

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)	Docket No. A93-697
))
THE COUNTY OF KAUAI and GROVE)	FINDINGS OF FACT,
FARM PROPERTIES, INC.)	CONCLUSIONS OF LAW, AND
)	DECISION AND ORDER
To Amend the Agricultural District)	
Boundary into the Urban District)	
for Approximately 34.402 Acres)	
Situated at Niumalu, Lihue, Kauai,)	
Tax Map Key: 3-3-03: por. 1)	
_____)	

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

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LAND USE COMMISSION
STATE OF HAWAII

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To Amend the Agricultural District)	
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FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND DECISION AND ORDER

GROVE FARM PROPERTIES, INC. and the COUNTY OF KAUAI ("Petitioners"), pursuant to Chapter 205, Hawaii Revised Statutes ("HRS"), and Title 15, Subtitle 3, Chapter 15, Hawaii Administrative Rules, ("HAR"), filed a Petition For Land Use District Boundary Amendment ("Petition") on November 5, 1993, to amend the Land Use District Boundary to reclassify approximately 34.402 acres of land situate at Lihue/Puhi, Island and County of Kauai, State of Hawaii, Tax Map Key: 3-3-03, portion 1, ("Property" or "Project Area") from the Agricultural District to the Urban District. The Land Use Commission ("Commission"), having heard the testimony and examined the evidence presented at the hearings held in connection with the Petition, and having considered Petitioners' Proposed Findings of Fact, Conclusions of Law, and Decision and Order, the Proposed Findings of Fact, Conclusions of Law, and Order submitted by Donald E. Heacock ("Intervenor"), the Petitioners' Response to Intervenor's

Proposed Findings of Fact, Conclusions of Law, and Decision and Order, the Office of State Planning's ("OSP") Response to Petitioner's Proposed Findings of Fact, Conclusions of Law, and Decision and Order, Petitioner's Reply to the Office of State Planning's Response to Petitioners' Proposed Findings of Fact, Conclusions of Law, and Decision and Order, and the record herein, hereby makes the following findings of fact, conclusions of law, and decision and order:

FINDINGS OF FACT

PROCEDURAL MATTERS

1. On November 5, 1993, Petitioners filed the Petition seeking reclassification of the Property from the Agricultural District to the Urban District. Filing of the Petition was authorized by the fee owner of the Property, Grove Farm Company, Incorporated.

2. On January 21, 1994, a prehearing conference was held at Honolulu, Hawaii, with representatives of the Petitioners, OSP, and Mr. Donald Heacock present. At the prehearing conference, the lists of exhibits and lists of witnesses of the parties submitted as of that date were exchanged by the parties.

3. On January 28, 1994, Mr. Donald Heacock filed a letter dated January 27, 1994, requesting to intervene in the proceeding. Mr. Heacock's request was opposed by the Petitioners by memorandum filed on February 3, 1994.

4. On February 10, 1994, at its meeting in Lanai City, Lanai, the Commission acted on Mr. Heacock's Intervention Request and granted Mr. Heacock intervenor status in the proceedings on this docket. On February 16, 1994, the Commission issued its Order granting Mr. Heacock's Intervention Request.

5. The Commission held hearings on the Petition on February 24, 1994 and June 2, 1994 pursuant to a notice published in the Garden Island and Honolulu Advertiser on December 27, 1993.

6. No public witness testimony was received by the Commission.

DESCRIPTION OF PROJECT AND PROPERTY

7. The Project Area is located in the District of Lihue. The proposed configuration and boundaries of the Project Site are reflected in figures 1 & 2 of the Petitioners' Exhibit D filed in connection with these proceedings. Specifically, the Project Area is situated in the vicinity of the intersection of Halehaka Road and Puali Stream, in the Niualu region of the Lihue District, Island of Kauai. The subject property is identified as Tax Map Key: 3-3-03: portion of 1.

8. The Project Area abuts the southern boundary of Grove Farm's Lihue/Puhi Project District, which was reclassified to the Urban District in 1989 by the State Land Use Commission and subsequently approved for residential uses, commercial uses, and a golf course, in accordance with a County General Plan amendment (PM-205-90) and County zoning ordinance (PM-206-90).

