

BEFORE THE LAND USE COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Petition of )  
 )  
PRINCEVILLE DEVELOPMENT )  
CORPORATION )  
 )  
To reclassify approximately 390 )  
acres of land currently in the )  
Agricultural District into the )  
Urban District at Hanalei, Kauai, )  
Hawaii, TMK: 5-3-06: 17 and )  
Portion of 14 )  
\_\_\_\_\_ )

DOCKET NO. A83-557  
PRINCEVILLE DEVELOPMENT CORPORATION

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LAND USE COMMISSION  
HONOLULU, HAWAII

FINDINGS OF FACT, CONCLUSIONS OF LAW  
AND DECISION AND ORDER ON PETITIONER'S  
MOTION TO CLARIFY, AMEND OR DELETE, IF NECESSARY,  
CONDITION OF APPROVAL, AND ON INTERVENOR'S  
MOTION TO AMEND CONDITION

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Princeville Corporation, formerly known as Princeville Development Corporation (hereinafter "Petitioner"), filed a Motion to Clarify, Amend or Delete, If Necessary, Condition of Approval, on March 2, 1989. The Concerned Citizens of Anini (hereinafter "Intervenors"), filed a Motion To Clarify Condition of Approval on May 9, 1989, and an Amended Motion To Amend Condition on June 14, 1989 pursuant to Section 15-15-70 of Title 15, Subtitle 3, Subchapter 15-15, Hawaii Administrative Rules (hereinafter "Commission Rules"). The Land Use Commission (hereinafter the "Commission"), having heard the evidence and arguments presented in the matter and having considered the stipulated proposed findings of facts, conclusions of law, and decision and order between Petitioner, County of Kauai, and the Office of State Planning, the

Intervenor's proposed findings of fact, conclusions of law, and decision and order, and having considered the full record as presented on the matter, hereby makes the following findings of fact:

#### FINDINGS OF FACT

##### PROCEDURAL MATTERS

1. On March 28, 1985, the Commission filed its Decision and Order approving the subject docket to reclassify approximately 390 acres of land at Princeville, Hanalei, Kauai, from the Agricultural to the Urban District to develop a golf course and related uses. The Commission's approval contained a condition that the subject property be used only for golf course purposes.

2. On March 2, 1989, Petitioner filed its Motion to Clarify, Amend or Delete, If Necessary, Condition of Approval seeking to clarify, amend or delete the condition of approval in the Findings of Fact, Conclusions of Law and Decision and Order in Docket No. A83-557, dated March 28, 1985 (hereinafter "Decision and Order").

3. The said motion came on for hearing before the Commission on April 14, 1989, with Walton Hong appearing for Petitioner; Lorna Nishimitsu, Deputy County Attorney, and Bryan Mamaclay, of the Department of Planning, appearing for the County of Kauai; John Anderson, Deputy Attorney General, and Abe Mitsuda appearing for the Office of State Planning; and

Teresa Tico appearing for Intervenor Concerned Citizens of Anini.

4. At the hearing, Petitioner orally amended its motion into two separate motions: 1) to amend the Decision and Order to permit a restaurant within the golf clubhouse, and 2) to permit a tennis/fitness complex.

5. The first motion to permit a restaurant in the golf clubhouse was granted by the Commission by Order Clarifying Condition of Approval filed on May 23, 1989.

6. The hearing on the second motion, to permit a tennis/fitness complex, was heard at hearings on April 14, 1989, May 11, May 12, and June 1, 1989, with Walton Hong appearing for the Petitioner; Warren Perry, Deputy County Attorney, and Bryan Mamaclay, of the Department of Planning, appearing for the County of Kauai; John Anderson, Deputy Attorney General, and Abe Mitsuda appearing for the Office of State Planning; and Teresa Tico appearing for Intervenor.

7. On May 9, 1989, the Intervenor filed a Motion to Clarify Condition of Approval.

8. At the hearing on June 1, 1989, Intervenor orally amended its Motion to Clarify Condition of Approval to two motions: 1) to amend condition of approval by adding an additional condition relating to the viewplanes, and 2) to clarify whether the amenities proposed by the Petitioner for the clubhouse were permissible under the Commission's Decision

and Order Clarifying Condition of Approval of May 23, 1989. Intervenor's second motion was denied by the Commission by Order filed on June 27, 1989.

