

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)
LANAI RESORT PARTNERS)
To amend the Agricultural Land Use)
District Boundary into the Urban)
Land Use District for)
approximately 63.526 acres, the)
Conservation Land Use District)
Boundary into the Urban Land Use)
District for approximately)
4.382 acres, and the Agricultural)
Land Use District Boundary into)
the Conservation Land Use District)
for approximately 10.885 acres,)
at Koele, Lanai, Hawaii,)
Tax Map Key No. 4-9-02: por. 1)

DOCKET NO. A90-662
LANAI RESORT PARTNERS

This is to certify that this is a true and correct copy of the Decision and Order on file in the office of the State Land Use Commission, Honolulu Hawaii.

AUG 28 1991 by [Signature]
Date Executive Officer

LAND USE COMMISSION
STATE OF HAWAII
AUG 28 7 52 AM '91

FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND DECISION AND ORDER

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FINDINGS OF FACT,
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LANAI RESORT PARTNERS, a California general partnership registered to do business in the State of Hawaii, whose partners are MK Development, Inc., a Hawaii corporation, and Lanai Company, Inc., a Hawaii corporation, (hereinafter "Petitioner") filed this petition on December 12, 1990, pursuant to Chapter 205, Hawaii Revised Statutes, and the Hawaii Land Use Commission Rules, Chapter 15-15, Hawaii Administrative Rules, for an amendment to the land use district boundary to effect district reclassification of (i) approximately 63.526 acres of land from the Agricultural District to the Urban District, (ii) approximately 4.382 acres of land from the Conservation District to the Urban District, and (iii) approximately 10.885 acres of land from the Agricultural District to the Conservation District, situate at

Koele, Island of Lanai, State of Hawaii, identified by Tax Map Key No. 4-9-02: portion of 1 (hereinafter "Property") to develop single- and multi-family residential lots. The Land Use Commission of the State of Hawaii (hereinafter "Commission"), having heard and examined the testimony, evidence and argument of counsel presented during the hearings, the proposed findings of fact and conclusions of law, and the proposed decisions and orders, does hereby make the following findings of fact and conclusions of law:

FINDINGS OF FACT

PROCEDURAL MATTERS

1. On December 12, 1990, Petitioner filed the Petition, together with an environmental assessment made a part thereof, for reclassification of (i) approximately 63.526 acres of land from the Agricultural District to the Urban District, (ii) approximately 4.382 acres of land from the Conservation District to the Urban District, and (iii) approximately 10.885 acres of land from the Agricultural District to the Conservation District.

2. Pursuant to Chapter 343, Hawaii Revised Statutes, and Chapter 200 of Title 11, Hawaii Administrative Rules, entitled "Environmental Impact Statement Rules," the Commission conducted meetings on January 10 and 24, 1991, February 7 and 28, 1991, on the environmental assessment to determine whether an environmental impact statement shall be required for the action proposed by the Petition.

3. By Findings of Fact, Conclusions of Law and Decision and Order of a Negative Declaration for the State Land Use District Boundary Amendment dated April 8, 1991, the Commission determined that an environmental impact statement was not required and accepted the Petition for filing as of February 28, 1991.

4. On May 16, 1991, the Commission conducted a prehearing conference on this petition with all parties in attendance.

5. The Commission conducted hearings on the Petition on May 29 and 30, 1991 at the ILWU Union Hall, 840 Ilima Street, Lanai City, Lanai, pursuant to notices published on April 22, 1991, in the Honolulu Advertiser and the Maui News.

6. The Commission received a request for intervention in the Petition on February 13, 1991, from Elizabeth Ann Stone. Elizabeth Ann Stone did not appear at the hearing on May 29, 1991, and her request for intervention was denied.

7. Jon Matsuoka, Michael Collins, Glenn Oshiro, Kathleen Oshiro, Ron McOمبر and Jan Spieker appeared and testified as public witnesses. Written comments and testimony were received by the Commission from Dolores M. Fabrao, Jon Matsuoka, Glenn S. Oshiro and Goro Hokama.

DESCRIPTION OF PROPERTY

8. The Property is located east (mauka) of, and abuts the land covered under the existing Koele Project

District which is situated within the Urban District immediately northeast of and adjacent to Lanai City. The town of Lanai City is located less than a mile from the Property.

9. The Property covers an area of approximately 78.793 acres and is comprised of three contiguous parcels of land. The two largest parcels, containing approximately 63.526 acres and 10.885 acres, respectively, are currently in the Agricultural District. These two parcels constitute the narrow strip of land in the Agricultural District which is situated between the Urban and Conservation Districts in upland Lanai. The third parcel is the smallest parcel, containing approximately 4.382 acres, and is currently in the Conservation District.

