

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)
GROVE FARM PROPERTIES, INC.)
To Amend the Agricultural Land)
Use District Boundary into the)
Urban Land Use District for)
Approximately 603 acres at)
Lihue, Island and County of)
Kauai, State of Hawaii, Tax Map)
Key Nos.: 3-3-3: Portion 1;)
3-3-2: Portion 1; 3-3-6:)
Portion 19 and 3-4-5: Portion 7)
(inclusive of roadways).)

DOCKET NO. A89-636

GROVE FARM PROPERTIES,
INC.

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.

JUN 30 1989

Date

by

Robert Leach
Executive Officer

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

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FINDINGS OF FACT,
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AND DECISION AND ORDER

GROVE FARM PROPERTIES, INC., a Hawaii corporation (hereinafter "Petitioner"), filed a Petition on February 16, 1989 and subsequent Amendments to Petition on March 17, 1989, March 23, 1989, March 28, 1989, April 20, 1989, and on May 8, 1989 pursuant to Chapter 205, Hawaii Revised Statutes, as amended ("HRS"), and Title 15, Subtitle 3, Chapter 15, Hawaii Administrative Rules, as amended (hereinafter "Commission Rules"), to amend the Land Use District Boundary to reclassify approximately 608 acres of land situate at Lihue and Puhi, Island of Kauai, State of Hawaii, Kauai Tax Map Key Numbers: 3-3-3: Portion of 1; 3-3-2: Portion of 1; 3-3-6: Portion of 19; and 3-4-5: Portion of 7, from the Agricultural District to the Urban District to develop residential, commercial, golf

course and open space uses. The Land Use Commission (hereinafter "Commission") having heard and examined the testimony, evidence, and arguments of counsel presented during the hearings, and the parties proposed findings of fact and conclusions of law and decision and orders, hereby makes the following findings of fact and conclusions of law:

FINDINGS OF FACT

PROCEDURAL MATTERS

1. On February 16, 1989, Petitioner filed Petition to reclassify approximately 605 acres of land from the Agricultural District to the Urban District, Tax Map Key Numbers: 3-3-3: Portion of 1; 3-3-2: Portion of 1; and 3-4-5: Portion of 1, including roadways.

2. On March 17, 1989, Petitioner filed First Amendment to Petition to amend the Tax Map Key Numbers to 3-3-3: Portion of 1; 3-3-2: Portion of 1; and 3-4-5: Portion of 7, including roadways.

3. On March 23, 1989, Petitioner filed Second Amendment to Petition and Amendments to Exhibits A, B, and E. The Second Amendment amended the subject property's Tax Map Key Numbers to delete language describing the roadway lots of the Petition area.

4. On March 28, 1989, Petitioner filed Third Amendment to Petition and Amendments to Exhibits A, B, and E. The Third Amendment amended the subject property's Tax May Key

Numbers and acreage of the Petition to TMK Nos.: 3-3-3: Portion of 1; 3-3-2: Portion of 1; 3-3-6: Portion of 19; and 3-4-5: Portion of 7, containing an area of approximately 608 acres.

5. On April 20, 1989, Petitioner filed Fourth Amendment to Petition to amend or supplement Petitioner's Planning and Engineering Report, Market Study, Air Quality Study, and Traffic Impact Assessment.

6. A prehearing conference was held on April 28, 1989.

7. On May 8, 1989, Petitioner filed Supplement To And Fifth Amendment to Petition to delete a five-acre portion, Tax Map Key Number: 3-4-5: Portion 7, from the Petition area, resulting in the tax map description of the subject property and acreage to be TMK Nos.: 3-3-3: Portion of 1, 3-3-6: Portion of 19 and containing an area of approximately 603 acres (hereinafter the "Property").

8. The Commission conducted a hearing on the Petition on May 12, 1989, pursuant to notice published on April 6, 1989, in the Garden Island and the Honolulu Advertiser, a newspaper of general circulation.

9. On May 31, 1989, pursuant to stipulation by the Parties, Petitioner submitted its metes and bounds survey map of the Property, Exhibit A-1, reflecting a revised Petition acreage of 595.775 acres.

10. A timely letter dated April 21, 1989, was received from Elizabeth Ann Stone and was made part of the record. An untimely letter, dated May 1, 1989, was received from Gary Blaich, President of 1000 Friends of Kauai, requesting to be a public witness. Dorothy Tao, upon request of Gary Blaich, testified as a public witness for 1000 Friends of Kauai. An untimely letter was received from Jacqueline Gardner and Sandra Marcy and was made part of the record

11. No requests for intervention were filed.

DESCRIPTION OF AREA

12. The Property is located at Lihue and Puhi, Kauai, adjacent to the westerly side of Nawiliwili Road, the southerly side of Kaumualii Highway and the easterly side of Puhi Road and is more completely described and reflected on Petitioner's metes and bounds map, Exhibit A-1. The Property is bounded by and is contiguous to the existing Urban District at Puhi and Lihue.

13. Grove Farm Company, Incorporated, Petitioner's parent corporation, is the fee owner of the portion of the Property designated as Kauai Tax Map Key No. 3-3-03:portion of parcel 1. Grove Farm Land Corp., a Hawaii corporation and an affiliate of Petitioner, is the fee owner of that portion of the Property designated as Kauai Tax Map Key No. 3-3-06:portion of parcel 19. Petitioner has a proprietary interest in the Property and has been authorized to seek the boundary amendment requested in the Petition.

14. The Property is currently leased to Lihue Plantation and is in sugarcane cultivation and related uses. The Lihue Plantation lease expires in 1994 and Petitioner has the right to withdraw substantially all of the Property from the lease in advance of its expiration.