The Project Site is contiguous to the site of the existing approved Puakea Golf Course which is located within the Lihue/Puhi Project District ("Puakea Project").

9. Within the Project Area is a portion of the Puali Stream gulch consisting of approximately 18 acres ("Gulch"), and a portion of the plateau abutting the south side of the gulch consisting of approximately 16 acres ("Plateau"). The Gulch is vacant of physical structures, with the exception of the remains of a single pump house structure situated adjacent to a small man-made irrigation reservoir ("Haiku 4B Reservoir"). A portion of the Plateau (approximately 10 1/2 acres) is cultivated in sugarcane, while the remaining portion is undeveloped and covered with vegetation similar to that in the Gulch. The cultivated and uncultivated areas are separated by an unpaved cane-haul road. All lands within 1,000 feet of the proposed project boundaries are owned in fee by Grove Farm Company, Incorporated.

10. Elevations of the Property range from approximately 150 feet above mean sea level at the bottom of Puali Stream gulch, to 250 feet above mean sea level on the Plateau. The Property has been subjected to extensive grading and reshaping associated with historic use of the Gulch as a drainage ditch and plantation irrigation reservoir and the Plateau for sugarcane cultivation. Slopes are steepest along portions of the sides of the Gulch, while the Plateau has slopes of less than 10%.

11. The Project Area is located immediately southwest of the Halehaka Landfill, which was leased from Grove Farm

Properties, Inc. ("Grove Farm") by the County of Kauai ("County") in the early 1970's and operated as a County landfill until June 1991 when it stopped receiving refuse. The County is currently preparing a closure plan for the landfill pursuant to the Landfill Agreement between Grove Farm and the County.

12. The predominant portion of the Project Area is to be left in its natural state and approximately 12 acres of the Project Area will be utilized for golf purposes. Of this area, approximately 10 1/2 acres, consist of sugarcane lands.

13. Grove Farm proposes to develop two golf holes, and to realign portions of two other holes of golf, together with related facilities (which includes the tees, green, fairway, and golf cart pathways associated with each individual hole), within the Project Area, as shown on Figure 11 of Petitioners' Exhibit D.

14. The golf holes located in the Gulch area will be designed as "target" greens/tees, whereas the golf hole on the Plateau will include a fairway as one of its components. Within the Gulch, areas between the target tees and greens, including the stream, will remain largely undisturbed with the exception of the selected replacement of some growth such as hau, mango, and Java Plum trees with vegetation including lavae fern and the like and the periodic cutting back of certain vegetation along the stream to prevent overgrowth above the stream channel. The minimum grading requisite for the construction of the improvements is proposed by Grove Farm.

15. The proposed project also contemplates the construction of a concrete golf cart path, averaging 9 feet in width, to link the holes within the Project Area to the balance of the Puakea golf course. The cart path will enter the Gulch on the eastern side of the 13th tee, wind downslope to a single bridge across Puali Stream, and encircle the 14th fairway. The cart path will return across the same bridge and exit the Gulch to the west of the 16th tee area. The proposed golf cart crossing bridge is located at a narrow portion of the stream channel and minimizes the number of bridge pilings needed. Utility lines will be incorporated into the bridge design. A halfway house is also proposed to be constructed within the Property. The halfway house will include two bathrooms and a covered area where 2-4 carts may park.

PETITIONER GROVE FARM'S FINANCIAL CAPABILITY

16. Grove Farm will be solely responsible for the development of the project. The Annual Report of Grove Farm Company, Incorporated indicated that Petitioner Grove Farm is in sound financial condition and is capable of undertaking and completing the proposed project as planned. Grove Farm has available (through its parent company) sufficient assets to collateralize any financial borrowing or undertaking necessary or determined expedient to implement the proposed project.

STATE AND COUNTY PLANS AND PROGRAMS

17. Within the Property, the entire Gulch area and portions of the Plateau are designated as RR (rough broken land)

by the United States Department of Agriculture Soil Conservation Service (1972) and are classified E-87 by the Land Study Bureau's (1967) classifications. According to the Agricultural Lands of Importance to the State of Hawaii (ALISH) system, the Plateau includes approximately 8 acres of Class "B" lands, with the balance being Class "C" and "E" lands. The approximately 18 acres of the Gulch is rated as "E" lands. According to the 1972 Soil Conservation Service of the U.S. Department of Agriculture, the Project Area contains predominantly Puhi silty clay loam and Lihue silty clay soils.