10. The existing Koele Project District, which abuts the Property, is located at the foot of Lanaihale on the northeast side of Lanai City. The Koele Project District site rises from the 1,600-foot to 1,900-foot elevation and is comprised of relatively flat pineapple and pastoral lands cut by gulches and rough rock lands. The major gulches are the Kaiholena and Kapano Gulches.

11. Portions of the existing Koele Project District have similar characteristics to the Property which includes remnant pineapple fields on the eastside of the Koele Project District and portions of the existing Eucalyptus forest. The pineapple fields are relatively flat and easy for development. The forest areas are more rugged. Although some grading will

be required in the forest area, Petitioner has represented its intent to keep the forest area intact as possible.

12. According to the Soil Conservation Service, the Property is characterized by Koele soil types in the flatter areas and by rough broken lands in the gulch and mountainous areas.

13. The Property is located along a slight ridge at elevation around 1,840 to 1,900 feet above mean sea level.

14. The mean annual rainfall for the Property range from 35 to 40 inches per year. Rain storms are common from November through March, but flood events are rare. The Federal Emergency Management Agency has not prepared a Flood Insurance Rate Map for Lanai, but the likelihood of damage due to flooding at this high elevation site is indicated to be very low.

15. The entire island of Lanai is within the Seismic Zone 2B (International Conference of Building Officials, 1988) which indicates that the island is less likely to sustain damage from earthquakes than the Island of Hawaii, designated Seismic Zone 3, but slightly more likely than Oahu, designated Seismic Zone 1.

16. Castle & Cooke, Inc. is the fee simple owner of the Property. Petitioner is the owner of a right to purchase the Property under an agreement with Castle & Cooke, Inc., who has authorized Petitioner to file the Petition.

PROPOSAL FOR THE DEVELOPMENT

17. Petitioner proposes to expand the area of the Koele Project District by approximately 67.9 acres in order to reconfigure the low density residential development planned adjacent to the Koele golf course which was reconfigured to accommodate the retention of the Cavendish golf course for the Lanai residents on a free-play basis.

18. The residential lots under the proposed reconfiguration would improve the view orientation, allow a larger range of lot types, and protect certain heavily wooded areas.

19. The Koele Project District, described as a "low-density, primarily residential and recreational development with hotel facilities in an upland rural setting," was established by County of Maui Ordinance 1580 in September 1986. The land use categories and maximum overall net density or acreage per land use category as established in the Koele Project District are summarized below:

Residential	502 units
Multifamily	132 units
Hotel	252 units
Open Space (includes forest reserves, game reserves, golf courses, parks, botanical and zoological gardens, watersheds, wells, water reservoirs and special uses)	213.5 acres
Public (principle uses: utility installations and substations) . . .	1.8 acres
Park (principle uses: non-commercial parks and playgrounds)	9.0 acres

20. Petitioner represents that it will not, by the proposed reclassification of the Property to the Urban District and the expansion of the Koele Project District, increase the residential lot count now permitted under the existing Koele Project District. Petitioner also represents that actual residential units within the Koele Project District as expanded will, in the undeveloped portion of the project district, be approximately 275 single family units and 75 multi-family units, and total units will be significantly below the existing permitted numbers, indicating an overall lower density project.

21. According to Petitioner's preliminary lotting concept for the proposed urban area of the Property, roughly 68 lots or parts of lots are shown for single family units and an area for multifamily units, the density for which will be low at no more than six units per acre. Upscale housing units are intended to be developed on the Property by Petitioner. Lot prices are estimated at this time to range from about \$200,000 to \$600,000 per lot in 1991 dollars.

22. Development of the 67.9 acres proposed for reclassification to the Urban District is estimated to occur during the second to fourth year of development after amendments to the Lanai Community Plan and Koele Project District by Maui County.

23. Projected costs to develop the subject 67.9 acres are estimated at approximately \$20,400,000 (1991 dollars).

PETITIONER'S FINANCIAL CAPABILITY
TO UNDERTAKE THE PROPOSED DEVELOPMENT

24. Petitioner's Balance Sheet as of June 30, 1990 lists the total assets, and liabilities and capital of approximately \$200,964,225. Total assets are itemized as follows: total current assets of approximately \$(11,964,711); real estate project, land, and buildings of approximately \$210,857,776; and deferred charges and other assets of approximately \$2,073,158. Total liabilities and capital are itemized as follows: total current liabilities of approximately \$10,670,955; deferred credits of \$1,000; partners' capital - MK of approximately \$192,102,695; partners' capital - LCI of approximately \$3,919,303; and undistributed current net income (loss) of approximately \$(5,729,729).

NEED FOR PROPOSED DEVELOPMENT

25. The existing Koele Project District, as approved by the County of Maui, in designating uses for the lands within the existing Koele Project District boundary included the removal of the existing 9-hole Cavendish golf course for the development of resort, residential and recreational uses, including a new 18-hole golf course as an amenity to the hotel at Koele for visitors with some available play for Lanai residents.

