

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In the Matter of the Petition of

GROVE FARM PROPERTIES, INC.

RECEIVED

JUN 15 1989

State of Hawaii
LAND USE COMMISSION

DOCKET NO. A89-636

To reclassify approximately 603 acres)
of land currently in the Agriculture)
District into the Urban District at)
Lihue, Puhi, Kauai, Island and County)
of Kauai, State of Hawaii, identified)
as Tax Map Key 3-3-03: portion of)
parcel 1, 3-3-02: portion of parcel 1,)
3-3-06: portion of parcel 19, and)
3-4-05: portion of parcel 7)
)

STIPULATION TO PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW
AND CONDITIONS OF APPROVAL

In accordance with Section 15-15-56 of the Hawaii Land Use Commission Rules, Grove Farm Properties, Inc. ("Petitioner") and the Planning Department of the County of Kauai ("County") by and through their undersigned attorney or representative, hereby stipulate and agree to the following Findings of Fact, Conclusions of Law, Decision and Order and Conditions of Approval filed with the Land Use Commission of the State of Hawaii on June 1, 1989.

1. Petitioner's Finding of Fact: Nos. 1-18, 20-70, 72-74, 77, 79-81, 83-88, 90, and 91 and except for Nos. 19, 71, 75, 76, 78, 82, and 89 unless amended to and stipulated by the Petitioner as indicated herein.
2. Petitioner's Conclusions of Law as proposed.
3. Petitioner's proposed Condition Nos. 3-6, 9-13, and except for Nos. 1, 2, 7, 8, and 14 unless amended to and stipulated by the Petitioner as indicated herein.

COUNTY'S PROPOSED AMENDMENT

(Note: Bracketed materials are hereby deleted; new materials are underscored.)

1. Amend the following Findings of Fact as numbered:

19. Delete the unit count under the "Affordable" column for Parcel No. 2 (Komohana Subdivision), Parcel No. 3 (Puhi Subdivision), and Parcel No. 13 (Ulu Ko Subdivision) as these are identified as existing development and not part of the proposed reclassification. Therefore, this amendment should indicate that a total of 1,010 "affordable" units will be provided, not 1,418.

71. 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 the Petitioner. The Petitioner is also willing to build the necessary sewer treatment plant facilities and dedicate such improvements to the County. (Petition, p. 18; TR: p. 133, L 18-25; p. 134, L 1-25; p. 134, L 1-4; p. 36-37, L 25-1).

75. Petitioner has assisted the County in the past by providing property for a landfill site within the Petition property which now exceeds current

fill standards. (TR: p. 146, L 25; p. 147, L 1-24). The Petitioner is also working with the County to determine the feasibility of establishing a refuse transfer station within the project area or on other lands owned by the Petitioner within proximity to the Lihue Planning Area. (TR: p. 147, L 16-20).

76. 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 of the first increment.

(TR: p. 27, L 13-25; p. 28, L 1-7; p. 58, L 4-23).

78. Petitioner expects that estimated real property and other tax revenues attributable to the development [will] may offset fairly any increase in costs for public services [benefiting] required for the Project. (TR: p.29, L 5-10; p. 30, L 9-11, 20-25; p. 30, L 1-10).

82-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. (Petition, p. 24).

82-g. The Property is contiguous to and is indeed bounded on multiple sides by existing Urban districts, 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] and will will not contribute to scattered urbanization. [nor will it require an unreasonable investment in public facilities or services.] (Petition, p. 24-25).

89. The first increment, which is colored in orange on the map attached as Exhibit 2 can be substantially completed[, as evidenced by the award of construction contracts for its integral parts,] within five years of the date of County zoning amendment approval 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 internalized utilities sized to service the Project area, (c) water transmission and distribution systems and facilities necessary to service the housing units to be constructed in the first increment, (d) the sewage collection and treatment system necessary to service the first increment, (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. (TR: p. 33, L 8-25; p. 34, L 1-22; p. 46, L 2-25; p. 51, L 15-25; p. 172, L 11-22).