18. The approximately 34.402 acre Project Area is currently within the State Land Use Agricultural District as reflected on Land Use District Boundary Map K-11 (Lihue). The Project Area is also within the County's Open Zoning District. The Kauai County General Plan ("General Plan") designation for the Project Area is Urban Mixed Use.

19. The Property is not within the County Special Management Area (SMA) designation nor subject to any County constraint district or designation.

20. The Kauai Planning Commission granted a Special Permit for an approximately 8 acre portion of the Property (SP-93-12), and a Use Permit (U-93-62) and Class IV Zoning Permit (Z-IV-93-72) for the Property on September 23, 1993. The Special Permit was necessary as golf courses are not a permitted use on lands classified as Class B by the ALISH system and the Use Permit and Class IV Zoning Permit was necessary to establish

golf course uses within the County's agricultural zoning district.

NEED AND RATIONALE FOR RECLASSIFICATION

21. The area leased to the County of Kauai for use as the County's Halehaka Landfill was included in lands urbanized and zoned for golf course and related uses within the Puakea Project, and was intended and contemplated under these approvals that a portion of the Puakea golf course would be constructed on the closed landfill in coordination with the County's closure of that site. After the County of Kauai ceased operation of the landfill in June 1991, the County determined that use of the landfill site for portions of the golf course would not be advisable and requested that Grove Farm relocate the portion of the Puakea golf course proposed to be located on the landfill and also setback proposed residential developments from the landfill closure area.

22. Following a detailed analysis of all options by the County and Grove Farm, it was determined that development of the approved Puakea golf course would not be possible in the reduced urban area resulting from the exclusion of the landfill as a development site. Grove Farm and the County subsequently determined that the only course of action available would involve the relocation of a portion of the golf course to land outside of and adjacent to the urban area.

23. Reclassification of the Project Area and the relocation of the subject golf course holes accomplishes a number of objectives:

(a) it exchanges on an equitable "like for like" basis, Urban lands no longer available to Petitioner Grove Farm due to the manner in which the county wishes to close the Halehaka landfill;

(b) it may result in a substantial savings to the County in connection with its closure of the landfill;

(c) it will allow a greater measure of safety to the general public by increasing the buffer zone between the landfill and the development of homes;

(d) it allows Grove Farm a greater assurance of permanency respecting the proposed use for the Project Area.

IMPACTS ON RESOURCES OF THE AREA

Agricultural Resources

24. Approximately 10.5 acres of the Property are to be removed for cane cultivation and only after the harvest of the area. This area is relatively small and is not expected to have a negative impact on the surrounding cane operation. Further, the development will not unnecessarily disrupt water supply to surrounding sugarcane operations.

Water Quality and Drainage

25. Haiku 4-B Reservoir is fed by two streams, Halehaka Stream and Puali Stream. Halehaka Stream is an intermittent waterway which flows through two irrigation reservoirs into the

Puali Stream irrigation system. Halehaka Stream joins the irrigation system just outside the western project boundary, and from this point on, it is named Puali Stream and is identified by the United States Geologic Survey as a perennial stream. It enters the Project Area from the west and also flows into Haiku 4-B Reservoir. The Haiku 4-B Reservoir is less than an acre in size and, the reservoir drains from a concrete weir outlet along the southwestern side of the basin and continues approximately 1-1/2 miles to Niupalu Marsh at Nawiliwili Harbor.

26. Prior to construction, siltation basins will be installed pursuant to the County's grading permit requirements and will adequately control construction related sediment runoff. Once the golf course is operational, sediment runoff will be reduced significantly from current levels due to the replacement of the sugarcane field on the Plateau with turf grass. The site's topography and soil characteristics provide an extremely well-drained condition suitable for development.

27. Runoff from the Project Area will be maintained in the current manner. No increase in surface water discharge or groundwater discharge will result from the development.