9. On June 1, 1989, a motion was passed by the Commission that the Intervenor's first motion to amend condition of approval by adding an additional condition relating to the viewplanes be consolidated and jointly heard with the Petitioner's pending motion to permit a tennis/fitness complex.

DESCRIPTION OF SUBJECT PROPERTY AND PROPOSED DEVELOPMENT

10. Petitioner proposes to develop a tennis/fitness complex on the area known as the central plateau of Princeville's Phase II development, and is makai of Kuhio Highway and across the existing Princeville corrals. It is located on land identified as Kauai Tax Map Key: 5-3-06: portion of 14.

11. A portion of the proposed complex lies within the area designated as "Agricultural" by the Commission, and will be the subject of a Special Use Permit before the Kauai County Planning Commission as it is less than 15 acres.

12. The instant proceedings address only that portion of the proposed complex which lie within the "Urban" lands classified under Docket A83-557.

13. The complex will be situated on the east side of the central plateau collector road and will encompass approximately 9 acres.

14. Although located two miles from the existing Princeville Sheraton Mirage Hotel, the proposed tennis/fitness complex is located at the entrance to the central plateau of Phase II, and along with the golf clubhouse, straddling the main entrance road to Phase II.

15. The tennis complex will contain two covered stadium courts, a tennis center, and a health and fitness center. There will also be 14 outdoor tennis courts. The two covered courts will be sunken below grade so that the roof height will remain within the 25 feet height limitation set forth in the North Shore Development Plan. There will also be seating facilities to accommodate 1,500 spectators around the covered courts.

16. The tennis building will contain about 10,000 square feet, and the fitness center building will contain approximately 22,000 square feet.

17. The fitness center will include exercise rooms, weight training equipment, aerobic rooms, massage rooms, different kinds of pools that go along with a sports facility, a universal court, a juice bar, a multipurpose court, and rooms for examination and fitness checks.

18. The tennis complex will include conference rooms, administrative offices, pro shop, day care services for users of the facilities, and locker rooms.

19. Petitioner estimates that the proposed tennis/fitness complex will cost approximately \$15 million, plus an additional \$1.7 million for landscaping.

PETITIONER'S FINANCIAL CAPABILITY  
TO UNDERTAKE THE PROPOSED DEVELOPMENT

20. Petitioner's Securities and Exchange Commission Form 10-Q, filed for the quarter ending February 28, 1989, reflecting Petitioner's financial standing, shows stockholders' equity in Princeville Corporation as being \$39,872,132.00 as of February 28, 1989.

NEED FOR THE PROPOSED DEVELOPMENT

21. Petitioner's market consultant, Peat Marwick Main & Co. ("PMM"), analyzed the economic and fiscal impacts of the proposed tennis facility, and indicates that competitive resorts within and outside the State of Hawaii are offering more diverse and extensive recreational activities and facilities, which include tennis complexes and fitness centers.

22. The proposed tennis/fitness complex is intended as an amenity to the Princeville Resort in order for Princeville to maintain its competitive position and to get the media exposure which will help to increase hotel occupancy.

23. PMM projects that the tennis complex will be supported by day and overnight visitors to the area, the area's residents, Hanalei regional residents, and by media exposure and other market segments attracted by the facilities themselves.

24. Petitioner represents that membership fees are not intended to be the primary support for the project. The primary support for the tennis complex is the ability to generate media exposure for the resort in general.

25. Petitioner also indicates that other justifications for the proposed complex is the ability for the project to increase retail sales, and sales of residential units. The project could be run at a loss, and still be viable because of the benefits resulting to the rest of the resort.

26. PMM indicates that support amenities, like the proposed tennis/fitness complex, typically precede the development of hotels, condominium units and single family lots.

27. Petitioner indicates that although there are 22 tennis courts throughout the existing Princeville development, Petitioner only controls 6 of them, severely limiting its ability to insure availability of play during peak times and to operate various tennis programs.

#### CONFORMANCE TO STATE AND COUNTY PLANS AND PROGRAMS

28. The subject property is designated within the State Land Use Urban District as reflected on K-6, Hanalei, of the Commission's Official Land Use District Map, with the exception of a small portion of the project site which is designated within the State Land Use Agricultural District.

29. The subject property is zoned "Open" under the County's Comprehensive Zoning Ordinance.



## IMPACT UPON RESOURCES OF THE AREA

29. Petitioner's engineering consultant, Belt Collins and Associates ("BCA"), analyzed the proposed project's impact upon resources of the area with respect to water, sewers, drainage, traffic and viewplanes.