15. Elevation within the project site varies between 120 feet above mean sea level near Nawiliwili harbor and 240 feet above mean sea level at the northwest portion of the site. Average elevation is approximately 200 feet.

16. The topography is generally flat in the Puhi area and the western portions of the Lihue property. There is a gentle slope in the eastern portion of the Lihue property with isolated pockets of low areas along the southern edges. Slopes range from 2 percent in the western portion to less than 3 percent in the eastern portion. The general direction of the slope is from west to east/south and from south in a southeasterly configuration.

17. The average annual rainfall on the Property is approximately 50 inches as reflected by the nearest climatological station. Rainfall on the Property is distributed fairly evenly throughout the year. However, May through September are drier than average months and October through April are wetter than average.

18. The majority of the soils on the Property consist of Lihue Silty Clays (LhB) and Puhi Silty Clays (PhB). These

soils, as indicated by the United States Department of Agriculture Soil Conservation Service in their soils survey of August 1972, are characterized by moderately rapid permeability, slow runoff, and only slight erosion hazard. According to engineering interpretations, this type of soil has no unusual conditions that would affect construction. However, as with many Hawaiian soils, shrink-swell potential is indicated as moderate.

19. The Soil Conservation Service (SCS) classifies the Lihue Silty Clay type of soil in Sugarcane Group 1, indicating that this soil type is in the grouping most suitable for sugarcane.

20. The Land Study Bureau (LSB) Detailed Land Classification for the Island of Kauai identifies the predominant soil ratings on the Property as B41i and B78i. These "B"-rated soils have good productivity potential for most agricultural purposes.

21. The Property is classified as "Prime" according to the Agricultural Lands of Importance to the State of Hawaii (ALISH) classification system.

22. The Property is well above the Puali (Niumalu) Stream, Huleia Stream, and Nawiliwili Harbor. The Property is not in the path of any major floodways. None of the Property is located within the tsunami inundation zone as shown on the Flood Insurance Rate Map for the Island of Kauai prepared by

the U.S. Army Corps of Engineers as part of the National Flood Insurance Program.

PROPOSAL FOR RECLASSIFICATION

23. Petitioner's proposed development of the Property is the final phase of Petitioner's Lihue/Puhi Project District Plan (sometimes referred to as the "Project District" or the "Project District Plan"). The overall Project District encompasses a total of approximately 932.5 acres. Multiple parcels within the Project District, representing approximately 327.5 acres, have received approval from the Commission, appropriate zoning approval, and the projects have either been completed or are currently on-going. The remaining balance of approximately 603 acres within the Project District is the subject of this Petition.

24. Approximately 1,893 new residential units are proposed for the development of the Property, which will result in a total of 2,301 units within the overall Project District. A golf course, utilities, roadways and commercial support areas will also be provided. The land use concepts proposed for the Property are substantially consistent with those approved in the County of Kauai's General Plan. The parcels' numbers and proposed land uses are identified on Petitioner's Exhibit B entitled "Proposed Land Use Concept Plan" dated January 26, 1989. The uses proposed for these parcels, acreage, density, number of market and affordable residential units, are as follows:

<u>PARCEL NO.</u>	<u>USE</u>	<u>ACREAGE</u>	<u>DENSITY</u>	<u>UNITS</u>	<u>MARKET</u>	<u>AFFORDABLE</u>
1	MF Rental	5.0	40	200		200
2	Komohana Sub.	existing		96		96
3	Puhi Subdivision	existing		148		148
4	SF Residential	5.0	6	30		48
5	SF Residential	39.0	6	234		234
6	MF Residential	21.0	10	210		210
7	MF Residential	28.0	12	336		336
8	MF Residential	15.0	12	180	180	
9	SF Residential	8.5	4	34	34	
10	SF Residential	49.0	4	196	196	
11	SF Residential	40.0	4	160	160	
12	MF Residential	4.5	10	45	45	
13	Ulu Ko Sub.	existing		164		164
14	SF Residential	3.5	4	14	14	
15	SF Residential	7.5	4	30	30	
16	SF Residential	38.0	4	152	152	
17	SF Residential	18.0	4	72	72	
18	Shopping Ctr. Exp.	16.0	0	0		
19	General Commercial	8.5	0	0		
20	General Commercial	7.5	0	0		
21	General Commercial	6.0	0	0		
22	Golf/Open	25.0	0	0		
23	Golf/Open	50.0	0	0		
24	Golf/Open	57.0	0	0		
25	Golf/Open	25.0	0	0		
26	Golf/Open	79.5	0	0		
	Roads/Misc.	<u>46.0</u>	0	<u>0</u>	<u> </u>	<u> </u>
Total:		603.0		2301	883	1418

25. In the aggregate, the proposed uses for the Property include: General Commercial - 22 acres, a Shopping Center expansion area - 16.0 acres, Multi-Family Residential - 73.5 acres, Single-Family Residential - 208.5 acres, Golf Course (and related amenities) - 236.5 acres, and Roads and Buffers - 46 acres.

26. Of the proposed residential units and lots, 810 will be affordably priced - based on the State of Hawaii, Housing Finance and Development Corporation (hereinafter

"HFDC") guidelines concerning household median incomes (i.e. 80% to 140% of median income) and resulting residential unit affordability - and as a result will be priced between a range of \$80,000.00 to \$140,000.00 in 1988 dollars.

27. The petition also indicates that 408 affordable for-sale housing units are existing outside of the petition area and 200 affordable rental housing units will be provided within the petition area. The total number of affordable for-sale dwelling units and rental units to be constructed within the Property is 1,010 units.

28. Petitioner may engage in various joint ventures to construct the planned affordable units. Market housing may be constructed by individual lot owners or by the Petitioner.