28. Puali Stream's waters are classified as Class 2 waters under the Department of Health Administrative Rules. The use of such waters for recreational purposes, propagation of fish and other aquatic life, and for agriculture and industrial water supply purposes, among others, is to be protected.

29. Puali Stream is classified as a perennial stream subject to the interim instream flow standards adopted by the Commission on Water Resource Management ("CWRM") for Kauai streams, which provides that the instream flow standard is "that amount of water flowing in each stream on the effective date of this standard (June 15, 1988), and as that flow may naturally vary throughout the year and from year to year without further amounts of water being diverted offstream through new or expanded diversions, and under stream conditions existing on the effective date of the standard..." The principal source of waters (approximately 93%) in Puali Stream is from irrigation waters diverted to or seeping into the stream from Grove Farm and Lihue Plantation Company, Ltd. farming operations, and there is no quantification of any "natural" flow within the stream.

30. The proposed project will not involve discharge of any wastewater, commercial pollutants or industrial waste into Puali Stream. Surface runoff generated by the proposed development is planned to be contained within the golf course or to be limited to that which currently flows into the stream.

31. The current water quality of Puali Stream has been determined to be highly variable in nutrient levels. It is known that the principal source of water in the stream is irrigation water and that the stream is impacted by sugarcane siltation discharge and surface drainage. The elevated level of nitrates in Puali Stream suggest the contribution of leachate from Halehaka Landfill. Petitioner's ecology consultant has concluded

that additional water quality samples would have to be collected along Puali Stream to establish where nitrates are entering Puali Stream and to affirm conclusions made in the environmental reconnaissance survey. Further, the environmental reconnaissance of Puali Stream revealed that no native aquatic biota species were found in the stream.

32. It is not expected that the use of fertilizers, chemical herbicides or pesticides in the Project Area will have an adverse impact on groundwater resources or upon the environment or ecology of Puali Stream waters and/or its biota.

33. According to Petitioners' soil science consultant, the current sugarcane operation along the stream creates a greater risk of a detrimental effect on water quality than will golf course use, and risk of surface runoff of fertilizers and pesticides in a golf course context will be far reduced as compared to the risk of runoff attributable to the surrounding agricultural uses.

34. Petitioners' soil science consultant has recommended that sound management practices be followed with regard to fertilizer and pesticide application and irrigation and management of the golf course be supervised by a well-qualified golf course superintendent.

35. Petitioners' soil science consultant also recommends that computerized environmental monitoring instruments or a United States Weather Bureau class A evaporation pan be utilized to monitor evapotranspiration and

schedule irrigation applications on the proposed golf course, judicious use of pesticides and fertilizers, fertigation or slow-release nitrogen sources be used, topsoil stockpiled and replaced in uniform layer, and adequate buffer space, with tall vegetation, separating the golf course from housing and public areas.

Fauna

36. A variety of bird species have been observed and recorded at the Project Area. The native bird species identified at the Project Area included the Koloa and Black-crown night Heron. No endangered species have been identified as currently frequenting or nesting in the Project Area. No other native species have been identified on the Property. No evidence of cats, rats or mice was observed but these mammals likely do occur on the Property. Petitioners' biology/zoology consultant concluded that development of the golf course will not have an adverse impact on any of the identified birds or those expected to use the area (including migratory seabirds such as the shearwater) or on the habitat utilized by those birds, and would probably improve the habitat for a variety of species.

37. Petitioners' biology/zoology consultant recommended that fallen trees and debris from Puali Stream and Haiku 4B Reservoir be cleared and maintained to provide access for birds and restore natural stream flow, and a buffer of trees and brush between the Haiku 4B Reservoir and Puali Stream and

the proposed project for the Property to mitigate disturbances to waterbirds.

38. An Environmental Reconnaissance Survey of Puali and Halehaka Streams did not reveal any native fishes in Puali Stream. Petitioners' ecology/biology consultant did not believe Puali Stream to be an important habitat of aquatic biota or other fauna.

Flora

39. Those portions of the Project Area not currently covered by sugarcane field contain scrub vegetation and almost exclusively introduced or alien species. No threatened or endangered species, or candidate species of flora were found in the Project Area, and the development is not expected to have an adverse effect on flora.

