

Owner, the latter having joined in this Declaration at the direction of Declarant, as required under the aforementioned GFC and GFLC Options, hereby declare that the GFLC Property and the GFC Property depicted as Increment 1 and Increment 2 on Exhibit C hereto (the "Petition Property") shall be and is hereby made subject to each of the following conditions which are enumerated in the Findings of Fact, Conclusions of Law, and Decision and Order of the Land Use Commission of the State of Hawaii entered June 30, 1989, in Land Use Commission Docket No. A89-636, reclassifying the Petition Property from the Agricultural District to Urban District:

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 (within the subject Petition Property) 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 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, Declarant 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.

IN WITNESS WHEREOF, Grove Farm Properties, Inc., has caused these presents to be executed, and at its request Grove Farm Company, Incorporated, and Grove Farm Land Corp. have joined in these presents this 29th day of May, 1990.

GROVE FARM PROPERTIES, INC.,
a Hawaii corporation,

By *Heater Poyama*
Its Vice President

By *J. Shank*
Its Treasurer

GROVE FARM LAND CORP.,
a Hawaii corporation,

By *William F. Horijaya*
Its Vice President

By *J. Shank*
Its Treasurer

GROVE FARM COMPANY, INCORPORATED,
a Hawaii corporation,

By *David W. P...*
Its President and
Chief Executive Officer

By *J. Shank*
Its Treasurer

STATE OF HAWAII

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) SS.
)

COUNTY OF KAUAI

On this 29th day of May, 1990,
before me appeared Hideo Toyama
and Ed Susa, to me personally known, who, being
by me duly sworn, did say that they are the Vice President
and Treasurer, respectively, of GROVE FARM PROPERTIES,
INC., a Hawaii corporation, and that the seal affixed to the
foregoing instrument is the corporate seal of said corporation
and that said instrument was signed and sealed in behalf of
said corporation by authority of its Board of Directors, and
said officers acknowledged said instrument to be the free act
and deed of said corporation.

Maunio A. Maunio
Notary Public, State of Hawaii

My commission expires: 6/19/90

STATE OF HAWAII

)

) SS.

COUNTY OF KAUAI

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On this 29th day of May, 19 ,
before me appeared David W. Pratt
and Jed Sueckga, to me personally known, who, being
by me duly sworn, did say that they are the President and
and Treasurer, respectively, of GROVE FARM COMPANY,
INCORPORATED, a Hawaii corporation, and that the seal affixed
to the foregoing instrument is the corporate seal of said
corporation and that said instrument was signed and sealed in
behalf of said corporation by authority of its Board of
Directors, and said officers acknowledged said instrument to be
the free act and deed of said corporation.