### Water

31. BCA estimates that the increased water need from the proposed complex would be 10,000 gallons per day, an increase of 1.5% over the estimates of water needs for the Princeville Phase II project. This relates to the 2 water pumps of 1500 gallons per minute capacity remaining open an additional three minutes of its four-hour open time, which is a minuscule impact on the Princeville water system.

### Sewerage

32. BCA concludes that the proposed complex will create only a negligible impact on the Princeville sewage system because it will generate an additional 7,000 gallons per day, or 1.5% of the Phase II flow of 500,000 gallons per day.

33. Until connection with the Princeville sewage treatment plant, an individual waste water system acceptable to the State Department of Health will be used to treat and dispose of the generated sewage.

### Drainage

34. The proposed complex is situated within the Anini Drainage basin which totals approximately 1,244 acres. The 10±

acres of impervious surfaces from the complex affects the overall drainage by 0.8 of 1%, which is an insignificant amount.

35. Petitioner's Exhibit "AA" indicates that the topography of the site of the proposed tennis/fitness complex slopes towards Kilauea and away from the Anini Drainage basin.

#### Traffic

36. Petitioner proposes an internal roadway system connecting Phases I and II of the Princeville projects, which internal connecting road was not accounted for in the traffic study done for Phase II.

37. BCA projects that the expanded complex, including the clubhouse, would generate 88 vehicles during the peak hour, up from the 40 vehicles per hour projected in the Phase II Environmental Impact Statement for the clubhouse. However, because of the internal roadway system, the number of cars generated from the complex and using Kuhio Highway will decrease from 32 to 17 vehicles per peak hour.

38. Petitioner did not study the impact on traffic of special events because roads are not normally designed to accommodate special events of short lasting impacts.

#### Viewplanes

39. The subject site is one of two places along Kuhio Highway between Kilauea and the present Princeville main entrance where views of the ocean are available. The subject site offers an ocean view for a shorter distance along Kuhio

Highway than the other opening, which offers an ocean view for about one-half of a mile.

40. The proposed tennis/fitness complex will not exceed the 25 feet height limitation set by the North Shore Development Plan.

41. The County Planning Department will recommend to the Kauai Planning Commission that the complex be adequately landscaped and buffered so as to minimize intrusion into the viewplane.

42. The County Planning Department represents that it is able to resolve the concerns regarding the viewplanes during the County zoning process.

43. The Office of State Planning would object to a tennis complex that is insensitive to the viewplane. The Office of State Planning would like to have a condition placed on the project during the County zoning process to address viewplanes.

44. Some of the tennis courts will be lighted for night play. Lighting fixtures are available of the type which is lower in height and casts its light downward. This will mitigate impacts of the lighting on the Newell Shearwater birds.

#### Other Municipal Services

45. Other municipal services, such as fire and police protection, parks, and schools are generally dependent on residential population. Since the proposed complex does not

involve any additional residential demand to the previously approved Phase II project, Petitioner believes that the proposed tennis/fitness complex would not have any impact on these municipal services.

#### SOCIAL IMPACTS

46. Petitioner believes that the proposed development will not result in any negative social impacts.

#### ECONOMIC BENEFITS

47. PMM projects that the proposed development will support 10 to 15 permanent full-time equivalent jobs, or up to about 20 full and part-time positions.

48. In addition to the income taxes generated by the employment created, the project would also generate general excise taxes from sales of memberships, daily fees, pro shop sales, lessons, massages and other special services, and food and beverage sales.

49. Real Property taxes generated from the complex are projected at \$135,000.00 per annum.

50. PMM indicates that because of the anticipated in-migration of two to three persons, and with the implementation of traffic mitigation measures for the proposed development, the net public benefit of the complex is expected to be significantly positive.

#### CONFORMANCE TO THE STATE LAND USE DISTRICT REGULATIONS

51. The subject site is in close proximity or will be contiguous to, and will service, the Princeville resort area in

the Urban District, which is or will be characterized by "city-like" concentration of people, structures, streets, urban level of services and other related land uses.

52. The subject site is in close proximity to centers of trading and employment facilities, and would generate new businesses and employment.

53. The subject site and proposed use is also compatible with the golf course and golf clubhouse adjacent to the proposed development.

54. The economic feasibility of the proposed complex, in terms of benefits to the Princeville resort area, has been substantiated.