Air Quality

40. A short-term minor air quality impact may result from the proposed project during its construction phase. Implementation of adequate dust control measures employed during the construction phase will mitigate and alleviate resulting adverse effects, if any, on surrounding areas.

41. No substantial adverse environmental or ecological effect will result from the development of the golf course and facilities proposed within the Project Area. Indeed, the placement of a portion of the course within the Project Area and the closure of the landfill site without locating a portion of the golf course on the landfill site will reduce direct long-term

air quality impacts associated with cane harvesting in adjacent areas.

Noise

42. Construction activities associated with the development of the golf course may contribute in the short-term to temporarily increase noise levels. Restriction of construction activities to daylight hours where the activities are conducted in proximity to developed areas will mitigate and alleviate any possible impact associated with such activity.

43. The implementation of the proposed project at the Project Area is not expected to increase noise level in the long-term. Access to the site will be limited to golf cart and maintenance vehicles. Consequently, the development will not have any substantial adverse environmental or ecological effect in terms of noise.

Archaeology, Historical and Cultural Resources

44. The Project Area has no archaeological, historical or cultural significance. A surface and limited subsurface survey of the area identified no surface or subsurface archaeological sites within and about the Project Area. Petitioners' archaeological consultant recommended no further archaeology work for the site, and concluded that the development of the Project Area will have no negative environmental effect in terms of archaeology. Based on the report prepared by Petitioners' archaeological consultant, the State Historic Preservation Division reviewed and accepted the proposed project

and determined that the proposed project would not have any adverse effect on any historic sites.

Natural Hazard

45. Portions of the Project Area are within the 100 year floodplain identified by the Flood Insurance Rate Map ("FIRM") prepared by the U.S. Army Corps of Engineers, however all improvements proposed for the site are outside the 100 year floodplain, with the exception of 2 bridge footings, which are designed to withstand the 100 year flood.

Recreational Scenic and Cultural Resources

46. Development of the Property is not expected to increase the use of State or County recreational facilities, or otherwise impact scenic and cultural resources. The proposed project will increase available recreational facilities in the Lihue area.

47. The proposed golf course will contain a large expanse of green turf, scattered shrubs and trees and will provide a transition to the natural vegetation on the Project Area slopes. No major structural improvements are proposed for the Project Area. No adverse impacts on views in or around the Project Area are expected from the development.

ADEQUACY OF PUBLIC FACILITIES AND SERVICES

48. The cost to construct all infrastructure necessary to support the golf course use proposed at the Project Area, including potable water delivery facilities and remote sanitation

facilities, if any, will be borne by Grove Farm. Water source is currently sufficient to satisfy the projected demand.

49. No demand will be placed on County services for irrigation water. No potable water will be used to irrigate the Project Area.

50. No public sewage collection system exists in the area of the project. All existing systems consist of private collection and treatment facilities. Liquid waste generated from the proposed project (from the proposed halfway house) will be treated at the existing sewage treatment plant servicing the Puakea Project. Solid waste will be disposed of by private contractor. Neither waste element will have any substantial adverse environmental or ecological effect and adequate services exist or can be developed without cost to the County to meet these needs.

51. Adequate police and fire protection services and electrical and telephone services are available to service any need which may be generated by the proposed project.

52. Implementation of the proposed project will not unreasonably burden public agencies to provide roads, streets, sewer and water facilities, drainage facilities, school improvements or police and fire protection.

ECONOMIC IMPACT

53. Construction and operation of the proposed golf course can be expected to result in increased employment, personal income and government revenues. It is expected that

government revenue in the long-term will increase by virtue of the implementation of the proposed project attributable both to an increase in the property tax base and consequent property taxes payable to the County. Each of the foregoing socio-economic impacts is perceived as beneficial and will not create any adverse impact on the island economy, environment or ecology.

54. It is anticipated that approval of the Petition and relocation of golf holes and residential areas from the Halehaka Landfill may conserve County financial resources by reducing the cost to the County to close and cap the landfill.

SOCIAL IMPACTS

55. Much of the area immediately adjacent to the Property is currently urban. The proposed Puakea golf course will provide additional recreational opportunities for Kauai residents. It will aid in relieving the overburdened Wailua golf course.