29. The planned multi-family units may consist of single family attached, townhouse, zero lot line, cluster housing, and apartment style units.

30. The proposed market housing will consist of primarily improved residential lots that Petitioner estimates will be marketed in the range of \$80,000.00 and upwards in 1988 dollars depending on their location and size.

31. Petitioner represents that both the affordable and market priced residential units and lots will be directed for sale to local residents of Kauai and the marketing of these projects will be undertaken in the manner historically utilized by the Petitioner which focuses on the local buyer. Petitioner

estimates that a substantial portion of all the residential properties will be sold to local residents.

32. Parcel 18 is proposed for the expansion of the existing regional shopping center, Kukui Grove Shopping Center, and is contiguous to the Property. Parcels 15, 20, and 21 are proposed for commercial development in the theme of Kukui Grove Village East, an existing commercial center located adjacent to Kukui Grove Shopping Center, and Kukui Grove Village West, which is currently under construction.

33. A golf course and related clubhouse, restaurant and facilities, including a pro shop, maintenance facility, and cart barn, will be integrated into the residential community as reflected on Petitioner's Exhibit B. In addition to satisfying basic infrastructure needs of the proposed development related to drainage, water, and wastewater disposal, the golf course provides a significant open space recreational feature and enhances the marketability of proposed market priced housing and thus acts as a price support for proposed affordable housing.

34. The golf course will be a non-resort course open to the public for play. Petitioner will develop and operate the golf course and will be offering kamaaina rates to State of Hawaii residents.

Petitioner expects to establish its kamaaina greens fees with cart at approximately \$40.00 in 1988 dollars.

Petitioner expects to charge a higher green fee-cart rate to non-residents.

35. Petitioner will also develop necessary on-site and off-site improvements related to the development, including a network of internal roadways, the equivalent of a bypass road along Niumalu and Nuhou Roads, all with underground utilities; a wastewater treatment facility to service the development and necessary drainage improvements.

36. Petitioner estimates that the cost of the overall development will be approximately \$65,000,000.00 to \$75,000,000.00. Infrastructure costs for roadways, grading, and drainage and sewage treatment facilities are projected to be approximately \$22,000,000.00.

37. The construction and completion dates of the proposed development are subject to state and county land use, zoning, and permit approval processes. Assuming Land Use Commission approval by mid-1989 Petitioner projects County zoning of the Petition Property (and general plan approval for the approximate 40 acres requiring that approval) could be obtained by January 1991.

Petitioner anticipates subdivision plans and infrastructure design for the project could start by January 1991 and construction to get underway by late 1991 or early 1992 subject to state and county land use approvals.

38. Within five years of zoning, Petitioner expects to substantially complete the golf course and related facilities, the shopping center expansion area at Parcel 18, residential Parcels 1, 4, 5, 6, 9, 10, 11, 14, and 15, the mauka one-half of Parcel 16, and the makai one-half of Parcel 7, representing 1,352 of the proposed residential units and lots of which 842 are scheduled to be affordably priced and 510 market priced (or a ratio of 62.3% to 37.7%) and one hundred percent (100%) of the necessary and applicable off-site support infrastructure including two lanes of Nuhou Road and an expandable sewage treatment facility which will be capable of servicing the entire project area. The balance of the project consisting of commercial Parcels 19, 20, and 21 and residential Parcels 8, 12, and 17 and the mauka one-half of Parcel 7 and the makai one-half of Parcel 16, representing 541 housing units or lots (169 affordably priced and 373 market priced), will be substantially completed within five years thereafter.

The map attached as Exhibit A hereto reflects the first and second increments of the proposed project.

PETITIONER'S FINANCIAL CAPABILITY
TO UNDERTAKE THE PROPOSED DEVELOPMENT

39. The Annual Report of Grove Farm Company, Incorporated, submitted with the Petition indicates that Petitioner is in sound financial condition and is capable of undertaking and completing the project as contemplated. Petitioner has available (through its parent corporation and

affiliates) sufficient assets, in addition to the Property, if necessary, to sufficiently collateralize any financial borrowing or undertaking determined necessary or expedient by Petitioner to implement the proposed project.

STATE AND COUNTY PLANS AND PROGRAMS

40. The Property is designated within the State Agricultural Land Use District as reflected on the Commission's Official Map K-11, Lihue.

41. All of the Property, excepting approximately 44 acres is included within an "Urban Mixed Use" designation under the Kauai County General Plan. This anticipates a planned mix of urban uses within the area. The boundary of the County General Plan Urban Mixed Use Area overlaid on the District Plan Map is shown on Petitioner's Exhibit L. But for the referenced 44 acres, no General Plan amendment is required to accommodate the proposed development as the present County designation allows the types of uses proposed by Petitioner.

42. The majority of the Property is classified within the County's agriculture use zoning district (A) and a very small portion may be classified within the open use zoning district (O).

43. The Property is not within the County Special Management Area (SMA) designation.

NEED FOR THE PROPOSED DEVELOPMENT

44. Lihue is the commercial and governmental core of the County of Kauai. With the continuing increase in the

County's population and the probable expansion of governmental services, there is a present and continuing need for residential, recreational and commercial facilities in the area surrounding Lihue and Puhi. The proposed development of the Property would accommodate this expanding demand for housing.

45. Petitioner's Market Study for the Property (Exhibits F and F-1) concluded that as a result of new economic activity, new jobs and increased household incomes, housing demand on Kauai in the last few years has increased faster than the homebuilding industry has been able to construct new units. This has caused a current undersupply of housing units on the island.

