

Grove Farm Properties, Inc.

June 20, 1996

ORIGINAL

Ms. Esther Ueda, Executive Officer
State of Hawaii
LAND USE COMMISSION
Room 104, Old Federal Building
335 Merchant Street
Honolulu, HI 96813

JUN 25 2 31 PM '96
LAND USE COMMISSION
STATE OF HAWAII

Dear Ms. Ueda:

Re: **1996 Annual Report for
LUC Docket No. A89-636
Grove Farm Properties, Inc.
Lihue/Puhi, Kauai, Hawaii**

In compliance with Condition # 13 of the referenced Land Use Commission's Decision and Order dated June 30, 1989, we submit one original and fifteen copies of this annual report, due on the anniversary date of the project's approval.

Subsequent to the State Land Use Commission's decision on June 15, 1989, which granted re-districting of 480 acres (Increment I) in the Lihue/Puhi Project District, several milestones have been reached regarding land use, as noted below. Those items accomplished since the last annual report are noted in italic:

12/14/89	Kauai County Planning Commission Approved Zoning for Increment I
02/28/90	Kauai County Council Approved Zoning for Increment I
03/13/90	Mayor signed bill for Ordinance PM-206-90 Approving Zoning for Increment I
03/22/95	Kauai County Council Approved Amendment to Housing Condition of Ord. PM-206-90
03/24/95	Mayor signed bill for Ordinance PM-306-95 Approving Amendment to Housing Cond.
02/23/95	Kauai County Planning Commission Approved Zoning for Parcel 4 of L/P Master Plan
04/26/95	Kauai County Council Approved Zoning for Parcel 4
04/27/95	Mayor signed bill for Ordinance PM-309-95 Approving Zoning for Parcel 4
10/20/95	<i>Land Use Commission D&O Granted Clarifying Area of Increments I & II</i>
12/20/95	<i>Land Use Commission D&O Approving Increment II of Lihue/Puhi Project</i>
02/22/96	<i>Kauai County Planning Commission Approved Zoning for Increment II</i>
04/24/96	<i>Kauai County Council Approved Zoning for Increment II</i>
05/01/96	<i>Mayor signed bill for Ordinance PM-325-96 Approving Zoning for Increment II</i>
02/22/96	<i>Kauai County Planning Commission Approved Housekeeping Land Use, GP & Zoning</i>
06/10/96	<i>Kauai County Council Approved Housekeeping Land Use, GP & Zoning Amendment</i>
06/13/96	<i>Mayor signed bill for Ordinance PM-328-97 Approving Housekeeping Land Use</i>
"	<i>Mayor signed bill for Ordinance PM-329-97 Approving Housekeeping GPA</i>
"	<i>Mayor signed bill for Ordinance PM-330-97 Approving Housekeeping Zoning</i>

The following represents a condition-by-condition review. The condition is noted in bold type, with our response in italic below.

A subsidiary of



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- 1.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 wastewater 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.

In connection with the Petitioner's zoning application to the County, studies and reports were submitted to and accepted by the County satisfying conditions 1.a, 1.b, 1.c, and 1.d. Specific responses to your letter of 7/25/90 to Grove Farm regarding possible impacts on public services and facilities were contained in our 10/9/90 letter to you. They are reiterated and updated here:

Condition 1.a.

1. Schools - After discussions with the Department of Education, a 10-acre school site had been selected and incorporated into the plan. A minimum 5-acre park was planned immediately adjacent to the school site. As one of the conditions of approval for our Increment II Zoning (Ord. PM-325-96 condition #3), the area for a school site was increased to 14.5 acres and park site increased to 7 acres. We have been working with the State DOE and County Planning Department towards resolution of this condition, and have begun subdivision mapping to create the lots for dedication, with a preliminary subdivision map anticipated in July 1996.
2. Sewers - The County has approved our private sewerage concept. The State Department of Health has approved our Wastewater Treatment Plant (WWTP) design. The first increment of the plant has been constructed and is in operation. The preliminary infrastructure (basins and conduit) for the remaining phases of the WWTP have been constructed. Further improvements including lining of the treatment basins, installation of aeration equipment, grating and a concrete clarifier, will be constructed when the first phase nears capacity.
3. Parks - A total of 7.0 acres had been designated for County park, including the 5.0 acres mentioned in 1 above, and 2.0 acres within the affordable housing project. As noted in #1 above, the total requirement was amended to 9.0 acres since the 5.0 acre site adjacent to the school site was increased to 7.0 acres. This may continue to be adjusted to meet actual requirements, based on the County's Park Ordinance.
4. Water - Our water masterplan was approved by the County on 5/4/92. We continue engineering for water. Two (2) water wells have been developed in conjunction with the Project, with one well dedicated to the County and the other close to dedication. In addition, two (2) water tanks and transmission lines to connect the facilities to the County water system have been constructed and dedicated to the County.
5. Drainage - Please see Condition 1.b. discussion below.
6. Roads - We Continue with engineering for roadways. Construction of Pikake Street, and Nuhou Road Phase I has been completed, along with all of our Puako subdivision. Construction plans for other areas are in design.
7. Refuse Collection - We have reached an agreement with the County of Kauai regarding our participation in the solid waste program, and have paid the County \$717,600.39 in this regard, which fulfills the requirement.
8. Police/Fire - No additional burden is anticipated because of the project, including police and fire protection.