26. The Cavendish golf course has been a recreational amenity provided by Castle & Cooke, Inc. for the Lanai residents at no cost to the community for many years.

27. Petitioner reconsidered and revised its original development plan to provide for the retention of the Cavendish golf course as a no cost "free-play" service to the Lanai residents and develop a separate 18-hole golf course primarily for the Koele hotel visitors and tourists. The accommodation to retain the Cavendish golf course for the Lanai residents required (i) extending and reconfiguring the proposed 18-hole golf course at Koele to include areas beyond the Koele Project District boundary and (ii) reconfiguring the residential lot layout around the reconfigured 18-hole golf course to offset lost residential acreage (e.g., the Cavendish golf course) and to preserve for open space use certain wooded areas which had been intended for other uses under the original development plan.

28. A 40.9-acre portion of the land needed for extending the 18-hole Koele golf course beyond the Koele Project District boundary was the subject of reclassification which was approved by the Land Use Commission in Docket No. A89-647, and so much of the Property sought to be reclassified to the Urban District (67.908 acres) by this Petition is the land reasonably needed by the Petitioner for reconfiguring the residential lot layout.

29. The intended residential uses lost within the Koele Project District by the retention of the Cavendish golf course for the Lanai residents and the reconfiguration of the

18-hole golf course and residential lot layout are in part to be made up by the Property sought by this Petition to be reclassified to the Urban District.

IMPACT UPON RESOURCES OF THE AREA

Agricultural Resources

30. The University of Hawaii Land Study Bureau, Detailed Land Classification overall productivity ratings of the Property are "C-6" in the remnant pineapple fields, "D-15" and "E-22" in the forested area, and "D-13" in the gulch.

31. The State Department of Agriculture's Agricultural Lands of Importance to the State of Hawaii (ALISH) maps designate some of the land formerly cultivated for pineapple within the Property as Unique Agricultural land and others as Other Important Agricultural Land. No part of the Property is rated as Prime Agricultural land. Gulch and mountainous area are not rated.

32. The proposed development on the Property will end the Property's potential productive use for agriculture. However, the proposed development will not adversely impact upon either the plans, programs and activities of the State Department of Agriculture or the agricultural resources of the area or the State.

Historical/Archaeological Resources

33. An archaeological survey of the Property was conducted on February 22 and 23, 1990 by Hallett H. Hammatt, Ph.D. and Douglas Borthwick, B.A. of Cultural Surveys Hawaii.

34. No archaeological sites were found on the Property in the archaeological survey.

35. The Historic Preservation Division, Department of Land and Natural Resources, State of Hawaii, has reviewed the adequacy of the archaeological survey, has found it to be sufficient, and has determined that the proposed development on the Property will have no effect on significant historic sites.

Flora and Fauna

36. A biological survey of the Property was conducted by Kenneth M. Nagata.

37. The biological survey identifies two vegetation zones within the Property: (i) abandoned pineapple fields and (ii) eucalyptus forest. The abandoned pineapple fields are overgrown with agricultural weeds and grasses. The eucalyptus forest is described as a closed-canopied forest of swamp mahogany and red ironbark 50 to 75 feet tall.

38. The vegetation within the Property is almost entirely secondary. Only 12 common native species were observed and in very small numbers. Of the 12 native species, eight are indigenous (native to Hawaii but found in other areas of the world) and 4 are endemic (found only in Hawaii).

39. No native plant communities and no rare and endangered species were found on the Property. No native animals are present on the Property.

40. Several introduced birds and mammals have been observed or known to be present on the Property, including

Kentucky cardinal, Japanese white-eye, rice bird, francolin, lace-necked dove, barred dove, turkey, Axis deer, mice and rat.

41. In the opinion of Kenneth M. Nagata, the proposed development will in no way compromise any native plant community or ecosystem, nor will it impact the native flora, in general, or the migration behavior of Axis deer on Lanai.

Groundwater Resources

42. The known groundwater resources on Lanai are comprised of a high level aquifer underlying approximately 24 square miles of the central plateau, and a basal aquifer underlying approximately 9.5 square miles. The total recharge zone including primary and subsidiary recharge covers 14 square miles. The total sustainable yield is estimated at 6.0 million gallons per day (mgd).

43. The potable water demand for existing and planned developments on the island through 1996 (including the proposed project on the Property as a part of the Koele Project District) has been estimated by the Lanai Water Company at 2.98 mgd. Lanai's water system as presently configured can supply 3.0 mgd (average daily flow) on a sustained basis.

44. The drilling and testing of two new wells have recently made available an additional 1.4 mgd. Well 6 (supplying 0.4 mgd) is operating; however, the distribution system has not been completed. Well 8 (supplying 1.0 mgd) requires certification and a suitable pump prior to use for drinking water.