46. Petitioner's market consultant Ming Chew predicts that approximately 60%-70% of the new jobs resulting from major projects currently under construction or planned on the island will be located in the Lihue area, thereby further increasing the housing demand, which is projected to occur mainly in the Lihue-Puhi area.

47. Ming Chew estimates that in addition to the current undersupply, factors related to current and planned projects, increased jobs and increased household income, would increase housing demand on Kauai by about 500 units in 1989, 1,000 units during both 1990 and 1991, and 500 units per year from 1992 to 1995.

48. Ming Chew concluded that the residential units and subdivision lots in the proposed project could be absorbed

during the five-year period from 1990 to 1995 and that the existing and expected demand for housing as between affordable and market priced units and lots justified the Petitioner's proposed allocation of housing between those demand segments.

49. Ming Chew further concludes that the proposed commercial improvements and golf course are also needed on the island. Ming Chew projects growth and increased household spending would generate demand for an additional 26 acres of regional commercial retail land use from 1990 to 1995, and another 26 acres from 1995 to 2000. He also estimated that by 1990 there would exist a demand for one additional non-resort open to the public golf course above existing facilities on the island. By 1995, he estimated a second additional non-resort golf course would be needed.

IMPACTS UPON RESOURCES OF THE AREA

Agricultural Resources

50. The Property is currently under sugarcane cultivation. Petitioner's proposed withdrawal of the Property from sugarcane cultivation is not expected to have a significant effect upon the agricultural industry on Kauai and the Lihue Plantation Company nor will it substantially impair actual or potential agricultural production in the vicinity of the lands or in the County or in this State.

Flora and Fauna

51. The existing vegetation on the site consists mainly of cultivated sugarcane with the remainder consisting of

gulches and wasteland. No endangered or threatened species (or candidate species) of flora were identified.

52. No endangered or threatened species of fauna have been identified in the Property. It is expected that the proposed development may actually create a more diverse range of habitats and benefit certain migrant species of avifauna. Further, although there have been sightings of the Hawaiian Hoary Bat outside of the Project area, Petitioner's consultant concluded there will likely be no adverse effects on the species attributable to the development.

Archaeological/Historical Resources

53. Based on the archaeological surface and subsurface inventory survey conducted at the project site only two sites within the Property have been identified as historical sites. One is a cemetery which is expected to be preserved through consultation with a local community organization to arrange for management of possible custodianship of the site. The other historical site is the former Grove Farm manager's residence which is to be restored and improved by the addition of a restaurant and incorporated into the proposed golf course facilities. Petitioner's archaeological consultant concluded that these preservation plans were adequate and that the adaptive restoration of the former manager's house is an acceptable preservation alternative.

54. The only potable remains discovered at the site was a ceramic potsherd which has been preserved.

55. Petitioner's archaeological consultant recommended that the Department of Land and Natural Resources be consulted in connection with preservation plans for the two historic sites and that archaeological consultation be sought in the event subsurface artifacts are discovered during the development of the project.

Ground Water Resources

56. The use of chemical fertilizers and pesticides on the proposed golf course are not expected to adversely affect groundwater resources.

Recreational, Scenic, Cultural Resources

57. The proposed development is not expected to significantly increase the use of existing State or County recreational facilities, or otherwise impact scenic and cultural resources. Rather, the proposed development of a golf course will supplement the already overburdened Wailua Golf Course, and together with existing parks and approved commercial recreational facilities, will provide for increased recreational facilities in the Lihue area.

58. Petitioner intends to comply with County ordinances regarding the dedication of land or money for park sites.

Coastal/Aquatic Resources

59. Petitioner anticipates under its proposed drainage plan that no runoff will enter Huleia Stream or Menehune Fishpond. Drainage will be directed to natural gulches into Puali Stream with a small portion meeting Nawiliwili Stream.

Petitioner indicates that it is unlikely that the receiving waters of Nawiliwili Harbor will be negatively impacted since the withdrawal of cane and associated irrigation system will cease the additional contribution of runoff from cane cultivation due to irrigation overflow.

Noise Quality

60. The increase in noise that will be generated by construction will be temporary and only while construction is taking place. The noise level may increase because of increased traffic but is expected to be no greater than would develop as a result of normal usage over the next ten years.

Air Quality

61. Air quality, generally, will be affected by construction activities on the Property related to the proposed development and by increased automobile traffic in the area. During construction, dust and exhaust from equipment will be emitted. Dust will be controlled by watering and other appropriate methods. The construction equipment to be utilized is essentially the same in terms of air quality impacts as cane

cultivation and harvesting equipment. As a result, no additional impact from construction is perceived. Petitioner's consultant concludes that expected emissions from automobile traffic along major routes to and from the Project would result in emission concentration levels, with or without the Project well within national standards, but possibly exceed state standards at a few spots during adverse meteorological conditions.

Water Quality

62. Very little effect is anticipated on existing water quality in the area even after construction of the proposed development is completed. During construction, siltation control measures will be practiced as required by the Kauai County Public Works Department.

63. Control of drainage and runoff at the site in accordance with a proposed comprehensive drainage plan for the area will restrict the quantity of runoff into adjacent streams to current levels.

ADEQUACY OF PUBLIC SERVICES AND RESOURCES

Highway and Roadway Facilities

64. Petitioner is planning to build a major 2-lane roadway throughout the Project that will service the Project and become a bypass between Kaumualii Highway and Nawiliwili Harbor to be dedicated to the County. Sufficient right-of-way for an additional 2 lanes will also be dedicated to the County

of Kauai. In addition, the Petitioner plans to build a network of interior roadways serving the project and will dedicate them to the County.

