



SPECIAL PERMIT	
Petition Received	8/18/86
Maps	
Action Span	Aug 18 - Oct 2, 1986
Action Date	9-23-86
Recordation	0/31/86

SP86-360 HEMMETER/VMS KAUAI COMPANY III

P-555 274 249

RECEIPT FOR CERTIFIED MAIL

NO INSURANCE COVERAGE PROVIDED

NOT FOR INTERNATIONAL MAIL

(See Reverse)

SP86-360/HEMMETER/VMS KAUI COMPANY III
SP86-361/HEMMETER/VMS KAUI COMPANY III

U.S.G.P.O. 153-506

PS Form 3800, June 1985

Sent to James T. Funaki, Esq.	
Street and No. 733 Bishop, Ste. 1400	
P.O., State and ZIP Code Honolulu, 96813	
Postage	\$.65
Certified Fee	.85
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt showing to whom and Date Delivered	.90
Return Receipt showing to whom and Date, and Address of Delivery	
TOTAL Postage and Fees	2.40
Postmark or Date	



**STICK POSTAGE STAMPS TO ARTICLE TO COVER FIRST CLASS POSTAGE,
CERTIFIED MAIL FEE, AND CHARGES FOR ANY SELECTED OPTIONAL SERVICES. (see front)**

1. If you want this receipt postmarked, stick the gummed stub to the right of the return address leaving the receipt attached and present the article at a post office service window or hand it to your rural carrier. (no extra charge)
2. If you do not want this receipt postmarked, stick the gummed stub to the right of the return address of the article, date, detach and retain the receipt, and mail the article.
3. If you want a return receipt, write the certified mail number and your name and address on a return receipt card, Form 3811, and attach it to the front of the article by means of the gummed ends if space permits. Otherwise, affix to back of article. Endorse front of article **RETURN RECEIPT REQUESTED** adjacent to the number.
4. If you want delivery restricted to the addressee, or to an authorized agent of the addressee, endorse **RESTRICTED DELIVERY** on the front of the article.
5. Enter fees for the services requested in the appropriate spaces on the front of this receipt. If return receipt is requested, check the applicable blocks in Item 1 of Form 3811.
6. Save this receipt and present it if you make inquiry.

P-555 274 250

RECEIPT FOR CERTIFIED MAIL

NO INSURANCE COVERAGE PROVIDED

NOT FOR INTERNATIONAL MAIL

(See Reverse)

SP86-360/HEMETER/VMS KAUI COMPANY III
SP86-361/HEMETER/VMS KAUI COMPANY III

U.S.G.P.O. 153-506

PS Form 3800, June 1985

Sent to Mr. Tom Shigemoto	
Street and No. 4280 Rice Street	
P.O. State and ZIP Code Lihue, HI 96766	
Postage	S .65
Certified Fee	.85
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt showing to-whom and Date Delivered	.90
Return Receipt showing Date, and Address	
TOTAL Postage and Fees	2.40
Postmark or Date	



**STICK POSTAGE STAMPS TO ARTICLE TO COVER FIRST CLASS POSTAGE,
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5. Enter fees for the services requested in the appropriate spaces on the front of this receipt. If return receipt is requested, check the applicable blocks in item 1 of Form 3811.
6. Save this receipt and present it if you make inquiry.

SENDER: Complete items 1 and 2 when additional services are desired, and complete items 3 and 4. Put your address in the "RETURN TO" space on the reverse side. Failure to do this will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for additional service(s) requested.

1. ☐ Show to whom delivered, date, and addressee's address. 2. ☐ Restricted Delivery.

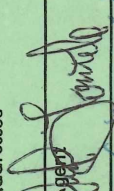
3. Article Addressed to:

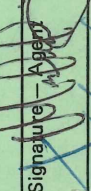
Mr. Tom H. Shigemoto
Planning Director
Kauai County Planning Dept.
4280 Rice Street
Lihue, HI 96766

4. Article Number
P-555 274 250

Type of Service:
☐ Registered ☐ Insured
☒ Certified ☐ COD
☐ Express Mail

Always obtain signature of addressee or agent and DATE DELIVERED.

5. Signature — Addressee
X 

6. Signature — Agent
X 

7. Date of Delivery
X 11-17-88

8. Addressee's Address (ONLY if requested and fee paid)

PS Form 3811, Feb. 1986

DOMESTIC RETURN RECEIPT

SENDER: Complete items 1 and 2 when additional services are desired, and complete items 3 and 4. Put your address in the "RETURN TO" space on the reverse side. Failure to do this will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for additional service(s) requested.

1. ☐ Show to whom delivered, date, and addressee's address. 2. ☐ Restricted Delivery.

3. Article Addressed to:

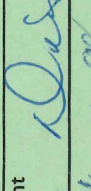
James T. Funaki, Esq.
Grosvenor Center, Ste. 1400
733 Bishop Street
Honolulu, HI 96813

4. Article Number
P-555 274 249

Type of Service:
☐ Registered ☐ Insured
☒ Certified ☐ COD
☐ Express Mail

Always obtain signature of addressee or agent and DATE DELIVERED.

5. Signature — Addressee
X

6. Signature — Agent
X 

7. Date of Delivery
X 11-7-88

8. Addressee's Address (ONLY if requested and fee paid)

PS Form 3811, Feb. 1986

DOMESTIC RETURN RECEIPT

LUC PETITION CONTENTS & PROCEDURES CHECKLIST

DOCKET NO./PETITIONER: SP86-360 - HEMMETER/VMS KAUAI COMPANY III
DATED FILED: August 18, 1986

Please check off your areas of concern and initial your station before passing this form to the next station.

Receptionist _____

- _____ Original signature document and 15 copies of all documents
- _____ Complete certificate of service
- _____ Filing fee* and receipt return letter
- _____ Time stamp
- _____ Assign docket number and opens file
- _____ Send to Commissioners and Kona Service Center* or Molokai Library*
- _____ Original to planner and copies to executive officer and drafting technician for processing
- _____ Send to hearing officer*

Drafting Technician _____

Confirms petitioner's accuracy with respect to:

- | | |
|---|-----------------------------------|
| _____ ownership | _____ location and size |
| _____ lessees | _____ land use district |
| _____ proposed reclassification | _____ tax map key |
| _____ notify planner and executive officer if in Conservation | _____ certificate of service |
| | _____ map and its accuracy w/text |

Planner _____

- _____ Rechecks Receptionist and Drafting Technician checklist
- _____ Name and address of petitioner
- _____ Statutory authority; letter of authorization* and verification*

For Boundary Amendments:

- _____ Development proposal
- _____ Market analysis
- _____ HRS 343-EA or EIS* and timeframes
- _____ Impacts on resources of area; Economic Impacts*; Proposals for low/moderate/employee housing
- _____ Financial Statement
- _____ Timing of development (phasing and incremental proposals)
- _____ Conformance to HRS 205, 205A, 226; LUC R&R, County Plans
- _____ Engineering Report (traffic, soils, etc.)
- _____ Public facilities and utilities

Chief Clerk _____

- _____ Checks on Exhibits completeness

FOR SPECIAL PERMITS (OVER 15 ACRES)

- _____ County's recommended approval
- _____ Complete record
- _____ Writes staff report
- _____ Send to Drafting Technician for maps

ON DECLARATORY RULINGS

- _____ Confirm form and contents with R&R Part VIII

ON MOTIONS

- _____ Confirm form and contents with R&R 3-13

ON ORDERS TO CHOW CAUSE

- _____ Confirm form and contents with R&R 7-2(1)

PETITION RECEIVED: August 18, 1986

SP86-360 - HEMMETER/VMS KAUAI COMPANY III

James T. Funaki, Esq.
Attorney at Law
Grosvenor Center, Suite 1400
733 Bishop Street
Honolulu, HI 96813

COUNTY

MR. TOM SHIGEMOTO, Planning Director
Planning Dept., County of Kauai
4280 Rice Street
Lihue, HI 96766

MICHAEL BELLES, ESQ.
County Attorney
County of Kauai
4396 Rice Street
Lihue, HI 96766

[illegible]



LAND USE COMMISSION

Room 104, Old Federal Building, 335 Merchant Street
Honolulu, Hawaii 96813 Telephone: 548-4611

COMMISSION MEMBERS:

Sharon R. Himeno
Teofilo Phil Tacban
Allen Kajioke
Robert Tamaye
Frederick P. Whittemore
Toru Suzuki
Allen K. Hoe

ESTHER UEDA
Executive Officer

November 16, 1988

NOTIFICATION OF BOUNDARY AMENDMENT AND SPECIAL
PERMIT DECISIONS BY STATE LAND USE COMMISSION

To all concerned agencies:

The findings of Fact, Conclusions of Law and Decision
and Order for the following boundary amendment and special
permit petitions have been filed by the Land Use Commission:

<u>Petition Docket No.</u>	<u>Boundary Amendment Requested</u>	<u>LUC Action on August 17, 1988</u>	<u>Date of Decision and Order</u>
A88-623 DEPARTMENT OF GENERAL PLANNING, CITY AND COUNTY OF HONOLULU	To reclassify approximately 269.454 acres from Agricul- tural to Urban at Waipio, Ewa, Oahu	Denied approximately 269.454 acres from Agricultural to Urban at Waipio, Ewa, Oahu, TMK: 9-4-07:1	Oct. 20, 1988
		<u>LUC Action on September 29, 1988</u>	
A88-620 KOHALA JOINT VENTURE	To reclassify approximately 1,288 acres from Agricultural to Urban at Kahua and Waika, North Kohala, Hawaii	Approved approximately 1,288 acres from Agricultural to Urban at Kahua and Waika, North Kohala, Hawaii, TMK: 5-9-01: portion 10; 5-9-09: portion 54 (Road Parcel); 5-9-10: 31-55 (inclusive), 57, 58, 60 and portion 56, 5-9-11: 1 (see map attached)	Nov. 10, 1988
	<u>Special Permit Amendment Requested</u>	<u>LUC Action on September 7, 1988</u>	
✓SP86-360 HEMMETER/ VMS KAUAI COMPANY III	To amend the Decision and Order by deleting the club- house/starter shed from the approved area	Approved the amendment to Decision and Order to delete clubhouse/ starter shed area from approved area (see attached Exhibit A1)	Nov. 4, 1988

Notification of L Decisions
November 16, 1988
Page Two

<u>Petition Docket No.</u>	<u>Special Permit Amendment Requested</u>	<u>LUC Action on September 7, 1988</u>	<u>Date of Decision and Order</u>
SP86-361	To amend the Decision and Order by adding the clubhouse/starter shed to the approved area	Approved the amendment to Decision and Order to add clubhouse/starter shed area to approved area (see attached Exhibit A2)	Nov. 4, 1988

Should you have any questions, please do not hesitate to contact this office.

Sincerely,



ESTHER UEDA
Executive Officer

EU:to
Att.

NOTIFICATION OF BOUNDARY AMENDMENT DECISIONS BY LUC

Concerned Agencies

State (all petitions)

1. Office of State Planning - (1) Harold Masumoto
(2) LUD-Abe Mitsuda
2. Dept. of Transportation - Office of the Director
3. Board of Land & Natural Resources - Office of the Chairman
4. Dept. of Education - Facilities & Auxiliary Services Branch
5. Office of Environmental Quality Control
6. USDA Soil Conservation Service - Attention: Harry Sato
7. Board of Agriculture - Office of the Chairman
8. C&C, Dept. of Finance - Mapping Section
9. Deputy Attorney General - Robert A. Marks

City & County of Honolulu (Oahu petitions only)

1. ~~Dept. of General Planning - Chief Planning Officer~~
2. ~~Dept. of general Planning - Division Head,
Policy Analysis Division~~
3. ~~Dept. of Land Utilization - Director~~
4. ~~Planning Commission - Executive Secretary~~
5. ~~Board of Water Supply - Manager and Chief Engineer~~
6. ~~Dept. of Public Works - Director~~
7. ~~C&C, Dept. of Finance - Property Assessment Section~~
8. ~~C&C, Dept. of Finance - Property Technical Office~~

Hawaii County (Hawaii petitions only)