45. No significant increase in water demand is indicated by the proposed development on the Property. The proposed residential development on the Property will not increase the residential unit count already permitted under the existing Koele Project District ordinance; thus, the water demand for the Koele Project District, which may be expanded by the inclusion of the Property and its proposed uses, will remain substantially the same.

46. While projections for future water use on Lanai appear to be within the available range, specific actions could be taken to ensure that potable water consumption would not exceed projected levels for the Project. Mitigation measures to regulate water demand in the project area include:

- Use alternate water sources for landscape irrigation.
- Provide guidelines to homeowners for landscaping features using salinity tolerant plants and grasses.
- Monitor consumption, unreasonable use, and leakage from storage and distribution system.

Conservation Land

47. The proposed reclassification of 10.885 acres of the Property from the Agricultural District to the Conservation District will more than replace the acreage of conservation land resource lost from the proposed reclassification of 4.382

acres of the Property from the Conservation District to the Urban District.

ENVIRONMENTAL QUALITY

Visual Impacts

48. The Property is partially forested characterized by dense canopy of mature trees adjacent to open fallow pineapple fields. Graceful slopes extend to the golf course from the Lanaihale above the Property. The entire Koele Project District area is scenic and the Property will provide an extension to the forested area beyond the golf course.

49. Short term impacts include disturbance of vegetation by construction and supplies which encroach on the landscape, and exposed irrigation pipes, drainage culverts, rocks, and soil prior to landscaping.

50. The proposed development of the Property would change the scenic resources by modifying the dense forest to appear less dense and interspersed with houses and clearings. The additions of low-rise and low-density residential areas would increase the extent of landscaped area; however, the overall change to the Koele Project District is indicated to be more aesthetic because the density of the development is made lower than originally planned for the Koele Project District by the inclusion of the Property without increasing the residential unit count.

51. The primary mitigative measure that will be employed to minimize potential adverse visual impacts will be

to encourage homeowners to be extremely selective on tree thinning and to discourage vegetation clearing except for the house foundations and a minimum setback area. Extensive landscaping in and around the residential areas and using buildings and homes designed to blend in with the natural environment would also offset any adverse effect.

Air and Aural Quality

52. Short term impacts on the air and aural quality are expected from the residential construction on the Property. County requirements on grading and stockpiling will regulate to minimize dust and erosion. Construction activities are proposed to be limited to daytime hours to avoid intrusions from dust and noise onto existing residential areas in the evening.

53. A water well pump motor could be a source of noise nuisance to future owners of the homes within the Property. Petitioner is exploring several techniques to minimize the noise that may be emitted from the pump motor such as using a submersible pump and motor and mounting it well below the water surface or constructing a housing around the motor and controls.

Water Quality

54. On Lanai, the principal source of potable water is groundwater held within the high level aquifer.

55. The Property is situated above the Underground Injection Control (UIC) line, the land areas above which are

generally considered to contain underground sources of drinking water.

56. A potential long term effect is the contamination of the groundwater through leaching of pesticides, fertilizers, or other materials used for site development or maintenance of residential lots, into Well No. 8 located on the Property or into the underlying aquifer.

57. Potential for contamination of groundwater appears minimal, and adverse impact on the groundwater is not indicated. About two-thirds of the Property are remnant pineapple fields which had been in pineapple cultivation and subjected to pesticide and other chemical applications in amounts significantly greater than normally used for residential type uses. Chemical applications associated with pineapple culture in the Koele area have not resulted in groundwater contamination upon tests for water quality even though much larger amounts have been applied in pineapple culture than amounts used on residential lots.

58. Measures which can be undertaken by Petitioner to mitigate potential adverse impact on the groundwater quality include:

a. Omitting the common but nonessential practice of saturating the groundwater with a pesticide when preparing the site for residential foundations for the homesites surrounding Well No. 8;

b. Initiating a monitoring program to observe the construction practices and testing the water quality on a regular basis so that possible contamination sources could be identified and their use ceased; and

c. Avoiding broadscale pesticide application on foundation sites near Well No. 8.

59. The State Department of Health (DOH) also possesses regulatory powers under its Administrative Rules, Title 11, Chapter 20, "Potable Water Systems" which require that all new sources of potable water serving a public water system be approved by the Director of Health prior to their use through which process DOH will ensure that measures for well head protection and any monitoring guidelines are agreed to by Petitioner.