65. Petitioner proposes to contribute to the widening of Kaumualii Highway by dedicating one half of the land area required to improve the highway along the border of the Project from two to four lanes to the State of Hawaii. Petitioner will also contribute funds towards signalization of the Nuhou Road-Kaumualii Highway intersection and Puhi Road - Kaumualii Highway intersection, fully channelize the intersection of Kaumualii Highway with Nuhou Road and provide exclusive left-turn lanes on all approaches, and follow the other recommendations contained in Petitioner's traffic consultant's report.

Water Service

66. The Project District is served by the Kauai Water Department's Lihue and Puhi water systems. Wells sources for these systems are located mauka of Lihue town and mauka of Kauai Community College.

Grove Farm Properties, Inc. recently installed a 16-inch water service line from the said system's storage facilities to serve the Kukui Grove Center and the remainder of the Project District.

67. The Kauai Water Department has indicated that it anticipates adequate water sources will be available to

accommodate the proposed development. However, the Water Department will not guarantee availability at this time. Current water storage facilities are adequate for the existing development. Moreover, addition to those facilities is expected. Accordingly, no detrimental impact on water storage facilities and supply is anticipated.

Wastewater Disposal

68. No public sewer system is currently available in the Project area. All facilities proposed in the development will be connected to the existing plant owned by Petitioner or to a private sub-regional sewage treatment plant to be developed by Petitioner in accordance with State Department of Health requirements. Other existing developments adjacent to the Property will also be connected to the central sewage system.

69. Effluent generated from the treatment of wastewater is expected to reach approximately 800,000 gallons per day upon full development of the Project. The effluent will be utilized to irrigate the proposed golf course which is expected to use approximately 1,000,000 gallons per day for irrigation purposes. Any supplemental irrigation water required is available from current non-potable irrigation water sources.

Drainage

70. The Property gently slopes in a southeast direction. Generally, drain inlets and conduits will collect

storm water and direct it to existing natural drainage ways. Measures will be implemented to maintain existing runoff levels. Although soil permeability will be reduced through the development of the lands and runoff may, as a result, increase, the extent and pattern of runoff can be controlled adequately by on-site containment within the golf course and with retention basins.

Solid Waste Disposal

71. Refuse and garbage disposal services will be provided by contract to local private concerns. County service will be available for single-family residential lots and certain multi-family residences.

72. Petitioner proposes to dispose refuse at the Halehaka or Kekaha landfills. According to the County, the Halekaha landfill has a remaining life of two more years. The County has suggested that additional landfill area be provided in areas where the golf course is proposed. Petitioner represents it will work with the County Department of Public Works for another landfill site.

Schools

73. To date, Petitioner has donated 200 acres to the University of Hawaii adjacent to the Project area for Kauai Community College. Petitioner has been advised by the Department of Education that a school site within the Project area is not currently required. Petitioner is prepared to

incorporate a site for a school within the Project and to dedicate the land for a school provided a request is made by the State Department of Education's Kauai District Office within a reasonable time prior to zoning.

Police and Fire Protection

74. Police service for the proposed development area is provided by the Lihue Station, located approximately 1.3 miles from the center of the Property. Fire protection service to the proposed development area is provided by the Lihue Fire Station, located approximately 1.5 miles from the center of the Property. Adequate fire fighting water at the Project will be available from a hydrant system to be constructed as part of the development, and connected to the County water system.

Electricity and Telephone Service

75. Petitioner represents that local utility supplies are adequate to respond to the anticipated demand for electricity, gas, and telephone relating to the Project.

ECONOMIC IMPACTS

76. The project will result in increased jobs and employment opportunities on Kauai and afford greater commercial opportunities.

77. The contiguous urban areas at Puhi and Lihue are centers for employment on the Island of Kauai. The proposed development will compliment these areas. The development will generate both short-term and long-term employment opportunities

and employment income for Kauai residents. It will provide numerous temporary jobs in construction-related occupations and a magnitude of employment opportunities for Kauai residents and entrepreneurs.

78. Petitioner anticipates that substantially all of the employment opportunities generated by the proposed development of the Property will be filled by residents of Kauai, although some construction related jobs may be filled by off-island residents. It is not expected that jobs in the aggregate will be lost by the withdrawal of the Property from sugarcane cultivation.

79. In addition to the general increase in personal income resulting from such employment, associated government revenues attributable to personal income, general excise and real property tax levies are expected to increase. The increase in real property taxes (absent improvements) attributable to the project will be approximately \$600,000.00, or \$1,000.00 per acre. Considering proposed and expected improvements to the Property and assuming an average 3.2 persons for each created household, the resulting real property tax contribution to the County's budget by people occupying the development, on a per person basis, will equal the current per person contribution level of residential users in the community. In the Petitioner's opinion this results in a long term contribution of a fair share to the County budget and the public services financed with those tax dollars.

80. According to the County of Kauai, this project will "compound impacts to such services and County or State resources may not be able to keep pace in providing the necessary services such as police protection and road repair and maintenance".

81. The proposed project will be marketed toward existing Kauai residents which should result in limited population increases. However, real property taxes and one time fees of close to \$2,000,000.00, attributable to real property roll back taxes and environmental impact assessment fees, will be paid. Moreover, the Petitioner expects to dedicate to the County roads and other infrastructure facilities constructed by the Petitioner.

SOCIAL IMPACTS

82. Much of the area immediately adjacent to the Property is currently urban. The proposed development will contribute to the passive recreational open spaces of the community and commercial recreational facilities.

83. The Project will respond to a critical housing demand for affordable and market housing on Kauai.

CONFORMANCE TO APPLICABLE DISTRICT STANDARDS AND CRITERIA

84. 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 to the extent such standards and criteria may be applicable.