Maureen A. Shumaker
Notary Public, State of Hawaii

My commission expires: 6/19/90

STATE OF HAWAII
COUNTY OF KAUAI

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) SS.
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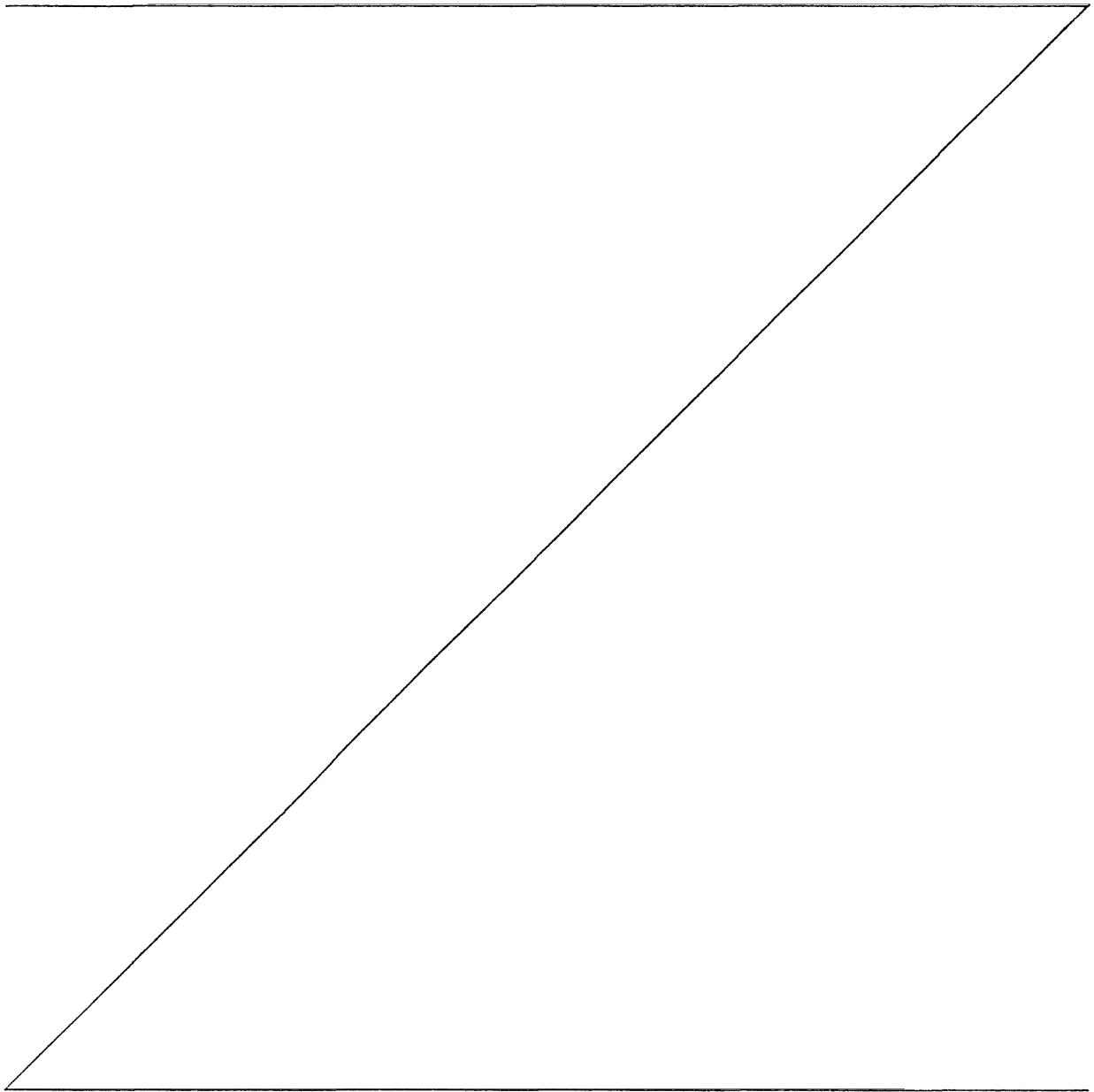
On this 29th day of May, 1990,
before me appeared William T. Healy
and Ted Supala, to me personally known, who, being
by me duly sworn, did say that they are the Vice President
and Treasurer, respectively, of GROVE FARM LAND CORP.,
a Hawaii corporation, and that the seal affixed to the
foregoing instrument is the corporate seal of said corporation
and that said instrument was signed and sealed in behalf of
said corporation by authority of its Board of Directors, and
said officers acknowledged said instrument to be the free act
and deed of said corporation.