ADEQUACY OF PUBLIC SERVICES AND FACILITIES

Transportation Facilities

60. A traffic impact study for the Lanai City area including the Property based on the proposed developments on Lanai was conducted by Petitioner's consultant Pacific Planning and Engineering, Inc. The study included findings and conclusions as follows:

a. Current roadway network in Lanai City is adequate to handle existing low volumes of traffic. Motorists currently experience very little or no delays at intersections. Future traffic volumes will not be significantly large. Road

impacts will be slight although residents will notice great vehicle volumes.

b. No improvements are needed to handle future traffic growth, such as increased laneage. Existing roads in Lanai City will be able to accommodate all of the forecasted traffic from the proposed developments contemplated for the year 1995 and beyond.

c. Even with proposed developments, the four major intersections will operate with average delays (level of service C) or better for all turning movements at the unsignalized intersections. The level of service is not expected to change and no major traffic delays or congestion are anticipated along the existing roads in Lanai City.

d. The proposed developments on Lanai are not expected to have a significant impact on Lanai City roadway network when projects are completed by 1995.

61. Presently undeveloped lands immediately south of Lanai City have been designated for residential and commercial/light industrial land uses, with a new bypass road and a number of connector roads. These designated land uses and roadway improvements were not considered in Petitioner's Lanai City Traffic Circulation Plan. These designated land uses would have an impact on traffic in the area. Because the potential traffic impact of these land uses have not been studied, Petitioner's traffic consultant was not able to indicate how

significant the impact of these designated land uses would be on traffic.

Water Service

62. Lanai's water supply system is owned and operated by Lanai Water Company, Inc., a subsidiary of Castle & Cooke Properties, Inc.

63. The existing water sources consist of wells, shafts, and tunnels that tap into the dike-impounded high-level aquifer in central Lanai. Wells 3 and 6, located near the project area, service Koele and the Lanai City users.

64. As the number of residences proposed to be developed on the Property is within the residential unit count allowed for the existing Koele Project District, the water supply planned and allocated for the existing Koele Project District should be adequate to include the water demand of the Property.

65. Inasmuch as the proposed residential development on the Property will be included within the residential unit count already permitted under the existing Koele Project District ordinance, the water demand for the developments within the Koele Project and the Property will be substantially the same as the water demand currently allocated for the uses under the existing Koele Project District.

66. There is a possibility of a slight increase in water demand over the projected value from the possible

increase in landscape irrigation due to the larger residential lot sizes with the addition of the Property.

67. With the additional potable water sources from Well 6 and Well 8, an additional 1.4 mgd of potable water is made available to provide a more than adequate supply for the planned uses on Lanai including the proposed development on the Property.

68. The current and future projected potable water demand for the uses within the Koele Project District is approximately 0.8 mgd. Approximately one-half (0.4 mgd) of the projected potable water demand for the Koele Project District will be utilized for the golf course irrigation.

69. The Maui Planning Commission has allowed Petitioner use of the potable water for irrigation of the golf course for a period of five (5) years after which an alternate non-potable source is to be utilized by Petitioner.

70. Petitioner is studying the development of surface water impoundments that would catch surface water runoff of about 500 million gallons per year as an alternate non-potable source for irrigation of the golf course. The 500 million gallons per year translates, after evaporation, to about one (1) mgd which will be sufficient irrigation for the golf course at Koele. The golf course has been designed for storm water retention and rain catchment for irrigation purposes.

Wastewater Treatment and Disposal

71. The Lodge at Koele is connected by an 8-inch sewer line to the Lanai City sewer system that was constructed in 1984 and sized to a design population of 2,575. Wastewater treatment ponds located southwest of the Lanai City provide secondary treatment. New sewage treatment ponds were constructed recently and other system improvements are planned prior to construction of the residential development at Koele.

72. The planned improvements will be sized to adequately service the Lodge at full occupancy, the Lodge expansion, and the single- and multi-family residential requirement originally planned for the Koele Project District, which includes the residential unit count proposed for the Property. The improvements will include lift stations and forced mains as part of the development at Koele.

Drainage

73. The basic concept of the drainage system for the Koele Project District and the Property is to maintain the existing drainage pattern of the area.

74. Drainage will be handled through a system of catch basin/inlets, manholes, drain lines, and swales directed toward the Kaiholena and Kapano gulches. Berms and cutoff ditches constructed immediately above the upper boundary of the Koele Project District will intercept and transport off-site runoff from the areas above. The golf course has been designed

for storm water retention and rain catchment for irrigation purposes.

Solid Waste Disposal

75. Lanai's only landfill is located approximately one mile south of the airport access road between the airport and Kaunalapau Harbor. It is filled to over capacity, but it is still accepting non-toxic and non-infectious solid waste. The County of Maui and Castle & Cooke, Inc. are in the final stages of selecting a new landfill site that meets current regulations. Final design permits and approvals, and construction, will take approximately two years.

76. Refuse is hauled from Lanai City residences weekly by Maui County. A private hauling company services the commercial establishments on the island. A similar system is expected to be made available to the residents of Koele. At full operation, all of the planned residences would require weekly refuse hauling service.