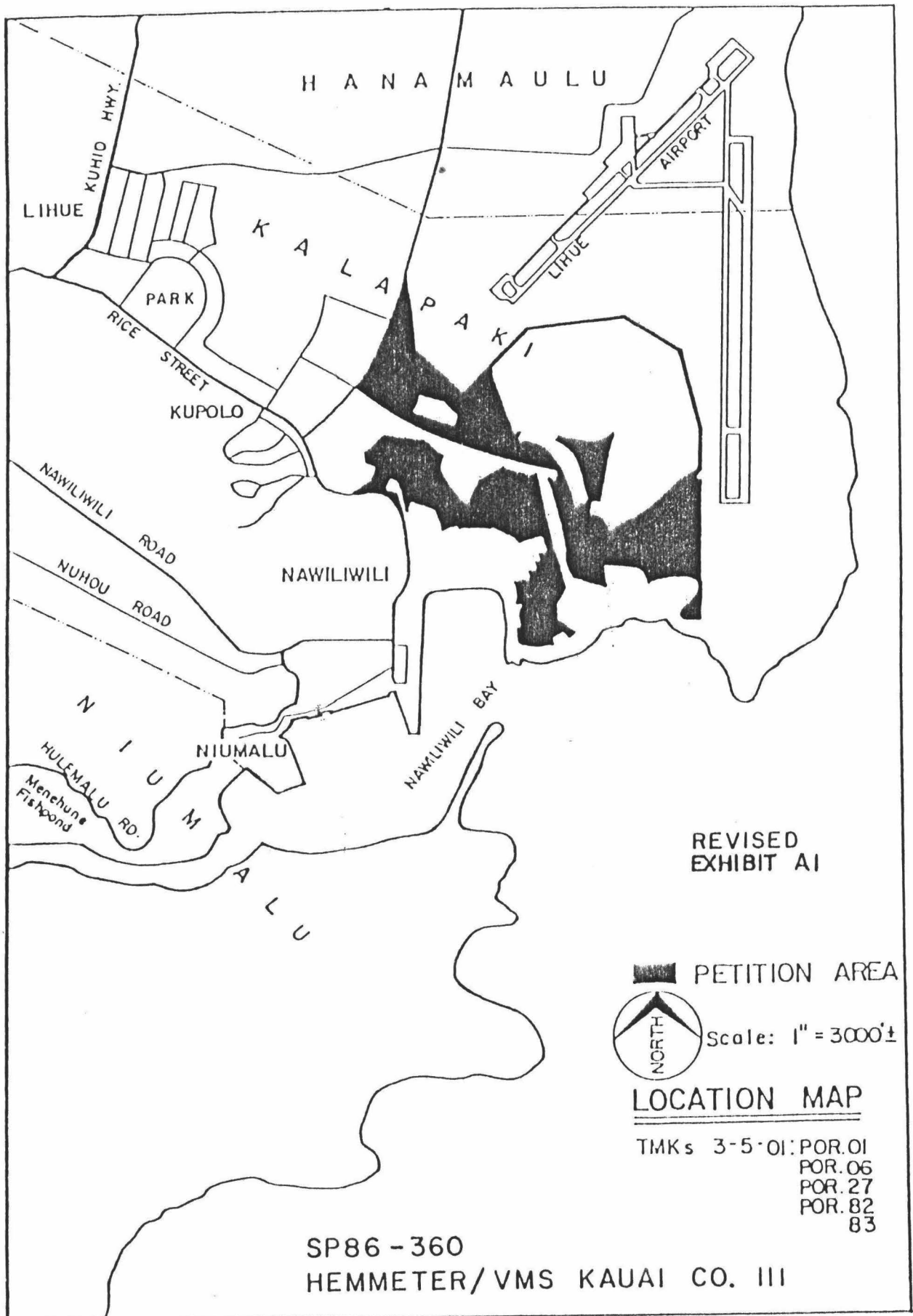
1. ~~Dept. of Planning - Director~~
2. ~~Planning Commission - Chairman~~
3. ~~Dept. of Water Supply~~
4. ~~Dept. of Public Works~~
5. ~~Real Property Tax Office~~

Maui County (Maui petitions only)

1. ~~Dept. of Planning - Director~~
2. ~~Planning Commission - Chairman~~
3. ~~Dept. of Water Supply~~
4. ~~Dept. of Public Works~~
5. ~~Real Property Tax Division~~

Kauai County (Kauai petitions only)

1. Dept. of Planning - Director
2. Planning Commission - Chairman
3. Dept. of Water Supply
4. Dept. of Public Works
5. Real Property Division



BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of	)	DOCKET NO. SP86-360
)	
HEMMETER/VMS KAUAI COMPANY III	)	HEMMETER/VMS KAUAI
	)	COMPANY III
For a Special Use Permit to Allow the)	
Redesign of the Existing Golf Course)	
and the Establishment of a Driving)	
Range and Related Golf Course)	
Accessory Uses, Boat Docks, Lake)	
and Waterways, Parking Areas, Boat)	
Maintenance Facility, Irrigation)	
Lagoon, Access Roads, and Other)	
Miscellaneous Accessory Uses on)	
Approximately 310 Acres of Land)	
Situated within the Agricultural)	
District at Nawiliwili, Lihue,)	
Kauai, Tax Map Key Nos.: 3-5-01:83)	
and Portions of 1, 6, 27 and 82)	
<hr/>		

In the Matter of the Petition of	)	DOCKET NO: SP86-361
)	
HEMMETER/VMS KAUAI COMPANY III	)	HEMMETER/VMS KAUAI
	)	COMPANY III
For a Special Use Permit to)	
Establish a Second 18-Hole Golf)	
Course with Ponds, a Driving Range)	
and Miscellaneous Accessory Uses)	
Including Carriage Paths and)	
Landscaping on Approximately 200)	
Acres of Land Situate within the)	
Agricultural District at)	
Nawiliwili, Lihue, Kauai, Tax Map)	
Key No.: 3-5-01: Portion of Parcel 6)	
and Portion of Parcel 82)	
<hr/>		

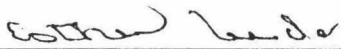
CERTIFICATE OF SERVICE

I hereby certify that a copy of the Order to Amend 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:

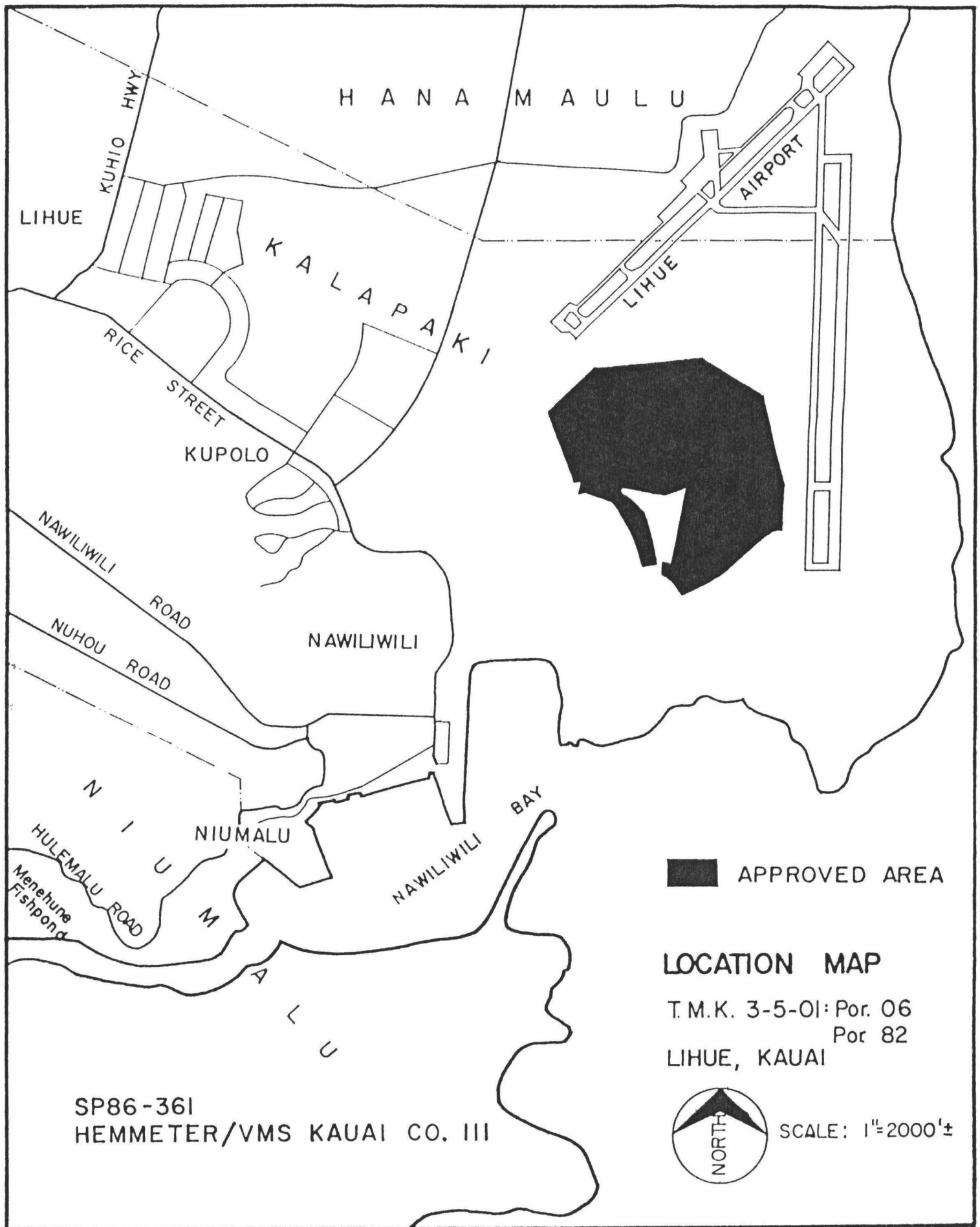
CERT. TOM H. SHIGEMOTO, Director
 Planning Department, County of Kauai
 4280 Rice Street
 Lihue, Hawaii 96766

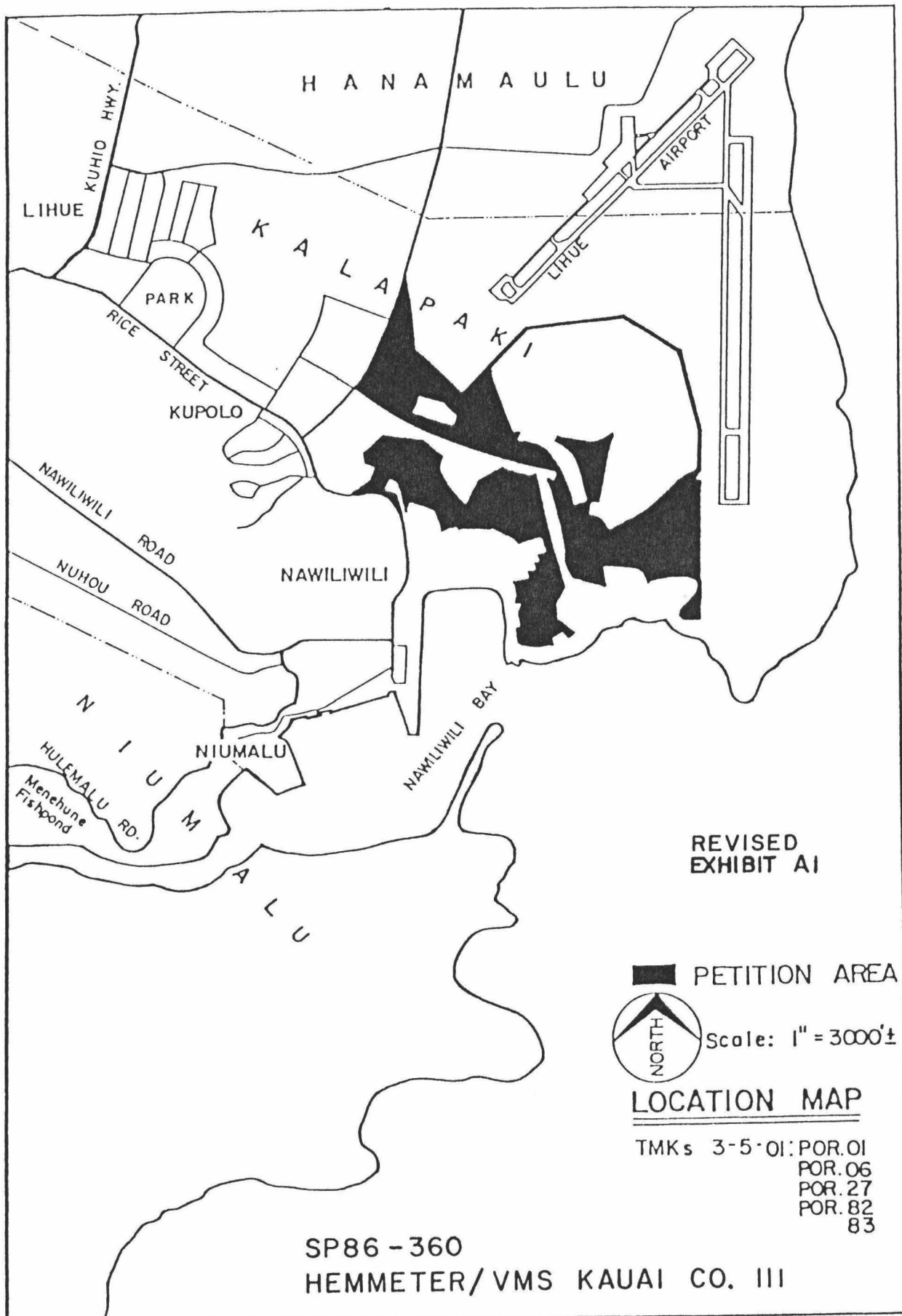
CERT. JAMES T. FUNAKI, ESQ., Attorney for Petitioner
Grosvenor Center, Suite 1400
733 Bishop Street
Honolulu, Hawaii 96813

DATED: Honolulu, Hawaii, this 4th day of November 1988.