85. 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 Petitioner.

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 substantial majority of the Property (approximately 92%) is designated by the County for "Urban Mixed Use". The districting permits planned mix or urban uses.

f. The topography of the Property is amenable to urban 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 and is in an appropriate location for a logical and reasonable extension of the Urban districts for future growth. 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). At the same time, the Project will make provision for housing opportunities for all income groups in the County, as well as provide for the maintenance of scenic open spaces, through the construction of a golf course, within the Project District.

CONFORMANCE WITH THE HAWAII STATE PLAN

86. The proposed development conforms with provisions of the Hawaii State Land Use Commission Rules, Subchapter 8, Decision-making Criteria for Boundary Amendment, Sections 15-15-77 and 15-15-78.

87. The Proposed Development is consistent with portions of the Hawaii State Plan as set forth in Chapter 226, Hawaii Revised Statutes, as amended.

88. The proposed development will assist both the short-term and long-term growth of the area's economy. In addition to increasing the number of jobs directly available to Kauai County residents, the proposed development will encourage businesses that have favorable financial multiplier effects within Hawaii's economy.

89. The development will respond to an existing housing shortage for affordable and market priced homes and home sites on Kauai.

CONFORMANCE WITH COASTAL ZONE POLICIES AND OBJECTIVES

90. 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.

INCREMENTAL DISTRICTING

91. The Petitioner proposes to develop the Project in two (2) increments.

92. The Petitioner states that the first increment, which is colored in orange on Exhibit 2 of Petitioner's Proposed Decision and Order can be substantially completed within five years of the date of County zoning and will include (a) approximately 1,352 housing units or residential lots of which 842 will be affordably priced and 510 market value priced located on Parcels 1, 4, 5, 6, 9, 10, 11, 14 and 15, the mauka one-half of Parcel 16 and the makai one-half of Parcel 7, (b) Nuhou Road with sufficient right-of-way for 4-lanes with internalized utilities sized to service the Project area, (c) water source, transmission, and storage systems and facilities necessary to service the housing units to be constructed in the first increment as determined by the County of Kauai, (d) the sewage collection and treatment system

necessary to service the entire project, (e) the drainage system necessary to service the areas upon which the improvements will be constructed in the first increment, and (f) an 18-hole golf course and related facilities as described in the Petition; and an expansion of the existing required commercial shopping center on approximately 16 acres of land at parcel 18.

93. The second increment of Petitioner's Project which is colored in brown on Exhibit 2 can be completed within five years after the first increment is substantially completed and will include (a) approximately 541 housing units or residential lots (168 additional affordable and 373 market priced) on Parcels 8, 12, and 17, the mauka one-half of Parcel 7 and the makai one-half of Parcel 16, improvement of the proposed commercial lots at Parcels 19, 20, and 21 together with the necessary on-site and off-site infrastructure necessary to service these developments.

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 a preponderance of evidence that the reclassification of the lands within Increment I of the Property, approximately shown on Exhibit "A" attached hereto and incorporated herein by reference, consisting of approximately 480 acres of land situate at Lihue and Puhi, Kauai, Hawaii, Tax Map Key Numbers: 3-3-03: portion parcel 1 and 3-3-06: portion parcel 19, from the Agricultural District to the Urban District for a residential lot and housing project, open space recreation, golf course, utility, roadways and commercial support areas, subject to the conditions in the Order, is reasonable, nonviolative of Section 205-2, Hawaii Revised Statutes, and is consistent with the Hawaii State Plan as set forth in Chapter 226, Hawaii Revised Statutes, as amended.

The Commission also concludes that inasmuch as full development of the lands within Increment II of the Property, which consists of approximately 116.775 acres of agricultural land as approximately shown in said Exhibit "A", cannot be reasonably completed within five years from the date of final approval by the County of Kauai in this matter, incremental

districting of the lands within Increments II of the
Petitioner's development identified as Kauai Tax Map Key
Number: 3-3-03: portion parcel 1, situate at Lihue and Puhī,
Island of Kauai, State of Hawaii, from the Agricultural to the
Urban District and amendment of the Land Use District
Boundaries to permit the development of Increment II, subject
to the conditions in the Order, is reasonable, nonviolative of
Section 205-2, Hawaii Revised Statutes, and consistent with the
Commission Rules.

ORDER

IT IS HEREBY ORDERED that a portion of the Property,
identified as Increment 1, consisting of approximately 480
acres being the subject of Docket Number A89-636 by Grove Farm
Properties, Inc., situated at Lihue and Puhī, Island and County
of Kauai, State of Hawaii, identified as Kauai Tax Map Key
Numbers: 3-3-03: Portion of Parcel 1 and 3-3-06: Portion of
Parcel 19, and approximately identified on Exhibit "A",
attached hereto and incorporated by reference herein, for
reclassification from the Agricultural District to the Urban
District, shall be and hereby is approved, subject to the
following conditions:

IT IS ALSO HEREBY ORDERED that the remaining balance
of the Property, identified as Increment II, consisting of
approximately 116.775 acres of the petition area, situated at
Lihue and Puhī, Island and County of Kauai, State of Hawaii,

identified as Kauai Tax Map Key Number: 3-3-03: Portion of Parcel 1, and approximately identified on said Exhibit "A", shall be and the same is approved for incremental districting pursuant to Section 15-15-78 of the Commission Rules and that redistricting of Increment II from the Agricultural to the Urban District will be granted upon receipt of an application by Petitioner for redistricting of this second increment upon a prima facie showing that there has occurred substantial completion of the on-site and off-site improvements within Increment 1 and in accordance with the Petitioner's development plan as represented, within five years of the date of final County zoning approval and subject to the following conditions:

1. In connection with any application for Zoning Amendment or Special Permit for any portion of the Property, Petitioner shall prepare a report to the appropriate County agency addressing the following areas of concern:

- a. The availability of public services and facilities such as schools, sewers, parks, water, sanitation, drainage, road, refuse collection and disposal, police, and fire protection, the adequacy thereof, and an assessment as to whether the anticipated density and uses to which the Property will be put would unreasonably burden State or County agencies; and how the Petitioner intends to aid in the resolution of any identified inadequate facilities or services;

- b. A detailed drainage analysis of the Property, including an assessment of the downstream impacts which would

result upon approval of the Petitioner's application and the mitigative measures proposed with respect to all such impacts;

c. A description and analysis of how the Petitioner proposes to provide its requested development with sewage and waste water treatment and disposal;

d. A description of the Petitioner's proposed development schedule of all the land uses proposed and phasing development, which development schedule shall also include and address development of the Project's interior roadway system.

2. The affordable housing requirement shall be satisfied as follows:

A. Petitioner shall provide housing opportunities for low, low-moderate, and moderate income Hawaii residents by offering for sale at least thirty percent (30%) of the units at prices which families with an income range of 80 to 120 percent of Kauai County's median income can afford and thirty percent (30%) of the units which families with an income range of 120 to 140 percent of Kauai County's median income can afford. This condition may be fulfilled through projects, under such terms as may be mutually agreeable, between Petitioner and the Housing Finance and Development Corporation of the State, or other appropriate governmental agency.

This condition may also be fulfilled, with the approval of the Housing Finance and Development Corporation, through the construction of rental units to be made available

at rents which families in the specified income ranges can afford.

B. The affordable housing requirements may also be satisfied in a manner that meets with the approval of the County of Kauai and the State Housing Finance and Development Corporation. Said requirements shall take into consideration affordable on-site (with the subject petition area) or off-site housing units or cash payments that satisfy the then current housing needs, or other necessary or desirable community facilities.

3. Petitioner shall coordinate with the State of Hawaii and/or the County of Kauai, as appropriate, to ensure that drainage, as well as other infrastructural and service systems, are compatible and developed in a timely fashion to prevent degradation of groundwater and coastal ecosystems. Such infrastructure shall be funded by the Petitioner.

4. Petitioner shall participate in or otherwise provide all additional planning studies related to the Project as required by the State Department of Transportation (DOT). Petitioner shall also participate in the funding and construction of on-site and off-site transportation improvements associated with the proposed development and in designs and schedules required, accepted and coordinated with the DOT. Petitioner shall also provide appropriate dedication of land for the widening of Kaumualii Highway fronting the

proposed development and funding for project related signalization and intersection improvements as required by the DOT.

5. Petitioner shall fund and develop, as required by the County of Kauai and/or the State, as appropriate, the necessary measures required to obtain adequate supplies of water. Petitioner shall also fund and develop as necessary water storage and distribution systems for the proposed development. Petitioner shall obtain such permits as may be required by the State of Hawaii relating to Petitioner's development.

6. Petitioner shall comply with the requirements of the County of Kauai and the Department of Health of the State of Hawaii to expand existing on-site and off-site wastewater collection, treatment, and disposal infrastructure facilities and shall include the proposed project as part of the Petitioner's master plan for a wastewater system.

7. Petitioner shall pay its pro rata share for expansion of educational facilities by way of dedicating a site for such activities at a location within the Project area and containing an area to be mutually agreed upon by the State Department of Education, but no more than 10 acres, provided the State Department of Education elects to obtain such a site prior to the zoning of the Property.

8. Petitioner shall provide a detailed preservation plan for the two (2) identified historical sites to be prepared

and submitted for review and approval by the State's Historic Sites Section and the County of Kauai's Historic Preservation Commission. These agencies shall also verify the successful execution of this plan. This plan must be executed prior to construction. Should any new historical sites be identified during project construction Petitioner shall provide a preservation or data recovery plan as required by the DLNR.

Should any 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, Petitioner shall immediately stop work and contact the State Historic Sites Section.

9. Petitioner shall provide notification to all prospective occupants of the Property of the potential odor, noise, and dust pollution resulting from surrounding Agricultural District lands, and that the Hawaii Right-To-Farm Act, Chapter 165, HRS, limits the circumstances under which pre-existing farming activities may be deemed a nuisance.

10. Petitioner shall implement appropriate mitigation measures, as recommended by the County of Kauai to limit air and water soil erosion during construction phases which could potentially impact coastal areas.

11. 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 the development of the Property; provided, however, that entering into a joint venture for the development of portions of the affordable housing projects shall not require prior notice to the Land Use Commission.

12. The Commission may fully or partially release these conditions 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 the Petitioner.

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

14. Petitioner shall develop the property in substantial compliance with representations made to the Land Use Commission in obtaining the reclassification of the Property.

DOCKET NO. A89-636 - GROVE FARM PROPERTIES, INC.

Done at Honolulu, Hawaii, this 30th day of June 1989,
per motions of June 15, 1989 and June 16, 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 *Allen K. Hoe*
ALLEN K. HOE
Commissioner

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

By *T. P. Tacbian*
TEOFILO PHIL TACBIAN
Commissioner

By (abstained)
TORU SUZUKI
Commissioner

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

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

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

Filed and effective on
June 30, 1989

Certified by:

Esther Linder
Executive Officer

A89-636

GROVE FARM PROPERTIES, INC.