Electrical Power and Communications

77. The existing telecommunications network will be extended onto the Property to provide electrical and telephone services. The telephone and electric power distribution lines serving the Koele Lodge will be extended through a series of underground lines and transformers to serve the Property. All lines will be installed below ground to minimize any adverse visual impact.

78. Adequate electric power generation capacity on Lanai is currently in place at Maui Electric Company's Miki basin to serve the Koele Project District and the Property. A transmission line from the Miki basin power plant to the Koele Project District area will be provided to distribute power to the Property.

Other Public Services

79. The demand for other public services such as fire and police protection, health care facilities, schools, recreation and open space, human services, and other community needs, will be increased by developments of the Koele Project District, the Manele Project District, areas at or about Lanai City and the Property pursuant to Petitioner's master plan for the island of Lanai.

80. In anticipation of the greater demand for public services and the social and economic impacts generated or to be generated by the developments under the master plan for Lanai, Petitioner has been taking certain steps to assist in addressing the demand for public services and mitigate the social and economic impacts through systematic planning and provisions for community enhancement benefits. The records of Castle & Cooke, Inc. reflect certain provisions of, commitments to, and allocations for community enhancement benefits and contributions to the Lanai community, as follows:

Capital Subsidies

Major renovations and replacement of Lanai water system (benefits only Lanai City residential and commercial users) . . .	\$ 4,500,000
Donation of land and complete construction of new recreational center--including building, pool, and athletic fields	\$ 2,850,000
Improvement to Hulopoe Beach Park and a grant of perpetual public use over 66 acres	\$ 5,640,000
Grant of conservancy easement on 600 acres	\$ 600,000
Remodeling of Social Hall for community use	\$ 200,000
Improvements to general community, including repaving public roads, landscaping, beach cleaning, rented home renovations, etc.	\$ 6,600,000
Donation of land to the County for fire and police stations	\$ 200,000
Donation of land to the State for airport and medical/hospital use	\$ 1,200,000
Upgrade of public golf course	\$ 250,000
Budgeted renovation of town theater	\$ 100,000
Total capital budget for affordable housing construction, including:	\$50,000,000
-- \$4.8 million subsidy for Lalakoa III	
-- \$0.5 million subsidy for Lower Waialua	
-- \$7.8 million capitalized subsidy on Waialua Multi-Family	
-- \$1.1 million capitalized subsidy on Lanai City Apartments	
Donation of land and overhead for affordable housing projects (Lalakoa III, Lanai City Apartments, Lower Waialua, Waialua Multi-Family, and future government projects)	\$14,330,000
Preservation of historic sites and historic studies	\$ 800,000

Establishment of Lanai Institute for Business and Culture (charitable endowment fund aimed partially at Lanai)	\$ 6,000,000
Capitalized donation of lease for State telecommunication site	\$ 375,000
Budgeted commitment for child care facility/operations	\$ <u>250,000</u>
	\$94 Million

Annual or Operating Subsidies

Subsidization of residential rents in city	\$965,000/yr
Free rent to community groups such as Maui Community College, churches, medical clinic, etc.	\$ 61,000/yr
Subsidy to residents for water service	\$307,000/yr
Opening, repair, and maintenance costs for recreation center	\$ 85,000/yr
Scholarship program for local students	\$ 20,000/yr
Hunting agreement with State for public hunting/private hunting program for public subsidize barge service for product deliveries	N/A
No charge lease to County for community building	N/A
Minimal cost lease to community for horse pasture	N/A

81. Under the Commission Decision and Order dated April 16, 1991, of Docket No. A89-649, Petitioner has agreed to make available to the State at no cost, on a fee simple basis, 25 acres of land, 10 acres of which shall be in the vicinity of Lanai City, for development thereof by the State.

82. Under Condition No. 2 of said Decision and Order dated April 16, 1991 Petitioner has also agreed to make

available 100 acres of land, with adequate supply of water, to the State Department of Agriculture and or the County of Maui, for the establishment and operation of an agricultural park for Lanai residents, at nominal rents for a 55-year term.

83. As a component of its master plan for Lanai, Petitioner is pursuing an affordable housing program for the Lanai residents. The program includes six separate housing projects as follows:

- Lalakoa III - 144 Single family units
(completed)
- Lanai City Apartments - 24 studio and 1-bedroom units
- Waialua Single Family - 120 units
- Waialua Multi-Family - 128 units (completed)
- County Project - offered land to County for County housing project
- State Project - offered land to State for State housing project

84. The requirement by the County of 150 affordable housing units to be developed by Petitioner has already been met and exceeded by Petitioner's development under its affordable housing program.

85. It appears to the State Housing Finance and Development Corporation that based upon the information provided and assuming an adequate amount of land is donated to the State for affordable residential projects, Petitioner's affordable housing program would satisfy the housing needs of the Lanai community.