ESTHER UEDA
Executive Officer





BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)
HEMMETER/VMS KAUAI COMPANY III)
For a Special Use Permit to Allow the)
Redesign of the Existing Golf Course)
and the Establishment of a Driving)
Range and Related Golf Course)
Accessory Uses, Boat Docks, Lake)
and Waterways, Parking Areas, Boat)
Maintenance Facility, Irrigation)
Lagoon, Access Roads, and Other)
Miscellaneous Accessory Uses on)
Approximately 310 Acres of Land)
Situated within the Agricultural)
District at Nawiliwili, Lihue,)
Kauai, Tax Map Key Nos.: 3-5-01:83)
and Portions of 1, 6, 27 and 82)

DOCKET NO. SP86-360

HEMMETER/VMS KAUAI
COMPANY III

**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.**

NOV 04 1988

Date

by

Executive Officer

In the Matter of the Petition of)
HEMMETER/VMS KAUAI COMPANY III)
For a Special Use Permit to)
Establish a Second 18-Hole Golf)
Course with Ponds, a Driving Range)
and Miscellaneous Accessory Uses)
Including Carriage Paths and)
Landscaping on Approximately 200)
Acres of Land Situate within the)
Agricultural District at)
Nawiliwili, Lihue, Kauai, Tax Map)
Key No.: 3-5-01: Portion of Parcel 6)
and Portion of Parcel 82)

DOCKET NO: SP86-361

HEMMETER/VMS KAUAI
COMPANY III

LAND USE COMMISSION
STATE OF HAWAII
NOV 4 9 34 AM '88

ORDER TO AMEND
FINDINGS OF FACT, CONCLUSIONS
OF LAW, AND DECISION AND ORDERS

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of	)	DOCKET NO. SP86-360
)	
HEMMETER/VMS KAUAI COMPANY III	)	HEMMETER/VMS KAUAI
	)	COMPANY III
For a Special Use Permit to Allow the)	
Redesign of the Existing Golf Course)	
and the Establishment of a Driving)	
Range and Related Golf Course)	
Accessory Uses, Boat Docks, Lake)	
and Waterways, Parking Areas, Boat)	
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Lagoon, Access Roads, and Other)	
Miscellaneous Accessory Uses on)	
Approximately 310 Acres of Land)	
Situated within the Agricultural)	
District at Nawiliwili, Lihue,)	
Kauai, Tax Map Key Nos.: 3-5-01:83)	
and Portions of 1, 6, 27 and 82)	

In the Matter of the Petition of	)	DOCKET NO: SP86-361
)	
HEMMETER/VMS KAUAI COMPANY III)	HEMMETER/VMS KAUAI
)	COMPANY III
For a Special Use Permit to)	
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Course with Ponds, a Driving Range)	
and Miscellaneous Accessory Uses)	
Including Carriage Paths and)	
Landscaping on Approximately 200)	
Acres of Land Situate within the)	
Agricultural District at)	
Nawiliwili, Lihue, Kauai, Tax Map)	
Key No.: 3-5-01: Portion of Parcel 6)	
and Portion of Parcel 82)	

ORDER TO AMEND
FINDINGS OF FACT, CONCLUSIONS
OF LAW, AND DECISION AND ORDERS

Hemmeter/VMS Kauai Company III (hereinafter
"Petitioner") initiated a Motion to Amend Decision and Order,
on August 3, 1988 and Supplement to Motion to Amend Decision

and Order on September 1, 1988, pursuant to Section 15-15-70, Title 15, Subtitle 3, Chapter 15, Hawaii Administrative Rules, to amend Findings of Fact, Conclusions of Law, and Decision and Orders in Land Use Commission Docket Number SP86-360-Hemmeter/VMS Kauai Company III (hereinafter "Special Permit 360") and Land Use Commission Docket Number SP86-361- Hemmeter/VMS Kauai Company III (hereinafter "Special Permit 361"). The Land Use Commission (hereinafter the "Commission") having considered the entire record on this matter, hereby makes the following findings of facts and conclusions of law:

FINDINGS OF FACT

Background

1. On October 27, 1986, the Commission conditionally approved Special Permit 360 covering approximately 310 acres in the State Land Use Agricultural District for the redesign of the existing golf course, and the establishment of related uses including a golf clubhouse and starter shed. The Commission's approval included a condition requiring Petitioner to file a petition for District Boundary Amendment for the approved area.

2. On October 16, 1986, the Commission received the record of Special Permit 361 from the Kauai Planning Commission (hereinafter "Planning Commission") for a second golf course situated generally mauka of the area covered by Special Permit 360. A portion of the area covered by Special Permit 361 overlapped with the area of the proposed clubhouse and starter

shed as located and approved under Special Permit 360. This overlap area was approximately 1.8 acres.

3. By letter dated November 3, 1986, from the Kauai Planning Department ("Planning Department"), the Planning Department clarified that all graphic presentations within the engineering document, in Special Permit 361, reflecting a clubhouse/starter shed within the second golf course were incorrect.

4. On January 7, 1987, the Commission approved Special Permit 361 covering approximately 200 acres in the State Land Use Agricultural District. This approval excluded the 1.8-acre overlap area of the clubhouse/starter shed.

5. On August 8, 1987, Petitioner filed a boundary amendment Petition Docket No. A87-614/Hemmeter/VMS Kauai Company III, to amend the area approved under Special Permit 360 for Urban reclassification, excluding however, the apparent overlap of 1.8 acres for a golf clubhouse/starter shed area.

6. On November 30, 1987, the Commission received a letter from the Planning Department, dated November 27, 1987, clarifying that the clubhouse/starter shed area should be covered in both Special Permit 360 and Special Permit 361 and requested the Commission take appropriate action to correct this matter.

7. At its meeting on January 5, 1988 the Commission considered the Planning Department's request and directed

Petitioner to file a motion to amend the Findings of Fact, Conclusions of Law, and Decision and Order for Special Permit 361.

8. On February 17, 1988, the Commission approved Docket No. A87-614/Hemmeter/VMS Kauai Company III for approximately 299.79 acres of land from the Agricultural District to the Urban District.

Petitioner's Motion and Supporting Affidavit

8. Petitioner states that the clubhouse/starter shed area was intended to be included in both Special Permit 360 and 361 because the clubhouse/starter shed area was originally believed to fall within the boundaries of the first golf course but later became part of the second golf course.

9. Petitioner's motion requests that the Commission amend the Order for Special Permit 360 by deleting the clubhouse/starter shed area and amend the Order for Special Permit 361 by including the clubhouse/starter shed area.

ORDER

IT IS HEREBY ORDERED that the Findings of Fact, Conclusions of Law, and Decision and Order for Special Permit Docket Number 86-360 is hereby amended by deleting the clubhouse/starter shed area as reflected on Revised Exhibit A-1 attached hereto and incorporated by reference herein.

IT IS HEREBY FURTHER ORDERED that the Findings of Fact, Conclusions of Law, and Decision and Order for Special

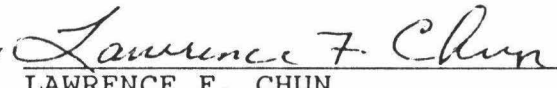
Permit Docket Number 86-361 is hereby amended by adding the clubhouse/starter shed area as reflected on Revised Exhibit A-2 attached hereto and incorporated by reference herein.

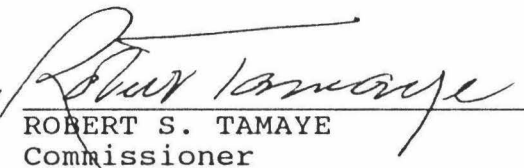
DOCKET NO. SP86-360 - HEMMETER/VMS KAUAI COMPANY III
DOCKET NO. SP86-361 - HEMMETER/VMS KAUAI COMPANY III


Done at Honolulu, Hawaii, this 4th day of November 1988,
per motions on September 7, 1988 and October 13, 1988.

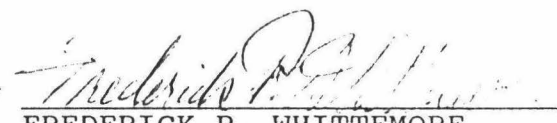
LAND USE COMMISSION
STATE OF HAWAII

By 
RENTON L. K. NIP
Chairman and Commissioner

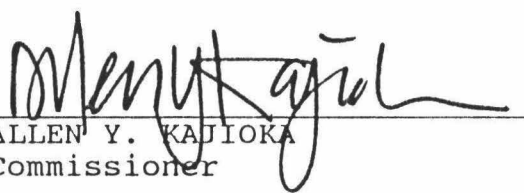
By 
LAWRENCE F. CHUN
Vice Chairman and Commissioner

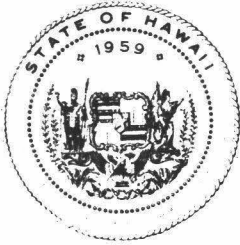
By 
ROBERT S. TAMAYE
Commissioner

By 
TORU SUZUKI
Commissioner

By 
FREDERICK P. WHITTEMORE
Commissioner

By 
ALLEN K. HOE
Commissioner

By 
ALLEN Y. KAJIOKA
Commissioner



STATE OF HAWAII
DEPARTMENT OF BUSINESS
AND ECONOMIC DEVELOPMENT

LAND USE COMMISSION

Room 104, Old Federal Building, 335 Merchant Street
Honolulu, Hawaii 96813 Telephone: 548-4611

JOHN WAIHEE
Governor

RENTON L.K. NIP
Chairman

LAWRENCE F. CHUN
Vice Chairman

COMMISSION MEMBERS:

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Allen Kajioka
Robert Tamaye
Frederick P. Whittemore
Toru Suzuki
Allen K. Hoe

ESTHER UEDA
Executive Officer

September 6, 1988

MEMORANDUM

To: Land Use Commission

FROM: Staff *Esther Ueda*

SUBJECT: Motion to Amend Decision and Order of LUC Docket
No. SP86-360/Hemmeter/VMS Kauai Company III (to
delete starter shed area) and LUC Docket
No. SP86-361/Hemmeter/VMS Kauai Company III (to
add starter shed area)

For your information, the following is a chronology of events relating to the subject motion and maps of the starter shed area.

- 1) On October 27, 1986, the LUC conditionally approved SP86-360 covering approximately 310 acres for the redesign of the existing golf course, and the establishment of related uses including a golf clubhouse and starter shed. (See Exhibit A) The approval included a condition requiring petitioner to file a petition for District Boundary Amendment for the special permit area. ~~(Exhibit B-11/6/86 letter)~~
- 2) On October 16, 1986, the LUC received the record of SP86-361 from the Kauai Planning Department for the second golf course situated generally mauka of the area approved under SP86-360. (See Exhibit A)
- 3) On November 6, 1986, in response to the LUC staff inquiry, the LUC staff received a letter from Michael Laureta to Ray Young dated November 3, 1986 indicating that the "Planning and Engineering Report" by Belt, Collins and Associates (included in the record of SP86-361 ". . . inadvertently reflects the proposal for the construction of a golf clubhouse within the parameters of the second golf course." (See Exhibit B)

- 4) On January 7, 1987, the LUC approved SP86-361 for the second golf course on approximately 200 acres of land (approved area did not include starter shed area)
- 5) On August 7, 1987, Petitioner filed Docket No. A87-614 to amend the area approved under SP86-360 from the Agricultural District into the Urban District as required by the LUC in its approval of SP86-360. The boundary amendment petition excluded various areas approved under SP86-360 for Urban Districting, including the golf clubhouse/starter shed area (See Exhibit ~~B~~^C).
- 6) On November 30, 1987, the LUC received a letter from Tom Shigemoto, Kauai Planning Director, to Esther Ueda dated November 27, 1987, clarifying that the golf clubhouse/starter shed area was covered in both SP86-360 and SP86-361 and requested the LUC take appropriate action to correct this matter.
- 7) On January 5, 1988 LUC considered Tom Shigemoto's request and directed Petitioner to file a motion to amend the Decision and Order on SP86-361.
- 8) On February 17, 1988, the LUC approved Boundary Amendment Docket No. A87-614 for approximately 300 acres of land.
- 9) On August 3, 1988, Petitioner filed the subject Motion to Amend Decision and Order.
- 10) On September 1, 1988, Petitioner filed its Supplement to subject Motion to Amend Decision and Order.