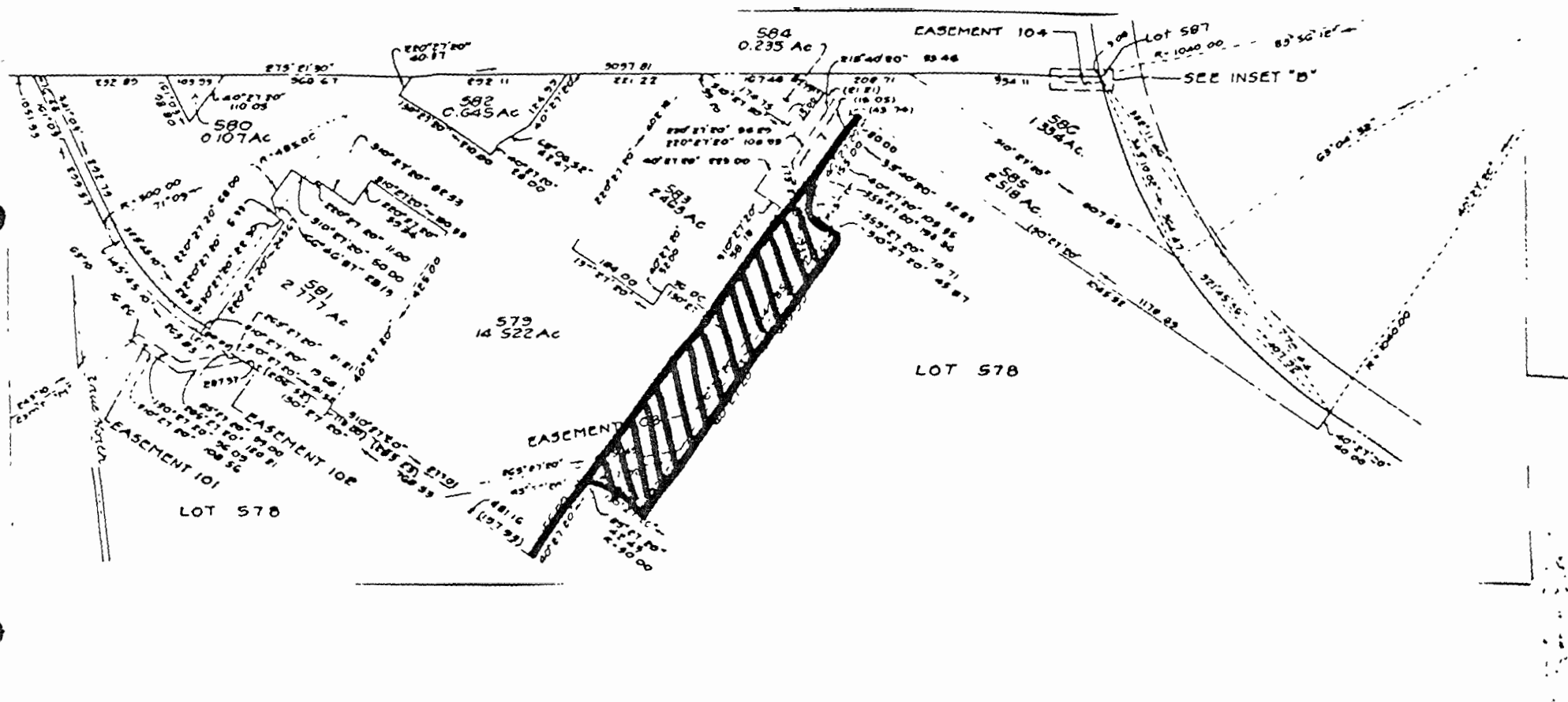
Maurice A. Mendenhall
Notary Public, State of Hawaii

My commission expires: 6/19/90

EXHIBIT A

All that certain real property as reflected in Exhibit B to this Declaration more particularly described as portion, approximately 1.6 acres, of Lot 579, as shown on Map 69, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 1087 (amended), being a portion of that certain real property more particularly described on Transfer Certificate of Title No. 228,585, issued to Grove Farm Land Corp., a Hawaii corporation.





A89-636

GROVE FARM PROPERTIES, INC.