55. The subject site has satisfactory topography and drainage for the proposed development, and is reasonably free from the danger of floods and tsunamis and other adverse environmental effects.

56. The proposed use within the subject property is consistent with the County zoning.

57. The proposed use will not contribute towards scattered spot urban development, as the site is already designated "Urban" and is contiguous to the golf clubhouse previously approved.

#### CONFORMANCE WITH COASTAL ZONE POLICIES AND OBJECTIVES

58. The proposed additional uses of the Property for the development of a tennis/fitness complex conforms to the

policies and objectives of the Coastal Zone Management Program Chapter 205A, Hawaii Revised Statutes, as amended.

RULING ON PROPOSED FINDINGS OF FACT

Any of the proposed findings of fact submitted by the Petitioner or the other parties not already ruled upon by the Commission by adoption herein, or rejected by clearly contrary findings of fact herein, are hereby denied and rejected.

Any conclusion of law herein improperly designated as a finding of fact should be deemed or construed as a conclusion of law; any finding of fact herein improperly designated as a conclusion of law should be deemed or construed as a finding of fact.

CONCLUSIONS OF LAW

Pursuant to Chapter 205 of the Hawaii Revised Statutes, as amended, and the Commission Rules, the Commission finds upon the preponderance of evidence that the approval of Petitioner's request to permit the development of a tennis/fitness complex in addition to the golf course and related uses previously approved by the Commission, on lands subject of Docket A83-557 by Princeville Development Corporation and previously redistricted to "Urban" by the Commission, is reasonable and nonviolative of Chapter 205, Section 2, Hawaii Revised Statutes, and is consistent with the Commission Rules.

The Commission also finds by a preponderance of the evidence that the concerns regarding the viewplanes can be

properly addressed through the County of Kauai zoning process, and the denial of the first motion of Intervenor is reasonable and nonviolative of Chapter 205, Hawaii Revised Statutes, as amended, and is consistent with the Commission Rules.

Order

IT IS HEREBY ORDERED that the Findings of Fact, Conclusions of Law and Decision and Order dated and entered herein on March 28, 1985, as amended by that certain Decision and Order Clarifying Condition of Approval, dated and entered herein on May 23, 1989, be amended by permitting the development of a tennis/fitness complex substantially as represented by the Petitioner herein; and

IT IS FURTHER ORDERED that the concerns regarding the viewplanes shall be addressed at the County level by the County of Kauai, so therefore the Intervenor's motion to amend condition by adding a condition regarding the viewplane be denied.

Done at Honolulu, Hawaii, this 26th day of July 1989,  
per motion of June 28, 1989.

LAND USE COMMISSION  
STATE OF HAWAII

By *Renton L. K. Nip*  
RENTON L. K. NIP  
Chairman and Commissioner

By *Lawrence F. Chun*  
LAWRENCE F. CHUN  
Vice Chairman and Commissioner

By (absent)  
ALLEN K. HOE  
Commissioner

By *Sharon R. Himeno*  
SHARON R. HIMENO  
Commissioner

By *Teofilo Phil Tacbian*  
TEOFILO PHIL TACBIAN  
Commissioner

By *Toru Suzuki*  
TORU SUZUKI  
Commissioner

By *Robert S. Tamaye*  
ROBERT S. TAMAYE  
Commissioner

By *Frederick P. Whittemore*  
FREDERICK P. WHITTEMORE  
Commissioner

By *Allen Y. Kajioka*  
ALLEN Y. KAJIOKA  
Commissioner

Filed and effective on  
July 26, 1989

Certified by:

*Esther Lind*  
Executive Officer



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Portion of 14 )  
\_\_\_\_\_ )

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Findings of Fact, Conclusions of Law and Decision and Order on Petitioner's Motion to Clarify, Amend or Delete, If Necessary, Condition of Approval, and on Intervenor's Motion to Amend Condition was served upon the following by either hand delivery or depositing the same in the U. S. Postal Service by certified mail:

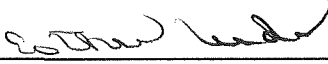
HAROLD S. MASUMOTO, Director  
Office of State Planning  
State Capitol, Room 410  
Honolulu, Hawaii 96813

CERT. TOM H. SHIGEMOTO, Planning Director  
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3016 Umi Street, Suite 211B  
Lihue, Hawaii 96766

DATED: Honolulu, Hawaii, this 26th day of July 1989.

  
\_\_\_\_\_  
ESTHER UEDA  
Executive Officer