Attachments

- 1) Exhibit A - Map showing the boundaries of Docket No. SP83-360 and Docket No. SP83-361 for starter shed area
- 2) Exhibit B - November 3, 1986 letter from Michael Laureta to Ray Young
- 3) Exhibit C - Map of starter shed area showing current Agricultural/Urban District Boundary as amended by Docket No. A87-614 and Petitioner's Proposed Boundary for Docket No. SP83-361

Apana

LOT 4
200.254 Acs

7713

MOTION TO AMEND DECISION & ORDER SP86-360 & SP86-361 HEMMETER/VMS KAUI CO III

T.M.K. : 3-5-01:83, portion of 1, 6, 27 & 82
Nawiliwili, Lihue, Kauai

... Boundary of SP86-360 Boundary of SP86-361

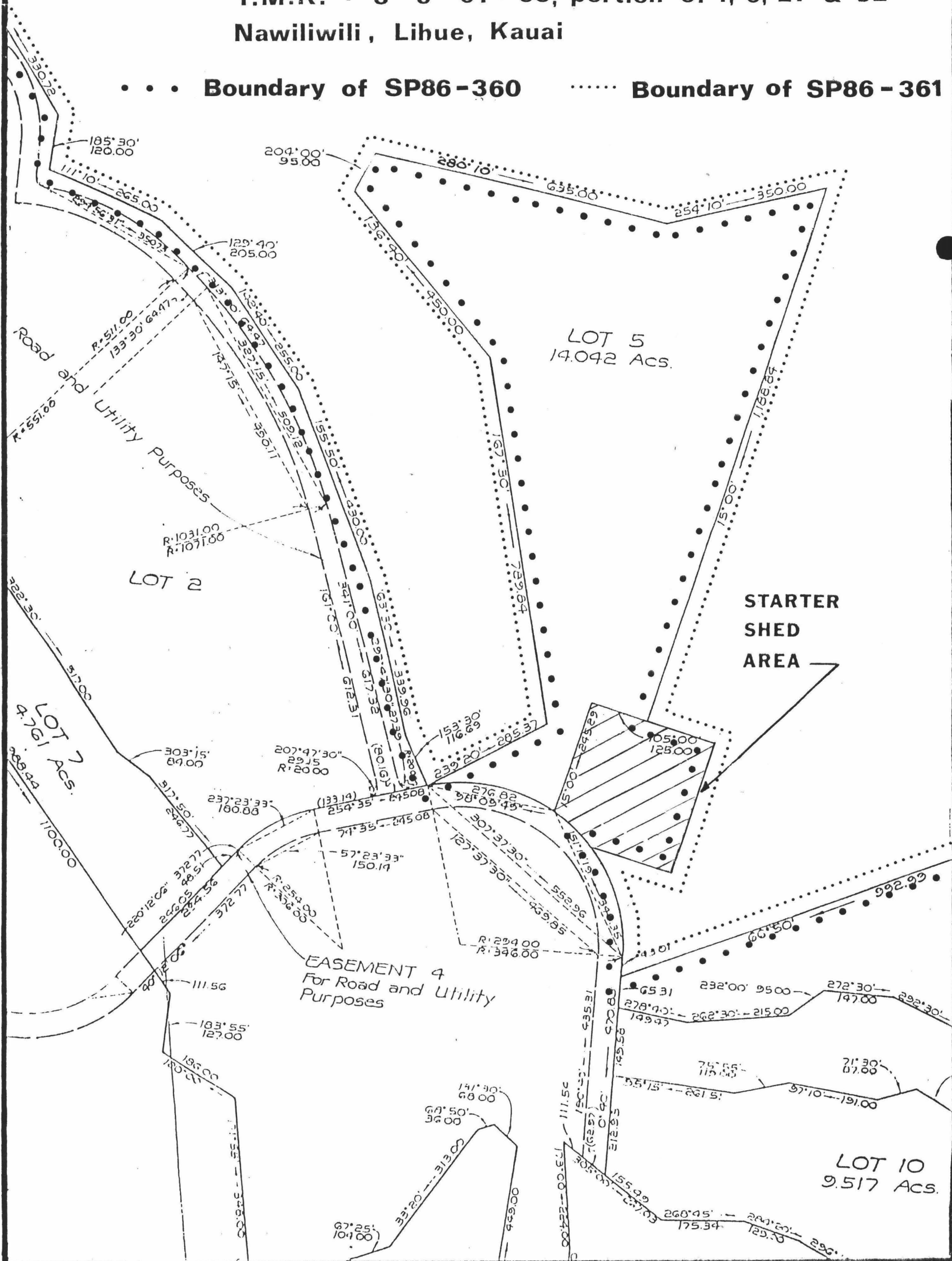


EXHIBIT "A"

TONY T. KUNIMURA
MAYOR



AVERY H. YOUN
PLANNING DIRECTOR

TOM H. SHIGEMOTO
DEPUTY PLANNING DIRECTOR

TELEPHONE (808) 245 3919

COUNTY OF KAUAI
PLANNING DEPARTMENT
4280 RICE STREET
LIHUE, KAUAI, HAWAII 96766
November 3, 1986

Nov 6 1 09 PM '86
LAND USE COMMISSION
STATE OF HAWAII

Mr. Ray Young
Land Use Commission
Room 104, Old Federal Building
335 Merchant Street
Honolulu, Hawaii 96813

Subject: Planning and Engineering Report by Belt, Collins
and Associates for the proposed second golf course
at Nawiliwili, Kauai
Hemmeter/VMS Kauai Properties III, applicant

Please be advised that the above referenced document inadvertently reflects the proposal for the construction of a golf clubhouse within the parameters of the second golf course.

The golf clubhouse use and structure was approved by the Planning Commission of the County of Kauai during the review and approval process for Phase I on April 7, 1985. We recognize that:

1. No structures or buildings are to accompany the second golf course, and
2. All graphic presentations within the engineering document reflecting a clubhouse within the second golf course are incorrect.

Should you have any questions relative to the above, please contact me.

Michael Laureta
Planner

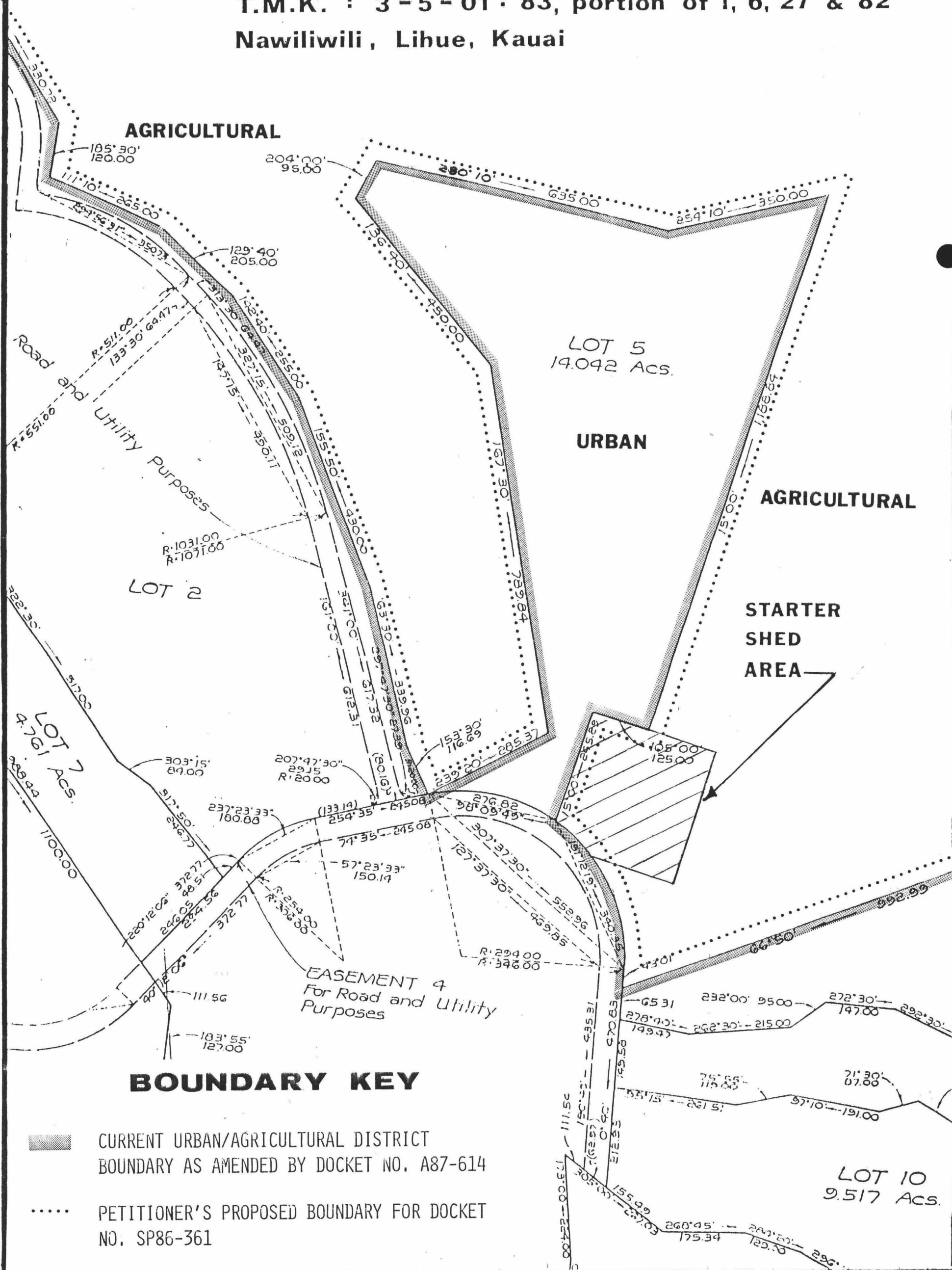
cc Jim Bell

EXHIBIT " B "

LOT 4
200.254 ACS

**MOTION TO AMEND DECISION & ORDER
SP86-360 & SP86-361
HEMMETER/VMS KAUAI CO III**

**T.M.K. : 3 - 5 - 01 : 83, portion of 1, 6, 27 & 82
Nawiliwili, Lihue, Kauai**



ORIGINAL

Of Counsel:
OKUMURA TAKUSHI FUNAKI & WEE
ATTORNEYS AT LAW/A LAW CORPORATION

JAMES T. FUNAKI 200
Grosvenor Center, Suite 1400
733 Bishop Street
Honolulu, Hawaii 96813
Telephone No. 543-9800

Attorney for HEMMETER/VMS KAUAI COMPANY III

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of) SP86-360 - HEMMETER/
HEMMETER/VMS KAUAI COMPANY III) VMS KAUAI
COMPANY III

For a Special Use Permit to Allow the)
Redesign of the Existing Golf Course)
and the Establishment of a Driving)
Range and Related Golf Course)
Accessory Uses, Boat Docks, Lake)
and Waterways, Parking Areas, Boat)
Maintenance Facility, Irrigation)
Lagoon, Access Roads, and Other)
Miscellaneous Accessory Uses on)
Approximately 310 Acres of Land)
Situated within the Agricultural)
District at Nawiliwili, Lihue,)
Kauai, Tax Map Key Nos.: 3-5-01:83)
and Portions of 1, 6, 27 and 82)

In the Matter of the Petition of) SP86-361 - HEMMETER/
HEMMETER/VMS KAUAI COMPANY III) VMS KAUAI
COMPANY III

For a Special Use Permit to)
Establish a Second 18-Hole Golf)
Course with Ponds, a Driving Range)
and Miscellaneous Accessory Uses)
Including Carriage Paths and)
Landscaping on Approximately 200)
Acres of Land Situate within the)
Agricultural District at)
Nawiliwili, Lihue, Kauai, Tax Map)
Key No.: 3-5-01: Portion of Parcel 6)
and Portion of Parcel 82)

SUPPLEMENT TO MOTION TO AMEND DECISION AND ORDER

(CERTIFICATE OF SERVICE ATTACHED)

SEP 1 8 32 AM '88
LAND USE COMMISSION
STATE OF HAWAII

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of	)	SP86-360 - HEMMETER/
	)	VMS KAUAI
HEMMETER/VMS KAUAI COMPANY III	)	COMPANY III
)	
For a Special Use Permit to Allow the)	
Redesign of the Existing Golf Course)	
and the Establishment of a Driving)	
Range and Related Golf Course)	
Accessory Uses, Boat Docks, Lake)	
and Waterways, Parking Areas, Boat)	
Maintenance Facility, Irrigation)	
Lagoon, Access Roads, and Other)	
Miscellaneous Accessory Uses on)	
Approximately 310 Acres of Land)	
Situated within the Agricultural)	
District at Nawiliwili, Lihue,)	
Kauai, Tax Map Key Nos.: 3-5-01:83)	
and Portions of 1, 6, 27 and 82)	
)	
In the Matter of the Petition of	)	SP86-361 - HEMMETER/
	)	VMS KAUAI
HEMMETER/VMS KAUAI COMPANY III	)	COMPANY III
)	
For a Special Use Permit to)	
Establish a Second 18-Hole Golf)	
Course with Ponds, a Driving Range)	
and Miscellaneous Accessory Uses)	
Including Carriage Paths and)	
Landscaping on Approximately 200)	
Acres of Land Situate within the)	
Agricultural District at)	
Nawiliwili, Lihue, Kauai, Tax Map)	
Key No.: 3-5-01: Portion of Parcel 6)	
and Portion of Parcel 82)	

SUPPLEMENT TO MOTION TO AMEND DECISION AND ORDER

HEMMETER/VMS KAUAI COMPANY III, Petitioner in the above-entitled dockets ("Petitioner"), by and through its attorney James T. Funaki, submits supplemental exhibits to the motion to amend decision and order filed by the Petitioner with the Hawaii Land Use Commission ("LUC") on August 3, 1988.

The purpose of the supplemental exhibits is to correctly delineate the starter shed area which was, by inadvertence and mistake, described in the motion as an area which was less than the actual area covered by the starter shed premises. In support of the motion by this supplement to said motion, Petitioner states that:

1. EXHIBIT 1A attached to the said motion is withdrawn and in lieu thereof EXHIBIT 1A AMENDED, attached hereto and made an exhibit to the motion, is a map correctly delineating the starter shed area.

2. SECOND AFFIDAVIT OF SIDNEY FUKU, attached hereto and made an exhibit to the motion, confirms the starter shed area as set forth in EXHIBIT 1A AMENDED.