2. Amend and/or include the following conditions for reclassification as numbered:

1-c. A description and analysis of how the Petitioner proposes to provide its requested development with sewage and wastewater treatment and disposal[.] and coordination with the County Department of Public Works, the construction of the necessary sewage

treatment facilities and the possible
dedication thereof to the County.

2. The **Petitioner** shall provide housing opportunities for low, low-moderate and moderate income Hawaii residents by offering for sale at least [thirty] twenty percent [30%] (20%) of the housing units at prices which families with an income range [of] below eighty percent (80%) of Kauai County's median income can afford, twenty percent (20%) of the housing units at prices which families with an income range of eighty percent (80%) to one hundred twenty percent (120%) of Kauai County's median income can afford and [thirty] twenty percent [(30%)] (20%) of the housing units which families with an income range of one hundred twenty percent (120%) to one hundred forty percent (140%) of Kauai County's median income can afford.

This condition may be fulfilled in any one of the following manners:

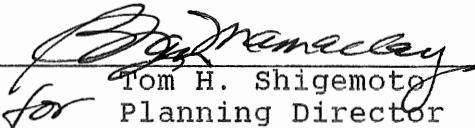
- a. Through projects undertaken by the **Petitioner** under such terms as may be mutually agreeable between the **Petitioner**, County of Kauai Housing Agency, the Housing Finance and Development Corporation of the

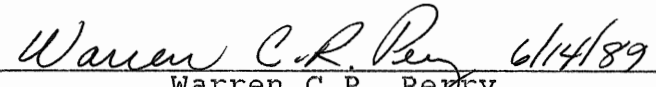
State of Hawaii or other appropriate governmental agencies; or

- b. Through the Petitioner's construction of rental units to be made available at rents which families in the aforementioned specified income ranges can afford as approved by the Housing Finance Development Corporation of the State of Hawaii and County of Kauai Housing Agency; or
- c. In such other manner that meets with the approval of the County of Kauai and the Housing Finance and Development Corporation of the State of Hawaii.

- 7. The Petitioner shall provide [pay its prorata share] for expansion of educational facilities by [way of dedicating] establishing 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 within 10 years of [prior to] the zoning of the Property[.] which shall indicate an underlying ST-P (Special Treatment - Public) district.

8. The Petitioner shall submit for review and approval by the State of Hawaii's Historic Sites Section and the County [of Kauai's Historic Preservation Commission] a detailed preservation plan with respect to the Cemetery (Site 50-30-11-503) Petitioner shall submit for review only a detailed preservation plan by the two (2) agencies with respect to a historic residence (Site 50-30-11-9390) which were identified on the Property. The plan for the cemetery shall be executed prior to the commencement of construction and verified by the aforementioned agencies.
- Should any archaeological resources, or remains be discovered during construction, work within the affected area shall immediately stop and the Petitioner shall notify the appropriate State and County agencies and take such measures as required by the appropriate State and County agencies to preserve such sites or remains.
14. The Petitioner shall facilitate the development by financing and/or constructing a refuse transfer station within the project area or on other lands within proximity to the Lihue Planning Area.


for Tom H. Shigemoto
Planning Director
Planning Department
County of Kauai

 6/14/89
Warren C.R. Perry
Deputy County Attorney
Attorney for Planning Department

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the date set forth below, unfiled copies of the foregoing STIPULATION TO FINDINGS OF FACT, CONCLUSIONS OF LAW AND CONDITIONS OF APPROVAL WITH RESPECT TO THE PETITION FOR LAND USE DISTRICT BOUNDARY AMENDMENT FILED BY GROVE FARM PROPERTIES, INC., were served as designated below upon those persons and addresses which follow:

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Attorney for Petitioner
GROVE FARM PROPERTIES, INC.

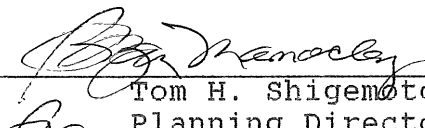
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Dated: Lihue, Kauai, Hawaii June 15, 1989


Tom H. Shigemoto
Planning Director
Planning Department
County of Kauai