CONFORMANCE TO APPLICABLE DISTRICT STANDARDS AND CRITERIA

56. The proposed development is consistent with the standards and criteria set out in Hawaii Land Use Commission Rules, section 15-15-18(1) through (8), inclusive, and section 15-15-77, HAR to the extent such standards and criteria may be applicable.

57. The proposed development is consistent with the relevant Land Use Commission Urban District Standards in that:

- (a) The proposed development will be within an area consisting of lands characterized by "city-like" concentrations of people, structures, streets, an urban level of services and other related land uses.
- (b) The Property is in close proximity to Kauai's major trading, employment, governmental and social centers.
- (c) The economic feasibility of the proposed development has been substantiated by Grove Farm.
- (d) Basic services such as electricity, gas, sewer, water, sanitation, schools, parks, and police and fire protection are available or can be provided to the Property at a reasonable cost without negative impact on such services.
- (e) The Property is designated under the County General Plan for "Urban Mixed Use". The Property is also zoned "Open" and the use proposed at the Property is a permitted use of the land.
- (f) The topography of the Property is amenable to the proposed development. The Property is free of unstable soil conditions and the proposed development will have no significant adverse effects upon the environment.
- (g) The Property is contiguous to the Urban District. The proposed development of the Property will not

contribute to scattered urbanization, nor will it require an unreasonable investment in public facilities or services.

- (h) The project will increase employment opportunities in the County and facilitate economic development of the island. The project will not adversely impact valued cultural, historical or natural resources (including those relevant to the state's economy).

CONFORMANCE WITH THE HAWAII STATE PLAN

58. The proposed development is consistent with portions of the Hawaii State Plan as set forth in chapter 226, Hawaii Revised Statutes, as amended.

CONFORMANCE WITH COASTAL ZONE POLICIES AND OBJECTIVES

59. Although the Property is within the Coastal Zone Management area, it is not within the Special Management Area established by the County. The proposed reclassification of the Property for the development of the project 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 previously ruled upon by the Commission by adoption in this Decision and Order, or rejected by clearly contrary findings of fact herein contained, are hereby denied and rejected.

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

CONCLUSIONS OF LAW

Pursuant to chapter 205, HRS, and the Hawaii Land Use Commission Rules, under chapter 15-15, HAR, and upon consideration of the Land Use Commission's decision-making criteria under section 205-17, HRS, this Commission finds upon a clear preponderance of evidence that the reclassification of the Property, consisting of approximately 34.402 acres of lands situate at Lihue and Puhi, Kauai, Hawaii, Kauai Tax Map Key: 3-3-03: portion of parcel 1, from the State Land Use Agricultural District to the State Land Use Urban District for use as a portion of a golf course, and accessory related uses, subject to the conditions provided in this Order, is reasonable, nonviolative of section 205-2, HRS, and is consistent with the Hawaii State Plan as set forth in chapter 226, HRS, and the Coastal Zone Management Program under chapter 205A, HRS.

ORDER

IT IS HEREBY ORDERED that the Property, being the subject of this Docket Number A93-697 consisting of approximately 34.402 acres situated at Lihue and Puhi, Island and County of Kauai, State of Hawaii, identified as Kauai Tax Map Key: 3-3-03: portion of parcel 1, and approximately shown on Exhibit "A",

attached hereto, and incorporated by reference herein, shall be and is hereby reclassified from the State Land Use Agricultural District to the State Land Use Urban District, and the State Land Use District Boundaries are amended accordingly, subject to the following conditions:

1. The Property shall be utilized for the proposed relocated golf course holes (target tees/greens, and fairways) and related uses (i.e., cart path, cart path bridge, halfway house). There shall be no residential development on the Property.

2. Petitioners shall implement effective soil erosion and dust control measures during the construction to the satisfaction of the State Department of Health.

3. Petitioners shall comply with the State Department of Health's conditions applicable to new golf course development and shall coordinate with the Department to determine the scope of the applicability of such conditions to the project.

4. Petitioners shall initiate and fund a biological reconnaissance survey and a water quality monitoring program for Puali Stream which shall be approved by the Division of Aquatic Resources, Department of Land and Natural Resources.