3. EXHIBIT 4 and EXHIBIT 5 attached to the motion are deleted and withdrawn inasmuch as the maps shown on said exhibits were based on erroneous description of the starter shed area.

WHEREFORE, Petitioner requests that the LUC approve and grant the said motion as modified by this supplement to said motion.

DATED: Honolulu, Hawaii, August 31, 1988.

James T. Funaki
James T. Funaki
Attorney for Petitioner HEMMETER/
VMS KAUAI COMPANY III

pana

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part

to

L

Kamam

LOT 1

Gross Area = 218.045 Acs.
Less Exclusion = 5.000 Acs.
Net Area = 213.045 Acs.

Lagoons
(1905)
ET 'B'

Lot 5 of
The Kauai Lagoons
(File Plan 1905)

DRIVING RANGE

1.8 Acs.±

Lot 4 of
The Kauai Lagoons
(File Plan 1905)

Lihue Plantation Co., Ltd. (owner)

EASEMENT A-2
(10 ft. wide) For
Access Purposes

SEC INSET 'C'

EASEMENT A-3
(10 ft. wide) For
Access Purposes

LOT 4.
9.976 Acs

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of	)	SP86-360 - HEMMETER/
	)	VMS KAUAI
HEMMETER/VMS KAUAI COMPANY III	)	COMPANY III
)	
For a Special Use Permit to Allow the)	
Redesign of the Existing Golf Course)	
and the Establishment of a Driving)	
Range and Related Golf Course)	
Accessory Uses, Boat Docks, Lake)	
and Waterways, Parking Areas, Boat)	
Maintenance Facility, Irrigation)	
Lagoon, Access Roads, and Other)	
Miscellaneous Accessory Uses on)	
Approximately 310 Acres of Land)	
Situated within the Agricultural)	
District at Nawiliwili, Lihue,)	
Kauai, Tax Map Key Nos.: 3-5-01:83)	
and Portions of 1, 6, 27 and 82)	
)	
In the Matter of the Petition of	)	SP86-361 - HEMMETER/
	)	VMS KAUAI
HEMMETER/VMS KAUAI COMPANY III	)	COMPANY III
)	
For a Special Use Permit to)	
Establish a Second 18-Hole Golf)	
Course with Ponds, a Driving Range)	
and Miscellaneous Accessory Uses)	
Including Carriage Paths and)	
Landscaping on Approximately 200)	
Acres of Land Situate within the)	
Agricultural District at)	
Nawiliwili, Lihue, Kauai, Tax Map)	
Key No.: 3-5-01: Portion of Parcel 6)	
and Portion of Parcel 82)	

SECOND AFFIDAVIT OF SIDNEY FUKE

STATE OF HAWAII)	
	)	ss.
COUNTY OF HAWAII)	

SIDNEY FUKE, being first duly sworn on oath, deposes
and says that:

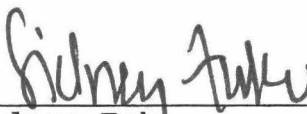
1. He had submitted an affidavit in support of that certain Motion of Hemmeter/VMS Kauai Company III to amend decisions and orders of the above-entitled dockets which motion was filed with the Hawaii Land Use Commission on August 3, 1988, said affidavit being EXHIBIT 2 attached to said motion.

2. Subsequent to the filing of the motion and affidavit, he learned that the map attached as EXHIBIT 1A to the affidavit did not correctly delineate the starter shed area which mistake had escaped his oversight.

3. Attached to this second affidavit is EXHIBIT 1A AMENDED containing a map which correctly delineates the starter shed area and which supercedes EXHIBIT 1A attached to the affidavit set forth as EXHIBIT 2 of the said motion.

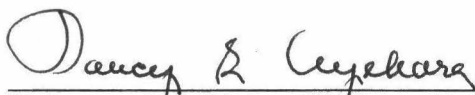
4. He reconfirms his statements in his affidavit set forth as EXHIBIT 2 of the said motion in the context of the starter shed area as modified and described in said EXHIBIT 1A AMENDED.

FURTHER Affiant sayeth naught.



Sidney Fuke

Subscribed and sworn to before me
this 31st day of August,
1988.



Notary Public, State of Hawaii

My commission expires: MAY 27, 1992

pana

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Part

to

Kamam

LOT 1

Gross Area = 218.045 Acs.
Less Exclusion = 5.000 Acs.
Net Area = 213.045 Acs.

Lagoons
1905
ET 'B"

Lot 5 of
The Kauai Lagoons
(File Plan 1905)

DRIVING RANGE

1.8 Acs.±

Lot 4 of
The Kauai Lagoons
(File Plan 1905)

Lihue Plantation Co., Ltd. (owner)

EASEMENT A-2
(10 ft. wide) For
Access Purposes

SEC INSET "C"

EASEMENT A-3
(10 ft. wide) For
Access Purposes

LOT 4.
9.976 Acs.

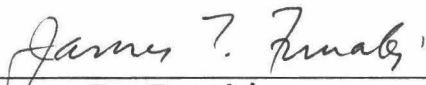
CERTIFICATE OF SERVICE

I hereby certify that due service of a copy of the
Petitioner's Supplement to Motion to Amend Decision and Order
was made by depositing the same with the U.S. mail, postage
prepaid, on September 1, 1988, addressed to:

TOM SHIGEMOTO, Planning Director
Planning Department
County of Kauai
4280 Rice Street
Lihue, Kauai 96766

HAROLD S. MASUMOTO, Director
Office of State Planning
State of Hawaii
State Capitol, Room 405
Honolulu, Hawaii 96813

ABE MITSUDA, Administrator
Land Use Division
Office of State Planning
State of Hawaii
250 South King Street
Honolulu, Hawaii 96813



James T. Funaki
Attorney for Petitioner
HEMMETER/VMS KAUAI COMPANY III

STATE OF HAWAII
LAND USE COMMISSION

Minutes of Meeting

Senate Conference Room 3
State Capitol
Honolulu, Hawaii

September 7, 1988

*approved
9/30/88*

COMMISSIONERS PRESENT: Renton L.K. Nip, Chairman
Lawrence Chun, Vice-Chairman (Portion
of Proceeding)
Allen K. Hoe
Toru Suzuki
Robert Tamaye
Frederick P. Whittemore
Allen Kajioka
Sharon R. Himeno (Portion of
Proceeding)

COMMISSIONERS ABSENT: Teofilo Phil Tacbian

STAFF PRESENT: Esther Ueda, Executive Officer
Terence Yamamoto, Esq, Deputy Attorney
General
Raymond Young, Staff Planner
Darlene Kinoshita, Chief Clerk

Jean Marie McManus, Court Reporter

Chairman Nip called the meeting to order.

ACTION

A87-613 THE TRUSTEES UNDER THE WILL AND OF THE ESTATE OF
JAMES CAMPBELL, DEC.

Chairman Nip announced that the Commission would take action in the matter of Petitioner's Stipulation to Form of Order amending the Land Use Commission's decision made on June 29, 1988.

Commissioner Hoe was excused from the action on this matter.

Appearances

Ivan Lui-Kwan, Esq., Attorney for Petitioner

Oswald Stender, Petitioner

Betsy Marcinkus, Department of General Planning, City
and County of Honolulu

John Anderson, Esq., Deputy Attorney General, Office
of State Planning

Abe Mitsuda, Land Use Division, Office of State
Planning

David Hulse, Land Use Division, Office of State
Planning

Arguments on the Stipulation to Form of Order amending
the Land Use Commission's decision made on June 29, 1988 were
heard from Ivan Lui-Kwan, Esq., John Anderson, Esq., and
Betsy Marcinkus. After hearing arguments, parties were
questioned by the Commissioners.

Commissioner Himeno moved to accept Petitioner's
Stipulation to form of Order Amending the Land Use Commission's
decision made on June 29, 1988. The motion was seconded by
Commissioner Kajioka and carried unanimously by voice votes.

* SP86-360 HEMMETER/VMS KAUAI COMPANY III AND SP86-361
HEMMETER/VMS KAUAI COMPANY III

Chairman Nip announced that the Commission will act to
consider Petitioner's Motion to Amend Decision and Order which
requests deleting the starter shed area from the lands covered
under the decision and order in LUC Docket No. SP86-360 and by
including the starter shed area within the lands covered under
decision and order in LUC Docket SP86-361 involving lands
within the Agricultural District at Nawiliwili, Lihue, Kauai.

Commissioner Himeno did not participate in this
proceeding due to a previously declared conflict of interest.

Appearances

James Funaki, Esq., Attorney for Petitioner

Lorna Nishimitsu, Esq., Deputy County Attorney,
Planning Department, County of Kauai

Michael Laureta, Planning Department, County of Kauai

John Anderson, Esq., Deputy Attorney General, Office
of State Planning

Abe Mitsuda, Land Use Division, Office of State
Planning

David Hulse, Land Use Division, Office of State
Planning

Raymond Young, Staff Planner, gave a summary report of the two special use permits and also oriented the Commission to the area being requested on the USGS and tax maps.

Arguments on Petitioner's motion to amend decision and order by Mr. Funaki was heard. Petitioner's witness, Sidney Fuke, was allowed to testify to clarify the motion. Arguments on Petitioner's motion were also heard from Lorna Nishimitsu. After hearing arguments and testimony, parties were questioned by the Commissioners.

Commissioner Kajioka moved to approve Petitioner's motion to amend decision and order by deleting the starter shed area from the lands covered under the decision and order in LUC Docket No. SP86-360 and by including the starter shed area within the lands covered under decision and order in LUC Docket SP86-361 involving lands within the Agricultural District at Nawiliwili, Lihue, Kauai. The motion was seconded by Commissioner Whittemore and unanimously carried by voice votes.

Commissioner Himeno moved to go into executive session to consult with our Deputy Attorney General on legal matters. The motion was seconded by Commissioner Whittemore and unanimously carried by voice votes.

HEARING

A88-625 OCEANIC PROPERTIES, INC.

Pursuant to a notice published in the Honolulu Star Bulletin on July 29, 1988 and notices sent to all parties, a hearing was called by the Land Use Commission in the matter of the petition of Oceanic Properties, Inc. to reclassify approximately 214 acres of land currently in the Agricultural District into the Urban District at Waialua, Oahu, Hawaii, for golf course and support facilities.

Commissioner Kajioka declared a conflict of interest and was excused from the proceedings.

APPEARANCES

James Funaki, Esq., Attorney for Petitioner

Betsy Marcinkus, Department of General Planning, City and County of Honolulu

John Anderson, Esq., Deputy Attorney General, Office of State Planning

Abe Mitsuda, Land Use Division, Office of State Planning

David Hulse, Land Use Division, Office of State Planning

Commissioner Hoe moved to allow the untimely public witnesses to testify. The motion was seconded by Commissioner Whittemore and unanimously carried by voice votes.

PETITIONER'S EXHIBITS

1. Exhibit Nos. 1 through 27 were admitted into evidence by the Land Use Commission.

COUNTY'S EXHIBITS

1. County's Exhibit No. 1 was admitted into evidence by the Land Use Commission.

STATE'S EXHIBITS

1. State's Exhibit No. 1 was admitted into evidence by the Land Use Commission.

Raymond Young, Staff Planner, oriented the Commission to the area being requested for reclassification on the USGS and tax maps.

Commissioner Chun was absent from the proceeding at this time.

PUBLIC WITNESSES

1. Dan Gora
2. Norman Fujioka
3. Genji Santoki

PETITIONER'S WITNESSES

1. Larry Lum

A lunch recess was taken at 12:15 p.m. to reconvene at 1:30 p.m.

- 1:53 p.m. -

Commissioner Chun joined the proceeding at this time.

PETITIONER'S WITNESSES (Cont'd)

1. Larry Lum (Continued)

Commissioner Himeno was absent from the proceeding at this time.

2. Tyrone Kusao

Commissioner Himeno joined the proceeding at this time.

3. Kay Muranaka

MINUTES - September 7, 1988
Page 6

Commissioner Chun was absent from the proceeding at this time.

4. Ken Ishizaki

Commissioner Himeno was absent from the proceeding at this time.

5. Julian Ng

MISCELLANEOUS

1. ADOPTION OF DECISION AND ORDERS

The Decision and Order for the following docket was adopted:

A87-613 - THE TRUSTEES UNDER THE WILL AND OF THE ESTATE OF JAMES CAMPBELL, DECEASED (Oahu)

2. ADOPTION OF MINUTES

The minutes for the following meeting dates were approved as circulated: August 9, 1988, August 10, 1988, August 11, 1988, August 16, 1988, and August 17, 1988.

The meeting was adjourned at 4:45 p.m.

STATE OF HAWAII
LAND USE COMMISSION

NOTIFICATION OF LAND USE COMMISSION MEETING

DATE, TIME AND PLACE

September 7, 1988 - 9:00 a.m.
and September 8, 1988*

Senate Conference Room 3
Second Floor, State Capitol
Honolulu, Hawaii

REC'D. BY

1988 APR 31 PM 2 58

GOVERNOR'S OFFICE

A M E N D E D

A G E N D A

I. ACTION

1. SP86-360 - HEMMETER/VMS KAUAI COMPANY III AND
SP86-361 - HEMMETER/VMS KAUAI COMPANY III (Kauai)

To consider Petitioner's Motion to Amend Decision and Order by deleting the starter shed area from the lands covered under the decision and order in LUC Docket No. SP86-360 and by including the starter shed area within the lands covered under decision and order in LUC Docket SP86-361 involving lands within the Agricultural District at Nawiliwili, Lihue, Kauai.