Condition 1.b.

Drainage - The overall drainage strategy agreed to with the Dept. of Public Works is to control storm water within the project by way of detention basins, primarily contained within the golf course area. Our drainage masterplan has been completed and was submitted for County review 4/9/92. The County approved the plan on 6/4/92. Individual project drainage reports, which support the principles of the overall drainage master plan, continue to be prepared, reviewed and approved by the County as development progresses throughout the Lihue/Puhi Project.

Condition 1.c.

Wastewater - We received approval from the State Health Department and County to construct a wastewater treatment plant (WWTP) on a 13.8 acre parcel. The area is somewhat larger than originally anticipated because the consultants have recommended a lagoon system and the larger site has sufficient area to accommodate some non-project flows, as requested by the County. The system is designed and sized to handle the entire project incrementally. Treated effluent will be recycled to irrigate the golf course and agricultural lands. The wastewater treatment facility project was approved by the County Planning Commission on 5/23/91 under Special Permit SP-91-9, Use Permit U-91-25 and Class IV Zoning Permit Z-IV-91-33. A project-wide sewerage master plan was submitted to the County on 5/7/92. The first increment of the WWTP is complete and is in operation.

The eastern portion of the WWTP site was not included in the Urban State Land Use District, although it was approved under the referenced permits noted above. In an effort to make the County Zoning, General Plan and State Urban Land Use districts reflect actual or approved uses, Grove Farm submitted a "Housekeeping" application to the County. This application changed, in part, the State Land Use designation of 10.18 acres of the eastern portion of the WWTP from "Agricultural" to "Urban", County General Plan from "Open" to "Urban Mixed Use", and County Zoning from "Agriculture" to "Open". The Kauai County Planning Commission approved this Housekeeping application on 02/22/96. The Kauai County Council approved Housekeeping application on 6/10/96. The Mayor signed the bill for Ordinance Nos. PM-328-97, PM-329-97 and PM-330-97 on 6/13/96 approving the Housekeeping amendments.

Condition 1.d.

Development Schedule - The development schedule and phasing plan were transmitted to you as an enclosure to our letter of 10/9/90. Due to Hurricane Iniki, because the County initiated discussion on some plan revisions and to reflect the market on Kauai, the project has experienced some delays. The dates on the schedule should therefore be adjusted approximately 18 to 24 months. Other factors may create changes in the schedule, including the uncertainty of schedule and funding relative to the State DOE's construction of the new Middle School on Increment II lands and the continuing softness of the Kauai market. Nevertheless, Grove Farm is proceeding with preparation of the preliminary subdivision map for the school and park site dedication, along with numerous roadway lot subdivisions which are being developed in conjunction with various phases of the project.

- 2.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.**

We have entered into an agreement with Schuler Homes, Inc. to assist Grove Farm in meeting the requirements for providing affordable housing in accordance with the State and County guidelines regarding the number of units, mix and price schedules. The Schuler project will be implemented in at least five phases totalling over 700 units of single- and multi-family dwellings. We hope to achieve 209 single family units and 504 multi-family units. County approvals and project fine-tuning have resulted in numbers slightly different from those discussed in earlier annual reports. Off-site improvements have been completed. As of 6/18/96, a single-family subdivision of 209 lots had been approved and houses have since been completed on the lots. 208 of the house and lot packages have been sold and are occupied.

The first phase of the multi-family affordable housing (Phase 1A) is complete and contains 116 units, all but one of which are sold and occupied. The second phase (1B) containing 84 units has also been completed and all but five of the units have been sold and are occupied. The third phase (1C) containing 92 units is completed, sales are underway and 32 units have been sold. Additional multi-family phases will be constructed based on market demand. They currently are planned to contain an additional 212 units in total.

In addition, approvals have been received for a 132 unit single-family detached cluster housing project in the Puhi area which may be used to satisfy part of the Project's affordable housing requirements. On 11/25/94, the Zoning, General Plan and State Land Use Boundary Amendments (Ordinance Nos. PM-301-94, PM-302-94 & PM-303-94) for this project were signed by the Mayor. The Project Development Use Permit was approved by the Planning Commission on 08/10/95 and Tentative Subdivision approval was granted by the Planning Commission on 11/09/95. Preliminary construction plans have been developed, and the developer continues to work on compliance with conditions of approval.