T. M. K.: 3-3-03: POR. 01

3-3-03: POR. 19

PUHI, LIHUE, KAUAI

SCALE: 1" = 3000' ±



— INCREMENT 1



— INCREMENT 2

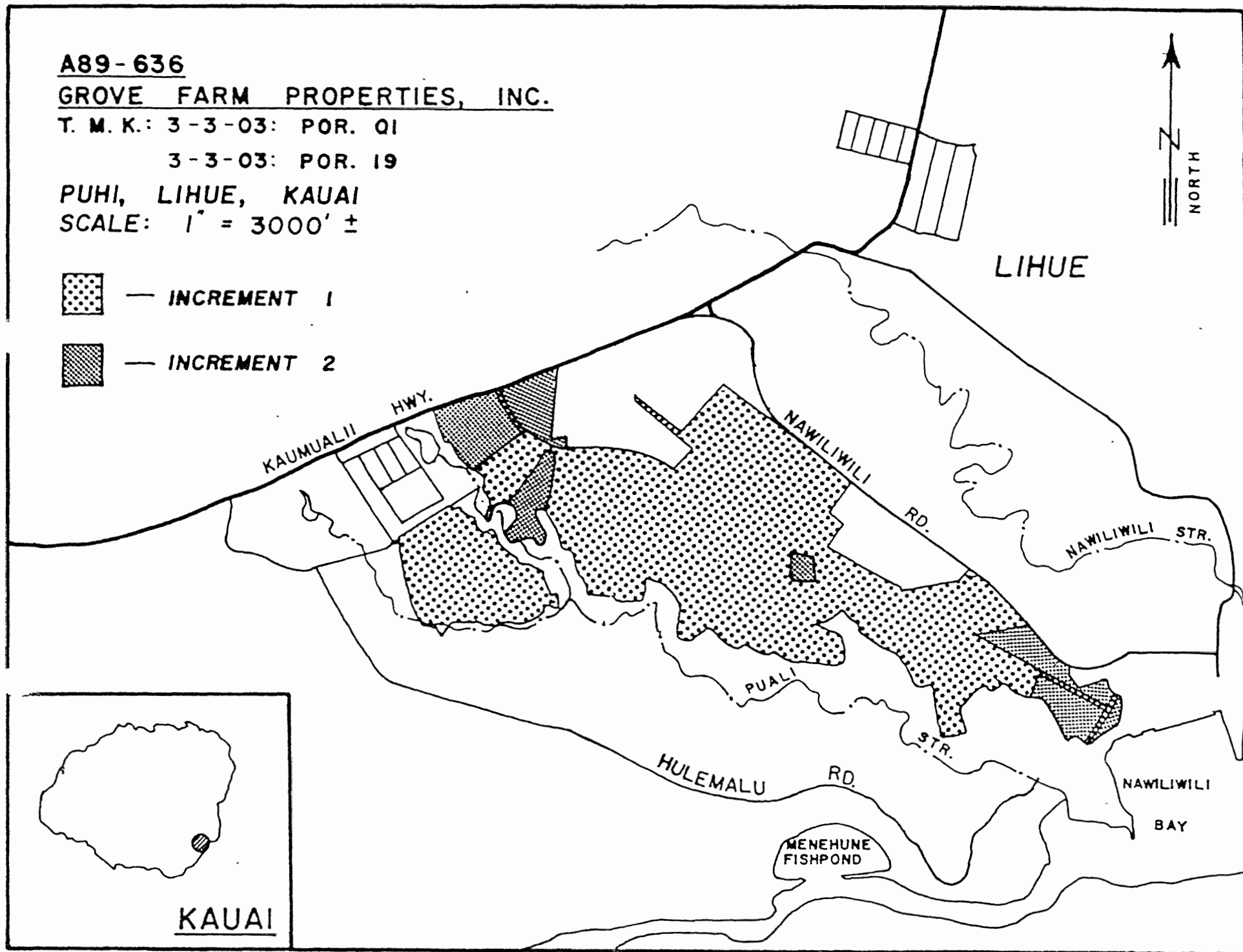


EXHIBIT A

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of))	DOCKET NO. A89-636
)	
GROVE FARM PROPERTIES, INC.)	GROVE FARM PROPERTIES,
)	INC.
To Amend the Agricultural Land)	
Use District Boundary into the)	
Urban Land Use District for)	
Approximately 603 acres at)	
Lihue, Island and County of)	
Kauai, State of Hawaii, Tax Map)	
Key Nos.: 3-3-3: Portion 1;)	
3-3-2: Portion 1; 3-3-6:)	
Portion 19 and 3-4-5: Portion 7)	
(inclusive of roadways).)	
)	

CERTIFICATE OF SERVICE

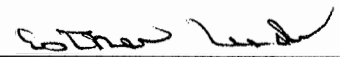
I hereby certify that a copy of the Findings of Fact, Conclusions of Law, and Decision and Order was served upon the following by either hand delivery or depositing the same in the U. S. Postal Service by certified mail:

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

CERT. TOM H. SHIGEMOTO, Planning Director
Planning Department, County of Kauai
4280 Rice Street
Lihue, Hawaii 96766

CERT. DENNIS LOMBARDI, ESQ., Attorney for Petitioner
Case and Lynch
Suites 2500 and 2600
Grosvenor Center, Mauka Tower
737 Bishop Street
Honolulu, HI 96813

DATED: Honolulu, Hawaii, this 30th day of June 1989.



ESTHER UEDA
Executive Officer

DOCKET NO. A89-636 - GROVE FARM PROPERTIES, INC.

A copy of the Land Use Commission's Findings of Fact, Conclusions of Law, and Decision and Order was served upon the following by regular mail on July 3, 1989.

DAVID W. PRATT, President
Grove Farm Properties, Inc.
P. O. Box 2069
Puhi Rural Branch
Lihue, Hawaii 96766