2. A87-613 - THE TRUSTEES UNDER THE WILL AND OF THE
ESTATE OF JAMES CAMPBELL, DECEASED (Oahu)

To consider Petitioner's Stipulation to Form of Order amending the Land Use Commission's decision made on June 29, 1988.

II. HEARING

1. A88-625 - OCEANIC PROPERTIES, INC. (Waialua, Oahu)

To reclassify approximately 214 acres of land currently in the Agricultural District into the Urban District at Waialua, Oahu, Hawaii, for golf course and support facilities.

III. MISCELLANEOUS

1. Adoption of Decision and Orders
2. Adoption of Minutes
3. Tentative Meeting Schedule

*Meeting will continue on September 8, 1988 only if not completed on September 7, 1988.

STATE OF HAWAII
LAND USE COMMISSION

NOTIFICATION OF LAND USE COMMISSION MEETING

DATE, TIME AND PLACE

September 7, 1988 - 9:00 a.m.
and September 8, 1988*

Senate Conference Room 3
Second Floor, State Capitol
Honolulu, Hawaii

A G E N D A

REC'D. BY

1988 AUG 29 AM 9 44

CL. GOVERNOR'S OFFICE

I. ACTION

1. SP86-360 - HEMMETER/VMS KAUAI COMPANY III AND
SP86-361 - HEMMETER/VMS KAUAI COMPANY III (Kauai)

To Consider Petitioner's Motion to Amend Decision and Order by deleting the starter shed area from the lands covered under the decision and order in LUC Docket No. SP86-360 and by including the starter shed area within the lands covered under decision and order in LUC Docket SP86-361 involving lands within the Agricultural District at Nawiliwili, Lihue, Kauai.

II. HEARING

1. A88-625 - OCEANIC PROPERTIES, INC. (Waialua, Oahu)

To reclassify approximately 214 acres of land currently in the Agricultural District into the Urban District at Waialua, Oahu, Hawaii, for golf course and support facilities.

III. MISCELLANEOUS

1. Adoption of Decision and Orders
2. Adoption of Minutes
3. Tentative Meeting Schedule

*Meeting will continue on September 8, 1988 only if not completed on September 7, 1988.

7-555 274 390

RECEIPT FOR CERTIFIED MAIL

NO INSURANCE COVERAGE PROVIDED

NOT FOR INTERNATIONAL MAIL

(See Reverse)

SP86-360

SP86-361

U.S.G.P.O. 153-506

PS Form 3800, June 1985

Sent to

Tom H. Shigemoto

Street and No.

4280 Rice St.

P.O., State and ZIP Code

Lihue, HI 96766

Postage

\$

.25

Certified Fee

.85

Special Delivery Fee

Restricted Delivery Fee

Return Receipt showing
to whom and Date Delivered

Return Receipt showing to whom,
Date, and Address of Delivery



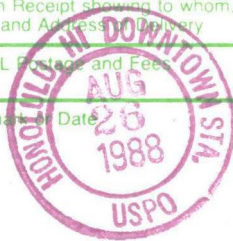
.90

TOTAL Postage and Fees

\$

2.00

Postmark or Date



**STICK POSTAGE STAMPS TO ARTICLE TO COVER FIRST CLASS POSTAGE,
CERTIFIED MAIL FEE, AND CHARGES FOR ANY SELECTED OPTIONAL SERVICES. (see front)**

1. If you want this receipt postmarked, stick the gummed stub to the right of the return address leaving the receipt attached and present the article at a post office service window or hand it to your rural carrier. (no extra charge)
2. If you do not want this receipt postmarked, stick the gummed stub to the right of the return address of the article, date, detach and retain the receipt, and mail the article.
3. If you want a return receipt, write the certified mail number and your name and address on a return receipt card, Form 3811, and attach it to the front of the article by means of the gummed ends if space permits. Otherwise, affix to back of article. Endorse front of article **RETURN RECEIPT REQUESTED** adjacent to the number.
4. If you want delivery restricted to the addressee, or to an authorized agent of the addressee, endorse **RESTRICTED DELIVERY** on the front of the article.
5. Enter fees for the services requested in the appropriate spaces on the front of this receipt. If return receipt is requested, check the applicable blocks in item 1 of Form 3811.
6. Save this receipt and present it if you make inquiry.

UNITED STATES POSTAL SERVICE

OFFICIAL BUSINESS



SENDER INSTRUCTIONS

Print your name, address, and ZIP Code in the space below.

- Complete items 1, 2, 3, and 4 on the reverse.
- Attach to front of article if space permits, otherwise affix to back of article.
- Endorse article "Return Receipt Requested" adjacent to number.



PENALTY FOR PRIVATE
USE, \$300

RETURN
TO



Print Sender's name, address, and ZIP Code in the space below.

State of Hawaii

LAND USE COMMISSION

Rm. 104, Old Federal Bldg.

335 Merchant Street

Honolulu, Hawaii 96813



STATE OF HAWAII

DEPARTMENT OF BUSINESS
AND ECONOMIC DEVELOPMENT

LAND USE COMMISSION

Room 104, Old Federal Building, 335 Merchant Street
Honolulu, Hawaii 96813 Telephone: 548-4611

JOHN WAIHEE
Governor

RENTON L.K. NIP
Chairman

LAWRENCE F. CHUN
Vice Chairman

COMMISSION MEMBERS:

Sharon R. Himeno
Teofilo Phil Tacbian
Allen Kajloka
Robert Tamaye
Frederick P. Whittemore
Toru Suzuki
Allen K. Hoe

ESTHER UEDA
Executive Officer

August 26, 1988

Mr. Tom H. Shigemoto, Planning Director
Planning Department, County of Kauai
4280 Rice Street
Lihue, HI 96766

Dear Mr. Shigemoto:

Enclosed is a Land Use Commission meeting agenda.

Please note that petition(s)

✓ SP86-360 - HEMMETER/VMS KAUAI COMPANY III

SP86-361 - HEMMETER/VMS KAUAI COMPANY III

will be acted on at that time. We request that
you or your representative attend this meeting.

Should you have any questions on this matter, please
contact this office.

Very truly yours,

ESTHER UEDA
Executive Officer

Enclosure

P-555 274 393

RECEIPT FOR CERTIFIED MAIL

NO INSURANCE COVERAGE PROVIDED
NOT FOR INTERNATIONAL MAIL

(See Reverse)

U.S.G.P.O. 153-506

PS Form 3800, June 1985

Sent to

James T. Funaki, Esq.

Street and No.

733 Bishop St., Ste. 1400

P.O., State and ZIP Code

Honolulu, HI 96813

Postage

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Certified Fee

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Special Delivery Fee

Restricted Delivery Fee

Return Receipt showing
to whom and Date Delivered

Return Receipt showing to whom,
Date, and Address of Delivery

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TOTAL Postage and Fees

\$

2.00

Postmark or Date



SP86-360

SP86-361

**STICK POSTAGE STAMPS TO ARTICLE TO COVER FIRST CLASS POSTAGE,
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3. If you want a return receipt, write the certified mail number and your name and address on a return receipt card, Form 3811, and attach it to the front of the article by means of the gummed ends if space permits. Otherwise, affix to back of article. Endorse front of article **RETURN RECEIPT REQUESTED** adjacent to the number.
4. If you want delivery restricted to the addressee, or to an authorized agent of the addressee, endorse **RESTRICTED DELIVERY** on the front of the article.
5. Enter fees for the services requested in the appropriate spaces on the front of this receipt. If return receipt is requested, check the applicable blocks in item 1 of Form 3811.
6. Save this receipt and present it if you make inquiry.

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OFFICIAL BUSINESS

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PENALTY FOR PRIVATE
USE, \$300

RETURN
TO



Print Sender's name, address, and ZIP Code in the space below.

State of Hawaii

LAND USE COMMISSION

Rm. 104, Old Federal Bldg.

335 Merchant Street

Honolulu, Hawaii 96813



STATE OF HAWAII

DEPARTMENT OF ECONOMIC DEVELOPMENT

LAND USE COMMISSION

Room 104, Old Federal Building, 335 Merchant Street
Honolulu, Hawaii 96813 Telephone: 548-4611

JOHN WAIHEE
Governor

RENTON L.K. NIP
Chairman

LAWRENCE F. CHUN
Vice Chairman

COMMISSION MEMBERS:

Sharon R. Himeno
Teofilo Phil Tacbian
Allen Kajioke
Robert Tamaye
Frederick P. Whittemore
Toru Suzuki
Allen K. Hoe

ESTHER UEDA
Executive Officer

August 26, 1988

James T. Funaki, Esq.
Attorney at Law
Grosvenor Center, Suite 1400
733 Bishop Street
Honolulu, Hawaii 96813

Dear Mr. Funaki:

Enclosed is a Land Use Commission meeting agenda.

Please note that petition(s)

A88-625 - OCEANIC PROPERTIES, INC. (Oahu)*
SP86-360 - HEMMETER/VMS KAUAI COMPANY III**
SP86-361 - HEMMETER/VMS KAUAI COMPANY III**

will be ^{*heard}
**acted on _____ at that time. We request that you or
your representative attend this meeting.

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ESTHER UEDA
Executive Officer

Enclosure

P-555 274 391

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PS Form 3800, June 1985

Sent to

Michael Belles, Esq.

Street and No.

4396 Rice Street

P.O., State and ZIP Code

Lihue, HI 96766

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Return Receipt showing
to whom and Date Delivered

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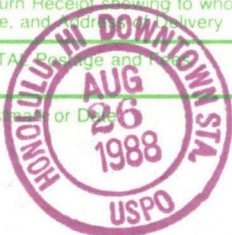
.90

TOTAL Postage and Fees

\$

2.00

Postmark or Date



SP86-360

SP86-361

Place over top of envelope to the right

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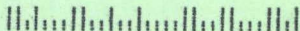
PENALTY FOR PRIVATE
USE, \$300

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Print Sender's name, address, and ZIP Code in the space below.

State of Hawaii
LAND USE COMMISSION
Rm. 104, Old Federal Bldg.
335 Merchant Street
Honolulu, Hawaii 96813



STATE OF HAWAII

DEPARTMENT OF BUSINESS
AND ECONOMIC DEVELOPMENT



LAND USE COMMISSION

Room 104, Old Federal Building, 335 Merchant Street
Honolulu, Hawaii 96813 Telephone: 548-4611

JOHN WAIHEE
Governor

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LAWRENCE F. CHUN
Vice Chairman

COMMISSION MEMBERS:

Sharon R. Himeno
Teofilo Phil Tacbian
Allen Kajioke
Robert Tamaye
Frederick P. Whittemore
Toru Suzuki
Allen K. Hoe

ESTHER UEDA
Executive Officer

August 26, 1988

Michael Belles, Esq.
County Attorney
Office of the County Attorney
County of Kauai
4396 Rice Street
Lihue, HI 96766

Dear Mr. Belles:

Enclosed is a Land Use Commission meeting agenda.

Please note that petition(s)

SP86-360 - HEMMETER/VMS KAUAI COMPANY III

SP86-361 - HEMMETER/VMS KAUAI COMPANY III

will be acted on at that time. We request that
you or your representative attend this meeting.

Should you have any questions on this matter, please
contact this office.