86. Petitioner has represented to the Commission that should the Department of Transportation-Harbors Division need

additional areas to improve Kaumalapau Harbor, Petitioner will donate the needed property over to the state.

STATE AND COUNTY PLANS AND PROGRAMS

87. The total petition area of 78.793 acres is comprised of three contiguous parcels of land. The two largest parcels--containing approximately 63.526 acres and 10.885 acres, respectively--are currently in the Agricultural Land Use District. Together, these parcels constitute the narrow strip of Agricultural Land Use District land which is situated between the Urban and Conservation Land Use Districts in upland Lanai. The smallest parcel contains approximately 4.382 acres, and is currently in the Conservation Land Use District.

88. Petitioner has requested an amendment to the current Lanai Community Plan to allow proposed uses and development on the Property. The Lanai Community Plan, adopted in April 1983, provides the implementation scheme for the County's broad objectives and policies pertaining to Lanai. On August 9, 1990, the Maui Planning Commission recommended approval of the Lanai Community Plan Amendment for the Project District Boundary Amendment. The amendment is subject to and currently pending final approval of the Maui County Council.

89. Petitioner has requested an amendment to the Koele Project District Boundary to allow the land use configuration to include the Property for which Urban reclassification is being sought. On August 9, 1990, the Maui

Planning Commission recommended approval of the Koele Project District Amendment. The amendment is subject to and currently pending final approval of the Maui County Council.

CONFORMANCE WITH THE HAWAII STATE PLAN

90. The reclassification of the Property to allow the proposed development conforms to the Hawaii State Plan, Chapter 226, HRS, as amended, with respect to the following goals, policies and objectives:

- a. "A strong, viable economy characterized by stability, diversity and growth, that enables the fulfillment of the needs and expectations of Hawaii's present and future generations."
§226-4(1)

The development on the Property is proposed to be made a part of the Koele Project District which project district is intended under Maui County Ordinance No. 1580 "to establish a low density, primarily residential and recreational development with hotel facilities in an upland rural setting."

The present local economy has been dominated by pineapple production. This production is expected to cease by 1993. The proposed uses for the Koele Project District offer economic alternatives that will open new job opportunities and create a stronger, more diverse, and stable economy.

- b. "Encourage an increase in economic activities and employment opportunities on the neighbor islands consistent with community needs and desires."
§226-5(b)(2)

The Koele Project District is a product of the Maui County approval processes with community participation toward well-planned developments consistent with community needs and desires.

- c. "Improve the quality of existing visitor destination areas."
§226-8(b)(3)

"Encourage visitor industry practices and activities which respect, preserve and enhance Hawaii's significant natural, scenic, historic and cultural resources." §226-103(b)(4)

Lanai has long been without visitor facilities. The designations of the Koele and Manele Project Districts by the County of Maui acknowledge the need to provide for well-planned developments pursuant to the uses permitted in the districts. The proposed low-density housing for the Property supports the economic health and quality of the visitor industry on Lanai by preserving open space within the urban project district which is a primary amenity for residents and visitors of Lanai. The proposed residential development is a clean, non-polluting industry that is not only compatible with, but also dependent upon the unspoiled natural, scenic, historic, and cultural resources of the area.

- d. "Make available marginal or non-essential agricultural lands for appropriate urban uses while maintaining agricultural lands of importance in the agricultural district." §226-104(b)(2)

The Property is marginal and non-essential agricultural lands. The Property is rated "C", "D" and "E" under the Land Study Bureau's overall productivity rating system. No part of the Property is rated as Prime Agricultural Land under the ALISH classification system. Much of the Property is remnant pineapple fields which have not been put to agricultural use for many years.

CONFORMANCE TO STATE LAND USE DISTRICT STANDARDS

91. The Property is contiguous with the Koele Project District which is in the Urban District and is adjacent to the existing urban area of Lanai City. The Koele Project District is part of the County's Community Plan for Lanai. The Property is being considered for inclusion into the Project District and Community Plan.

92. The Property, proposed as a part of the Koele Project District, would be adjacent to Lanai City which is the urban center of Lanai. The uses within the Koele Project District include the Koele Lodge and golf course which provide or will generate new employment.

93. The Property, proposed as a part of the Lanai Project District, is located adjacent to Lanai City where most basic services presently exist.

94. The Property can be used for low-density residential development that is designed with the natural terrain and drainage. The area is not within an identified

flood or natural hazard area, nor is it habitat for known endangered species.

95. The Property, being contiguous to the Koele Project District and proximate to Lanai City, will not contribute to scattered isolated urban development. Road and utility infrastructure for the Property will be planned and constructed by the Petitioner as part of the Koele Project District development.

96. The 10.885 acres of the Property sought to be reclassified from the Agricultural District to the Conservation District are in the Eucalyptus forest area and contiguous to the mauka lands currently in the Conservation District and are therefore appropriate for inclusion within the Conservation District.