T. M. K.: 3-3-03: POR. Q1

3-3-06: POR. 19

PUHI, LIHUE, KAUAI

SCALE: 1" = 3000' ±



— INCREMENT 1



— INCREMENT 2

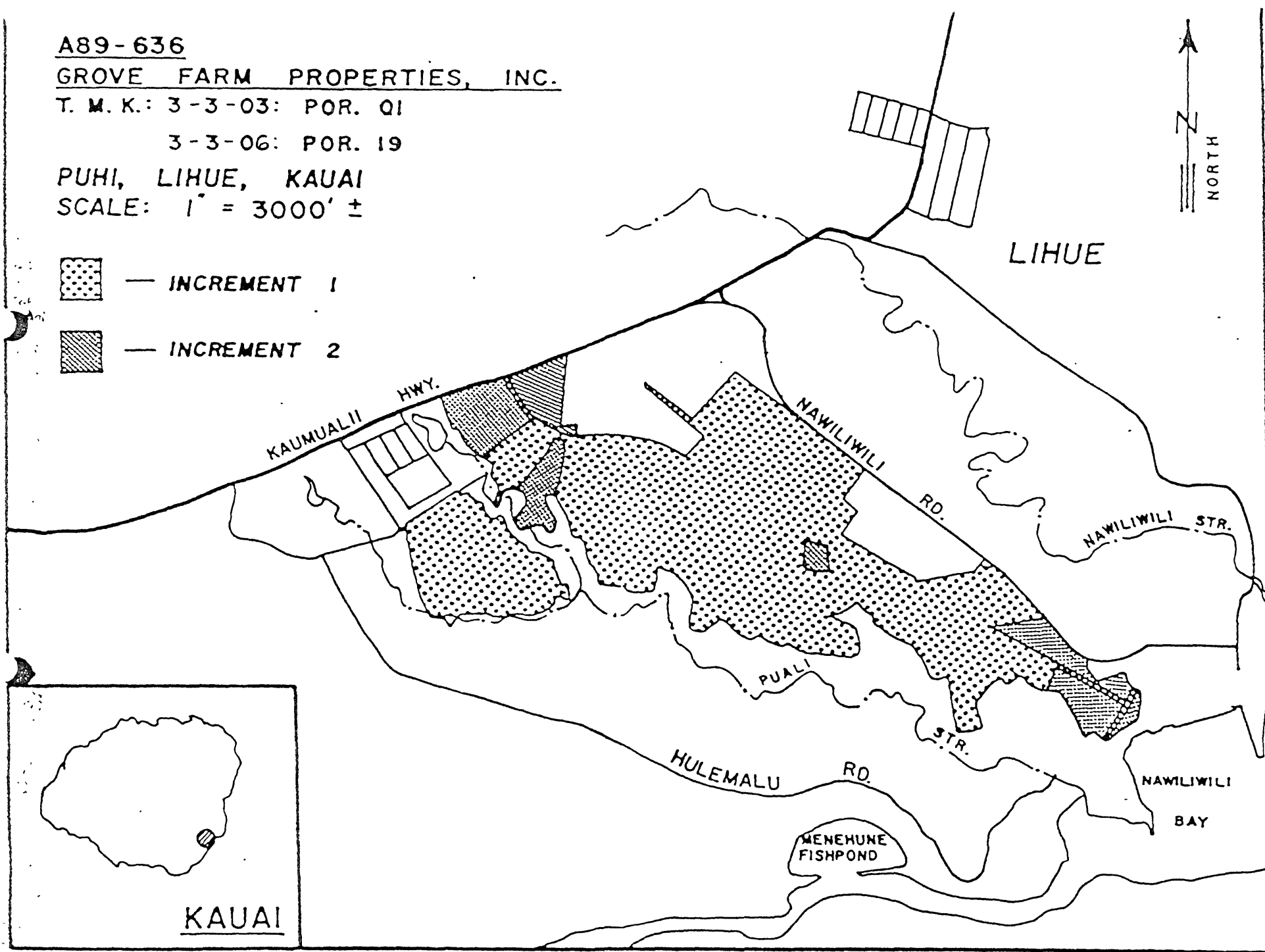


EXHIBIT C