Very truly yours,

ESTHER UEDA
Executive Officer

Enclosure

Of Counsel:
OKUMURA TAKUSHI FUNAKI & WEE
ATTORNEYS AT LAW/A LAW CORPORATION

JAMES T. FUNAKI 200
Grosvenor Center, Suite 1400
733 Bishop Street
Honolulu, Hawaii 96813
Telephone No. 543-9800

Attorney for HEMMETER/VMS KAUAI COMPANY III

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of) SP86-360 - HEMMETER/
HEMMETER/VMS KAUAI COMPANY III) VMS KAUAI
COMPANY III

For a Special Use Permit to Allow the)
Redesign of the Existing Golf Course)
and the Establishment of a Driving)
Range and Related Golf Course)
Accessory Uses, Boat Docks, Lake)
and Waterways, Parking Areas, Boat)
Maintenance Facility, Irrigation)
Lagoon, Access Roads, and Other)
Miscellaneous Accessory Uses on)
Approximately 310 Acres of Land)
Situating within the Agricultural)
District at Nawiliwili, Lihue,)
Kauai, Tax Map Key Nos.: 3-5-01:83)
and Portions of 1, 6, 27 and 82)

In the Matter of the Petition of) SP86-361 - HEMMETER/
HEMMETER/VMS KAUAI COMPANY III) VMS KAUAI
COMPANY III

For a Special Use Permit to)
Establish a Second 18-Hole Golf)
Course with Ponds, a Driving Range)
and Miscellaneous Accessory Uses)
Including Carriage Paths and)
Landscaping on Approximately 200)
Acres of Land Situate within the)
Agricultural District at)
Nawiliwili, Lihue, Kauai, Tax Map)
Key No.: 3-5-01: Portion of Parcel 6)
and Portion of Parcel 82)

LAND USE COMMISSION
STATE OF HAWAII
AUG 3 10 53 AM '88

MOTION TO AMEND DECISION AND ORDER

(CERTIFICATE OF SERVICE ATTACHED)

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of	)	SP86-360 - HEMMETER/
	)	VMS KAUAI
HEMMETER/VMS KAUAI COMPANY III	)	COMPANY III
)	

For a Special Use Permit to Allow the
Redesign of the Existing Golf Course
and the Establishment of a Driving
Range and Related Golf Course
Accessory Uses, Boat Docks, Lake
and Waterways, Parking Areas, Boat
Maintenance Facility, Irrigation
Lagoon, Access Roads, and Other
Miscellaneous Accessory Uses on
Approximately 310 Acres of Land
Situated within the Agricultural
District at Nawiliwili, Lihue,
Kauai, Tax Map Key Nos.: 3-5-01:83
and Portions of 1, 6, 27 and 82

In the Matter of the Petition of	)	SP86-361 - HEMMETER/
	)	VMS KAUAI
HEMMETER/VMS KAUAI COMPANY III	)	COMPANY III
)	

For a Special Use Permit to
Establish a Second 18-Hole Golf
Course with Ponds, a Driving Range
and Miscellaneous Accessory Uses
Including Carriage Paths and
Landscaping on Approximately 200
Acres of Land Situate within the
Agricultural District at
Nawiliwili, Lihue, Kauai, Tax Map
Key No.: 3-5-01: Portion of Parcel 6
and Portion of Parcel 82

MOTION TO AMEND DECISION AND ORDER

HEMMETER/VMS KAUAI COMPANY III, Petitioner in the
above-entitled dockets ("Petitioner"), by and through its
attorney James T. Funaki, hereby respectfully moves the Land
Use Commission of the State of Hawaii ("LUC"), pursuant to
§15-15-70, Hawaii Land Use Commission Rules, to amend the

decision and order in LUC Docket SP86-360 and the decision and order in LUC Docket SP86-361, only insofar as concerns that certain parcel of land hereafter called the "starter shed area" by deleting the starter shed area from the lands covered under the decision and order in LUC Docket SP86-360 and by including the starter shed area within the lands covered under decision and order in LUC Docket SP86-361.

The purpose of the amendment by this motion is to conform the decisions and orders in LUC Docket SP86-360 and LUC Docket SP86-361 to the record and intent of the Kauai Planning Commission ("KPC") in KPC Dockets SP-86-18 and SP-87-3, the copies of the decisions together with the complete record of which proceedings were transmitted to LUC for its review under §205-6, Hawaii Revised Statutes, and approved by LUC in LUC Dockets SP86-360 and SP86-361, respectively.

In support of this motion, Petitioner states that:

I. BACKGROUND

Pursuant to §205-6, Hawaii Revised Statutes, Petitioner had filed two separate petitions with KPC to develop two golf courses, respectively, for the Westin Kauai development on lands within the agricultural district. The first petition, KPC Docket SP-86-18, for a special permit to develop a golf course ("first golf course") was approved by KPC and also approved by LUC under LUC Docket SP86-360. The second petition, KPC Docket SP-87-3, for a special permit to develop another golf course ("second golf course") was approved by KPC and was also approved by LUC under LUC Docket SP-86-361.

The starter shed area is that parcel of land, area approximately 0.8 acre, located immediately south of the driving range as shown on maps marked Exhibit "1" and Exhibit "1A" attached hereto and incorporated herein by reference. The starter shed area is intended for a use common and accessory to the first and second golf courses. The starter shed area was a part of the lands approved for special permit under KPC Docket SP-86-18 for the first golf course and also approved by LUC in Docket SP86-360. The same starter shed area was also a part of the lands approved for special permit under KPC Docket SP-87-3 for the second golf course but was deleted by LUC from the lands approved for special permit in LUC Docket SP86-361. (See Exhibit A of Decision and Order LUC Docket SP86-360; and see also Exhibit A of Decision and Order LUC Docket SP86-361.)

- II. THE INTENT OF THE PETITIONER AND KPC WAS TO INCLUDE THE STARTER SHED AREA AS A PART OF THE LANDS IN THE PETITION FOR THE SECOND GOLF COURSE (KPC DOCKET SP-87-3; LUC DOCKET SP86-361), THE APPROVAL OF WHICH WOULD IMPLIEDLY PREEMPT AND DELETE THE SAID AREA FROM THE LANDS APPROVED IN THE PETITION FOR THE FIRST GOLF COURSE (KPC DOCKET SP-86-18; LUC DOCKET SP-86-360)
-

The starter shed area is located in an area which was the subject of the then pending boundary and ownership clarification as between the first and second golf courses at the time KPC Docket SP-86-18 was filed by the Petitioner. Pending such clarification as to boundary and ownership of the starter shed area and in order to cover the possible event that the starter shed area might fall within the first golf course, the Petitioner included the starter shed area as a part of the

lands for the first golf course in KPC Docket SP-86-18 which was approved by KPC and also approved upon review by LUC in LUC Docket SP86-360. (See Affidavit of Sidney Fuke attached hereto as Exhibit "2" and incorporated herein by reference.)

When the matter of the boundary and ownership of the starter shed area was subsequently clarified, it was discovered that the starter shed area, by ownership and boundary, was a part of the lands for the second golf course. Accordingly, Petitioner included the starter shed area as a part of the lands in its petition for the second golf course in KPC Docket SP-87-3 which was approved by KPC. (Affidavit of Sidney Fuke, Exhibit "2")

It was always the intent of the Petitioner to include the starter shed area in the special permit application covering whichever of the first and second golf courses within the boundaries of which the starter shed area was a part; and when the boundary between the first and second golf courses was clarified and established that the starter shed area was a part of the second golf course, the inclusion of the starter shed area in the second golf course by the Petitioner was intended to correct what had turned out to be a mistaken inclusion of the starter shed area in the first golf course. (Affidavit of Sidney Fuke, Exhibit "2")

The approval by KPC of the second golf course petition, KPC Docket SP-87-3, which included the starter shed area manifests KPC's intent to impliedly delete the starter

shed area from the first golf course petition, KPC Docket SP-86-18, by its later action.

III. BY INADVERTENCE AND MISTAKE, KPC, CONTRARY TO THE STATE OF THE RECORD, INFORMED LUC TO EXCLUDE THE STARTER SHED AREA FROM THE PETITION FOR THE SECOND GOLF COURSE

The apparent inconsistent actions by the Petitioner and KPC concerning inclusion of the starter shed area in, and the approval of, both petitions prompted LUC to question KPC on the duplicity of the seemingly inconsistent actions. KPC replied that inasmuch as the starter shed area was covered under the petition for the first golf course (KPC SP-86-18; LUC SP86-360), LUC need not consider the same area in the petition for the second golf course (KPC SP-87-3; LUC SP86-361). (See Letter dated November 27, 1987 from Tom H. Shigemoto to Esther Ueda, attached hereto as Exhibit "3" and incorporated herein by reference.) Based on this information, albeit contrary to the state of the record in KPC SP-87-3, LUC deleted the starter shed area from the lands covering the second golf course in its decision and order under LUC Docket SP86-361. (See Exhibit "A" of Decision and Order LUC Docket SP86-361.)

Upon review of the record of KPC SP-86-18 and SP-87-3, KPC noted to LUC that KPC had erred on the information earlier given and that the record reflects the starter shed area to be a part of the second golf course and not a part of the first golf course. (See Exhibit "3".)

WHEREFORE, Petitioner respectfully requests that LUC:

1. Hear this motion as soon as practicable;

2. Approve and grant the aforesaid motion to amend the Decision and Order in LUC Docket SP86-360 by deleting the starter shed area from the lands approved for special permit thereunder and to effectuate said amendment by replacing Exhibit A of the said Decision and Order with Exhibit A amended attached hereto as Exhibit "4" and incorporated herein by reference; and

3. Approve and grant the aforesaid motion to amend the Decision and Order in LUC Docket SP86-361 by including the starter shed area within the lands approved for special permit thereunder and to effectuate said amendment by replacing Exhibit A of the said Decision and Order with Exhibit A amended attached hereto as Exhibit "5" and incorporated herein by reference.

DATED: Honolulu, Hawaii, August 3, 1988.

James T. Funaki
James T. Funaki
Attorney for Petitioner
HEMMETER/VMS KAUAI COMPANY III

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of	)	SP86-360 - HEMMETER/
)	
HEMMETER/VMS KAUAI COMPANY III	)	VMS KAUAI
	)	COMPANY III
For a Special Use Permit to Allow the)	
Redesign of the Existing Golf Course)	
and the Establishment of a Driving)	
Range and Related Golf Course)	
Accessory Uses, Boat Docks, Lake)	
and Waterways, Parking Areas, Boat)	
Maintenance Facility, Irrigation)	
Lagoon, Access Roads, and Other)	
Miscellaneous Accessory Uses on)	
Approximately 310 Acres of Land)	
Situated within the Agricultural)	
District at Nawiliwili, Lihue,)	
Kauai, Tax Map Key Nos.: 3-5-01:83)	
and Portions of 1, 6, 27 and 82)	
)	
In the Matter of the Petition of	)	SP86-361 - HEMMETER/
)	
HEMMETER/VMS KAUAI COMPANY III	)	VMS KAUAI
	)	COMPANY III
For a Special Use Permit to)	
Establish a Second 18-Hole Golf)	
Course with Ponds, a Driving Range)	
and Miscellaneous Accessory Uses)	
Including Carriage Paths and)	
Landscaping on Approximately 200)	
Acres of Land Situate within the)	
Agricultural District at)	
Nawiliwili, Lihue, Kauai, Tax Map)	
Key No.: 3-5-01: Portion of Parcel 6)	
and Portion of Parcel 82)	

AFFIDAVIT OF SIDNEY FUKE

STATE OF HAWAII)
) ss.
COUNTY OF HAWAII)

SIDNEY FUKE, being first duly sworn on oath, deposes
and says that:

1. He is a planning consultant doing business at 100 Pauahi Street, Suite 212, Hilo, Hawaii 96720.

2. He has been retained by Hemmeter/VMS Kauai Company III, a Hawaii general partnership ("Petitioner"), to advise and assist in the various land use permit petitions concerning the Petitioner in the development of the Westin Kauai project at Kalapaki, Lihue, Kauai.

3. He advised and assisted the Petitioner in the preparation and submittal of its petitions to the Kauai Planning Commission ("KPC") for special use permits for (i) the development of a golf course ("first golf course") in KPC SP-86-18 which was approved by KPC and ratified by the Land Use Commission ("LUC") in LUC SP86-360 and (ii) the development of a second golf course ("second golf course") in KPC SP-87-3 which was approved by KPC and ratified with modification as to the starter shed area by LUC in LUC SP86-361.

4. At the time of the filing of KPC SP-86-18, it was uncertain whether a small portion of land, area approximately 0.8 acre, as shown on maps marked Exhibit "1" and Exhibit "1A" attached hereto and made parts hereof, proposed for a starter's shed ("starter shed area"), fell within the boundaries of the first golf course or the second golf course inasmuch as the final boundary determination by the then proposed subdivision of the subject lands to delineate the boundary between the first and second golf courses was still pending.

5. Pending the clarification of the boundary and ownership of the lands and in order to cover the possibility

that the starter shed area would fall within the boundaries of the lands for the first golf course, the Petitioner included the starter shed area as a part of the lands for the first golf course in the special permit application which was approved by KPC in KPC SP-86-18 and approved also by LUC in LUC SP86-360.

6. When the boundary and ownership of the starter shed area was finally determined as being within the boundaries of the lands for the second golf course, the Petitioner included the starter shed area as a part of the special permit application for the second golf course in KPC SP-87-3 which was approved by KPC but was approved by LUC with deletion of the starter shed area from the second golf course in LUC SP86-361.

7. It was always the intent of the Petitioner to include the starter shed area in the special permit application covering whichever of the first and second golf courses within the boundaries of which the starter shed area was a part; and when the boundary between the first and second golf courses was clarified and established that the starter shed area was a part of the second golf course, the inclusion of the starter shed area in the second golf course by the Petitioner was intended to correct what had turned out to be a mistaken inclusion of the starter shed area in the first golf course.

8. This affidavit is made in support of the Motion of Hemmeter/VMS Kauai Company III to amend the decisions and orders of LUC SP-360 and LUC SP-361 by deleting the starter shed area from the lands approved for special use under LUC

SP-360 and by including the starter shed area with the lands approved for special use under LUC SP-361.

