Monk Seals are protected by the Marine Mammal Protection Act of 1972 (MMPA) and further protected by the Endangered Species Act of 1973 (ESA) and under Hawai'i State Law.



Appendix E



Appendix F

Preservation Planning for Historic Resources

Preservation planning is a process that organizes preservation activities (identification, evaluation, registration and treatment of historic properties) in a logical sequence. The Secretary of the Interior's Standards and Guidelines for Preservation Planning⁶ discuss the relationship among these activities while the remaining activity standards consider how each activity should be carried out.

The Standards for Planning outline a process that determines when an area should be examined for historic properties, whether an identified property is significant, and how a significant property should be treated. Some steps could include:

- Develop a scope of work and establish/seek funding to inventory and document historic resources.
- Survey and document the historic resources and cultural landscape elements of the project area and produce Cultural Landscape Reports for each of the four elements that meet criteria.
- Research, inventory and document existing conditions, creating a baseline for the landscape and historic elements.
- Establish a cultural landscape preservation team (to consult with experts in landscape architecture, landscape archaeology, history, horticulture, planning, architecture, engineering, cultural geography, wildlife ecology, ethnography, interpretation, material and object conservation, landscape maintenance and management).
- Research and develop "as-built" period plans documenting the various periods
 of landscape development and changes in historic appearance during a
 particular period of ownership, occupancy, or development.
- Prepare existing condition plans, sections, photographs, maps, video, or any combination of techniques. All features that contribute to the landscape's historic character should be recorded.
- Assess the integrity of the landscape, and place it within the historic context of similar landscapes.
- Consider nomination of Allerton Garden to the State and National Register of Historic Places

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⁶ Further information is available at www.nps.gov/history/HPS/pad/PlngStds/index.htm (Accessed 7-25-09).