5. Should any archaeological resources such as artifacts, shell, bone, or charcoal deposits, human burials, or rock or coral alignments, pavings, or walls of historic or prehistoric importance be encountered during the development of the Property, Grove Farm Properties, Inc. shall immediately stop

work on the impacted area and contact the Historic Preservation Division of the State Department of Land and Natural Resources.

6. Petitioner Grove Farm Properties, Inc. shall engage the services of a qualified golf course superintendent to oversee irrigation of the golf course and application of fertilizers, pesticides and herbicides to the Puakea Golf Course and who shall be qualified in the application of fertilizers, pesticides and herbicides on those areas by the State Department of Agriculture.

7. Petitioner Grove Farm Properties, Inc. shall make available adequate golf tee times at affordable rates for public play to State of Hawaii residents.

8. Petitioner, Grove Farm Properties, Inc., shall develop the Property in substantial compliance with the representations made to the 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.

9. Petitioner Grove Farm Properties, Inc. shall give notice to the Commission of any intent to sell, lease, assign, place in trust, or otherwise voluntarily alter the ownership interests in the Property, prior to development of the Property.

10. Petitioners shall timely provide without any prior notice, annual reports to the Land Use Commission, Office of State Planning, and the Intervenor in connection with the status of the subject Property and Petitioners' progress in complying with the conditions imposed herein. The annual report shall be

submitted in a form prescribed by the Executive Officer of the Commission.

11. The Land Use Commission may fully or partially release the conditions provided herein as to all or any portion of the Property upon timely motion and upon the provision of adequate assurance of satisfaction of these conditions by Petitioners.

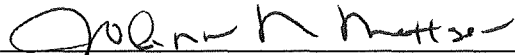
12. Within 7 days of the issuance of the Commission's Decision and Order for the subject reclassification, Petitioners shall (a) record with the Bureau of Conveyances a statement to the effect that the Property is subject to conditions imposed herein by the Land Use Commission in the reclassification of the Property, and (b) shall file a copy of such statement with the Commission.


13. Petitioners shall record the conditions imposed herein by the Commission with the Bureau of Conveyances pursuant to section 15-15-92, HAR.

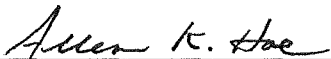
DOCKET NO. A93-697 - THE COUNTY OF KAUAI AND GROVE FARM
PROPERTIES, INC.

Done at Honolulu, Hawaii, this 14th day of September 1994,
per motion on September 8, 1994.

LAND USE COMMISSION
STATE OF HAWAII


By 
JOANN N. MATTSON
Chairperson and Commissioner

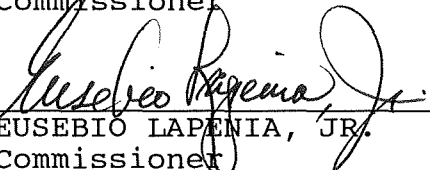
By 
TRUDY K. SENDA
Vice Chairperson and Commissioner


By 
ALLEN K. HOE
Commissioner


By (abstain)
M. CASEY JARMAN
Commissioner

By (abstain)
ALLEN Y. KAJIOKA
Commissioner

By 
LLOYD F. KAWAKAMI
Commissioner


By 
EUSEBIO LAPENIA, JR.
Commissioner

By 
RENTON L. K. NIP
Commissioner

By 
ELTON WADA
Commissioner

Filed and effective on
September 14, 1994

Certified by:


Executive Officer

BEFORE THE LAND USE COMMISSION
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the Findings of Fact, Conclusions of Law, and Decision and Order was served upon the following by either hand delivery or depositing the same in the U. S. Postal Service by certified mail:

NORMA WONG, Director
Office of State Planning
P. O. Box 3540
Honolulu, Hawaii 96811-3540


CERT. DEE CROWELL, Planning Director
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CERT. JONATHAN CHUN, ESQ., Attorney for Petitioner
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CERT. DON HEACOCK, Intervenor
P. O. Box 1323
Lihue, Hawaii 96766

DATED: Honolulu, Hawaii, this 14th day of September 1994.



ESTHER UEDA
Executive Officer