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, Hawaii Revised Statutes, as amended, the Hawaii Land Use Commission Rules, Chapter 15-15, Hawaii Administrative Rules, the Commission finds upon the preponderance of evidence that the reclassification of the Property consisting of approximately 63.526 acres in the Agricultural District and approximately 4.382 acres in the Conservation District to the Urban District for residential uses, and the reclassification of the Property consisting of 10.885 acres in the Agricultural District to the Conservation District, at Koele, Island of Lanai, State of Hawaii, Tax Map Key No. 4-9-2: portion of 1, subject to the conditions stated in the Order, conforms to the standards established in the Hawaii Land Use Commission Rules, Chapter 15-15, Hawaii Administrative Rules, is reasonable, and is nonviolative of Section 205-2, Hawaii Revised Statutes, as amended, and the Hawaii State Plan as set forth in Chapter 226, Hawaii Revised Statutes, as amended.

ORDER

IT IS HEREBY ORDERED that the Property, consisting of approximately 78.793 acres, being the subject of this Docket No. A90-662 by Lanai Resort Partners, situate at Koele, Island of Lanai, State of Hawaii, identified as Tax Map Key No. 4-9-2: portion of 1, and approximately identified on Exhibit "A", attached hereto and incorporated by reference herein, for (i) reclassification of approximately 63.526 acres of the Property

in the Agricultural District and approximately 4.382 acres of the Property in the Conservation District to the Urban District, and (ii) reclassification of approximately 10.885 acres of the Property in the Agricultural District to the Conservation District shall be and hereby is approved and the State Land Use District Boundaries are amended accordingly, subject to the following conditions:

1. Petitioner shall donate an adequate amount of land to the State of Hawaii for affordable residential projects to the satisfaction of the State Housing Finance and Development Corporation (HFDC).

2. Petitioner shall implement a groundwater monitoring program and other measures to prevent groundwater contamination from the development on the Property, in consultation with, and to the satisfaction of, the State Department of Health (DOH).

3. Petitioner shall have the project-generated wastewater collected and transported to the Lanai City Wastewater Treatment Facility, and shall also participate in the funding of any expansion or improvements to this treatment facility required by the project-generated wastewater, to the satisfaction of the County of Maui, Department of Public Works, and the State Department of Health.

4. Petitioner shall fund the design and construction of all necessary water facility improvements, including source

development, to provide adequate quantities of potable water to service the subject project.

5. Petitioner shall submit a detailed drainage and erosion control plan including, but not limited to, hydrologic and hydraulic calculations, scheme for controlling erosion and disposal of runoff water, and an analysis of the soil loss using the HESL erosion formula, to the County of Maui, Department of Public Works, for review and approval. This plan shall provide verification that the grading and all runoff water generated by the project will not have an adverse effect on the adjacent and downstream properties. The approval of the plan shall be deemed compliance of this condition.

6. Petitioner shall participate in the funding and construction of any transportation improvements necessitated by the proposed project, identified by and to the satisfaction of the County of Maui, Department of Public Works and State Department of Transportation.

7. Petitioner shall immediately stop work and contact the State Department of Natural Resources, Historic Preservation Division should any previously unidentified archaeological resources such as artifacts, shell, bone, or charcoal deposits, human burial, rock or coral alignments, pavings or walls be encountered during the project's development.

8. Petitioner shall provide its pro rata share for police, fire, park and solid waste disposal as may be required

by the proposed project and to the satisfaction of the County of Maui.

9. Petitioner shall provide its pro rata share for school facilities as may be required by the proposed project and to the satisfaction of the State Department of Education.

10. Petitioner shall fund and install the necessary number of emergency siren units within the Property as required for service to the Property to the satisfaction of the State Department of Defense.

11. Petitioner shall develop the Property in substantial compliance with representations made to the Land Use Commission in obtaining the reclassification of the Property. Failure to so develop the Property may result in reversion of the Property to its former classification or change to a more appropriate classification.

12. Petitioner shall give notice to the Land Use Commission of any intent to sell, lease, assign, place in trust, or otherwise voluntarily alter the ownership interest in the Property prior to development of the Property.

13. Petitioner shall provide annual reports to the Land Use Commission, the Office of State Planning, and the Maui County Planning Department in connection with the status of the development of the Property and Petitioner's progress in complying with the conditions imposed.

14. The Land Use Commission may fully or partially release these conditions as to all or any portions of the

Property upon timely motion and upon the provision of adequate assurance of satisfaction of these conditions by Petitioner.

15. Petitioner shall record the conditions imposed by the Commission with the Bureau of Conveyances pursuant to title 15, chapter 15, section 92, Hawaii Administrative Rules.

16. The Cavendish golf course shall remain as a "free play" golf course to the residents of Lanai.