Also, in partnership with the Kauai County Housing Agency, the Kauai County Council approved an amendment to housing condition of Ord. PM-206-90 to allow (in brief) twenty (20) of the units to be sold at prices which family below 80 percent (80%) of Kauai County's median income can afford and administered under the County's affordable housing program which remain unsold after three months to be sold above that affordable income limit, after first offering the lot for sale to the County. The Mayor signed the bill for Ordinance PM-306-95 approving this amendment to housing condition on 03/24/95.

- 3. Petitioner shall coordinate with the State of Hawaii and/or 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.**

We are implementing our drainage masterplan in phases and under the direction of the County of Kauai. Individual project drainage reports, which are in concert with the overall drainage masterplan, are submitted for the County's review and approval prior to commencement of construction and/or final subdivision approval. Thereafter, project specific County-issued grading permits ensure compliance.

- 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.

Grove Farm funded a right-of-way study for the entire Kaumualii Highway frontage of the Project (and beyond) and is working with the DOT and Kauai Community College on its implementation. The study was submitted to DOT on 2/1/91, which has approved the concept. At the junction of Puhi Road and Kaumualii Highway, we have completed the required intersection improvements. Our planning is being coordinated with DOT.

- 5. Petitioner shall fund and develop, as required by the County of Kauai and/or 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.**

We have completed and received County approval on 5/4/92 of a domestic water masterplan for our Project, and are proceeding with its implementation, including necessary State permits. The first Amendment to the water masterplan was approved on 7/16/93. To date, Grove Farm has constructed two (2) new wells with a third under exploration. One of the wells has been dedicated to the County and another is near dedication. Two (2) one-million gallon storage tanks have been constructed along with miles of transmission line connecting these facilities to the County's Lihue water system. Grove Farm will continue to develop additional source and transmission facilities to meet its Project demands.

- 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.**

The County, with State Dept. of Health input, has approved the wastewater treatment facilities to provide capacities for the project district, as well as expansion capabilities for the County's possible future sewerage of certain existing subdivisions and State and County facilities. The first increment of the wastewater treatment facility is complete and in operation. The preliminary infrastructure (basins and conduit) for the remaining phases has been constructed. Further improvements including lining of the treatment basins, installation of aeration equipment, grating and a concrete clarifier, will be constructed in phases when the first phase nears capacity.

- 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.**

Grove Farm agreed to dedicate a 10-acre school site with an adjoining 5-acre park. The location had been approved and the details were being worked out with the State DOE. As noted above, the required dedication area for a school site has just been increased to up to 14.5 acres and park site increased to 7 acres under Ordinance No. PM-325-96. We have been working with the State DOE and County Planning Department towards resolution of this revised condition, and have begun subdivision mapping to create the lots for dedication, with a preliminary subdivision map anticipated in July 1996.

- 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.

Preservation plans have been prepared for both sites. The plan for Halehaka Cemetery dated October 1991, was approved by DLNR per their letter of 3/2/92. The plan for the Manager's House was submitted 7/23/91. DLNR commented 9/9/91 and revisions were incorporated into that revised plan, which was approved on 8/28/92. Renovation and expansion work on the Manager's residence has been discussed with DLNR's State Historic Preservation Division. Specific plans will be submitted when complete.

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.**

All occupants are notified of the potential odor, noise and dust pollution by way of disclosure and covenant statements prior to sale. This notification is also included in the deed of all lots sold in the Project.

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.**

During construction activities, we will implement and adhere to all mitigation measures as recommended by the County of Kauai. Grading permits have been issued by the County, which include air and water erosion mitigative measures. In addition, an overall drainage master plan for the entire Project was approved by the County on June 4, 1992, which includes mitigative measures such as retention and detention basins to prevent possible soil erosion from detrimentally impacting to coastal areas. As the project proceeds, individual drainage studies and grading permits are required when more detailed plans are developed for individual projects, usually at the time of subdivision. These individual studies and grading plans must show that the specific phase of development contemplated is in concert with the overall drainage master plan, and these plans are reviewed and approved by the County.

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.**

The Land Use Commission will be given notice of any intention to alter ownership interest in the zoned property prior to development. On 5/3/90 we notified you by letter of our intent to sell a portion of the Project to James Schuler & Associates (no Schuler Homes, Inc.) for affordable housing development in accordance with the condition of approval. Grove Farm is considering sale of some of its large bulk parcels, but none have proceeded to the point where the Land Use Commission would be notified.

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 assurances of satisfaction of these conditions by the Petitioner.**

No response required.

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.**

Petitioner is providing annual reports as stated above, this being the seventh such annual report.

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

Petitioner has been and will continue to substantially comply with representations made to the Land Use Commission in development of the property.

The above is our seventh annual report, due 6/30/96. We trust it meets the requirements set forth in Condition No. 13 of the Decision and Order. Should you have any questions, please call me at (808)-245-3678.

Sincerely,

GROVE FARM PROPERTIES, INC.



Heather M. Harvey
Planning & Property Manager

HMH:hmh

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cc: Office of State Planning
Kauai County Planning Department