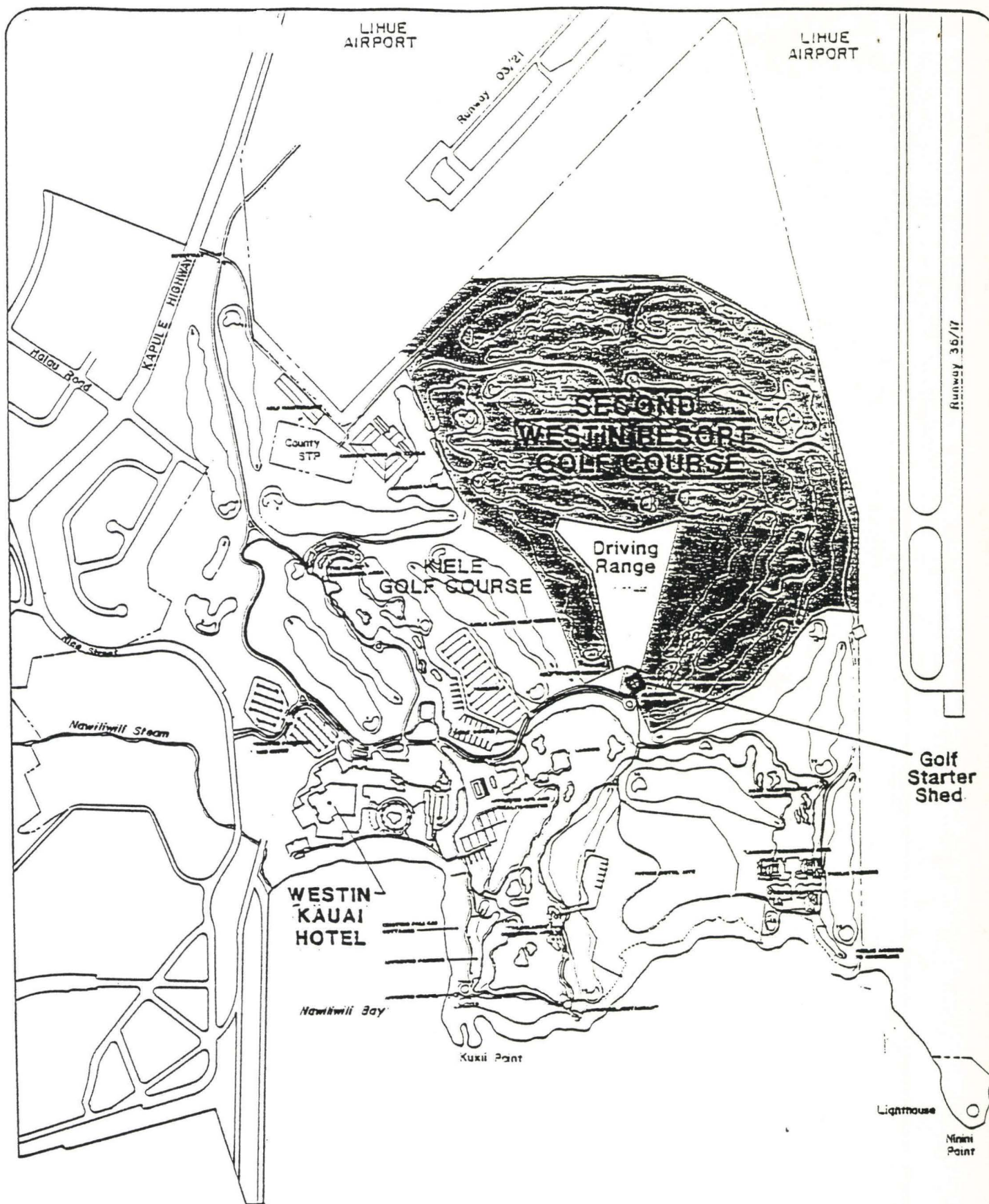
FURTHER Affiant sayeth naught.

Sidney Fuke
Sidney Fuke

Subscribed and sworn to before me
this 18th day of August,
19 88.

LS. Katherine J. Lugo
Notary Public, State of Hawaii

My commission expires: 09-28-91



PROPOSED
DEVELOPMENT CONCE

AUGUST 1986

EXHIBIT 1

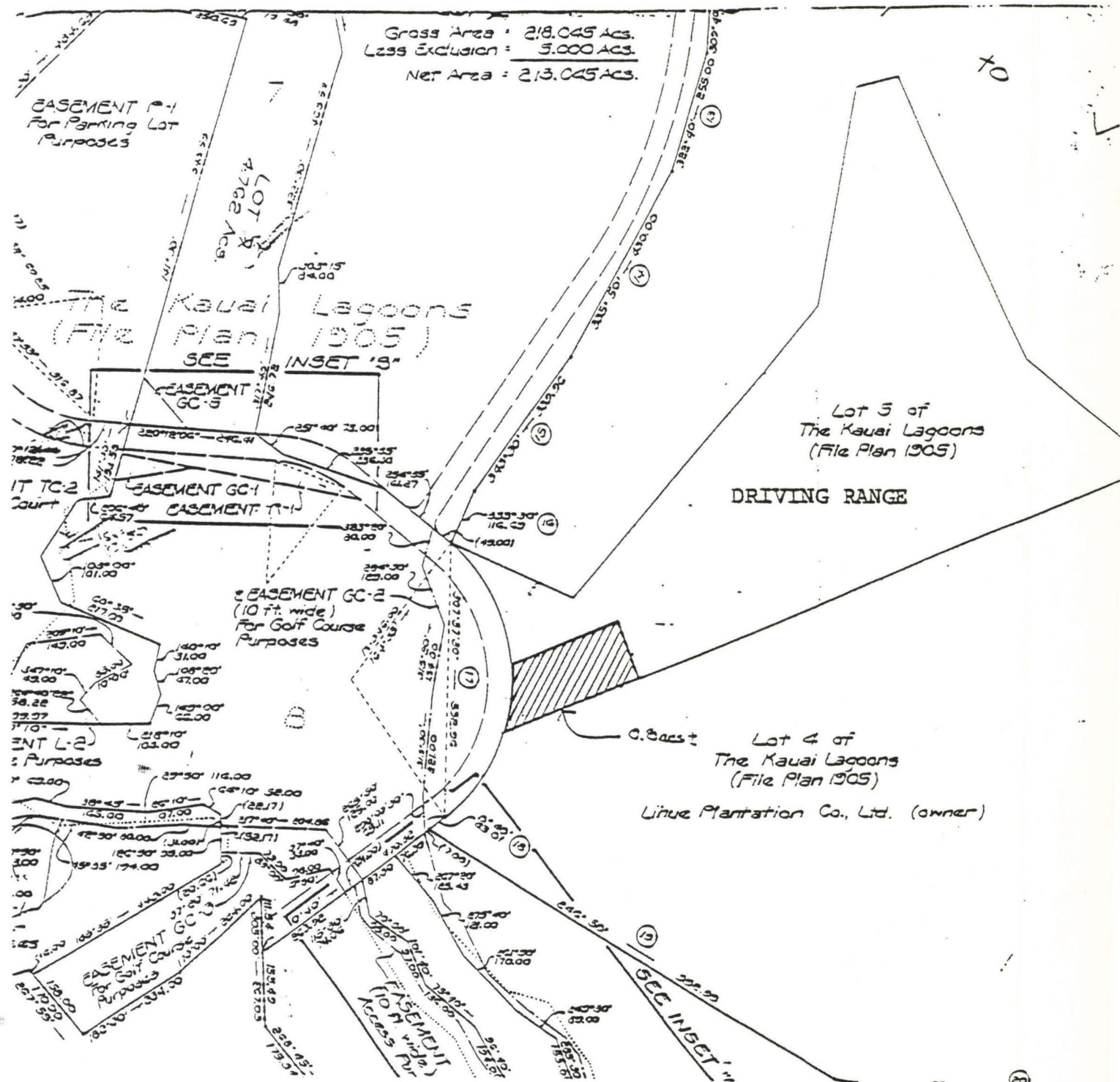


EXHIBIT 1A

TONY T. KUNIMURA
MAYOR



TOM H. SHIGEMOTO
PLANNING DIRECTOR

TELEPHONE (808) 245-3919

COUNTY OF KAUAI
PLANNING DEPARTMENT
4280 RICE STREET
LIHUE, KAUAI, HAWAII 96766

November 27, 1987

Miss Esther Ueda, Executive Officer
State Land Use Commission
Room 104, Old Federal Building
335 Merchant Street
Honolulu, Hawaii 96766

STATE LAND USE COMMISSION
NOV 30 1 07 PM '87

Subject: Clarification of Special Permit SP-87-3 (SP-87-361)
Hemmeter/VMS Kauai Company III
TMK: 3-5-01: Por. 6 Nawiliwili, Kauai

As you are aware, the County of Kauai Planning Commission voted to recommend approval of the above Special Permit for the development of a second 18-hole golf course, driving range, and miscellaneous accessory uses. This was subsequently ratified by the State Land Use Commission in its decision and order dated January 7, 1987.

During the course of the State Land Use Commission's review of this matter, your office had a question regarding the inclusion of the "starter's shed/golf clubhouse" in this petition. We replied that this use was already covered in another Special Permit (SP-86-18). Thus, it need not be considered in the second Special Permit SP-87-3.

In reviewing our files on this matter in particular, the petitioner's applications, we stand corrected. The Planning and Engineering Report submitted by Belt, Collins & Associates (Figure 11-1) does in fact reflect said structure. We have concluded that this use (starter's shed) was in fact covered by both applications (SP-86-18 and SP-87-3) by the County of Kauai's Planning Commission. Likewise, it should have been considered by the State Land Use Commission.

12/2/87
LUC

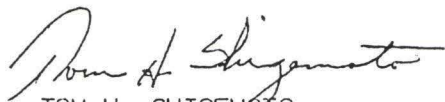
EXHIBIT 3

Miss Esther Ueda, Executive Officer
State Land Use Commission
Page 2
November 27, 1987

The location of the starter's shed is identical in both applications; thus, it appeared that the second permit was redundant. However, the legal configuration of the property has changed, making the starter's shed now a part of the second and not first golf course.

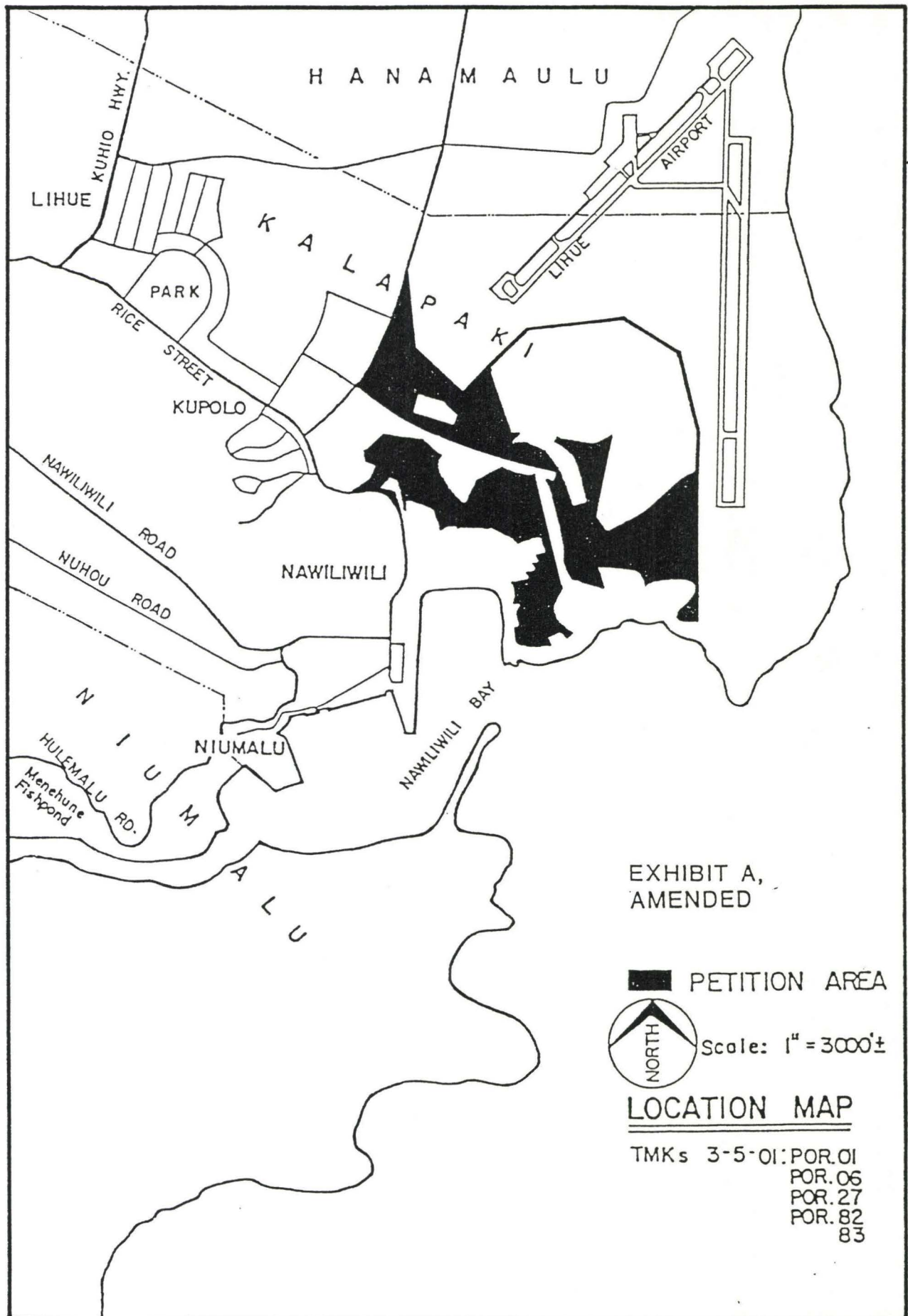
Accordingly, we would appreciate your taking the appropriate action in having the State Land Use Commission rectify this oversight.

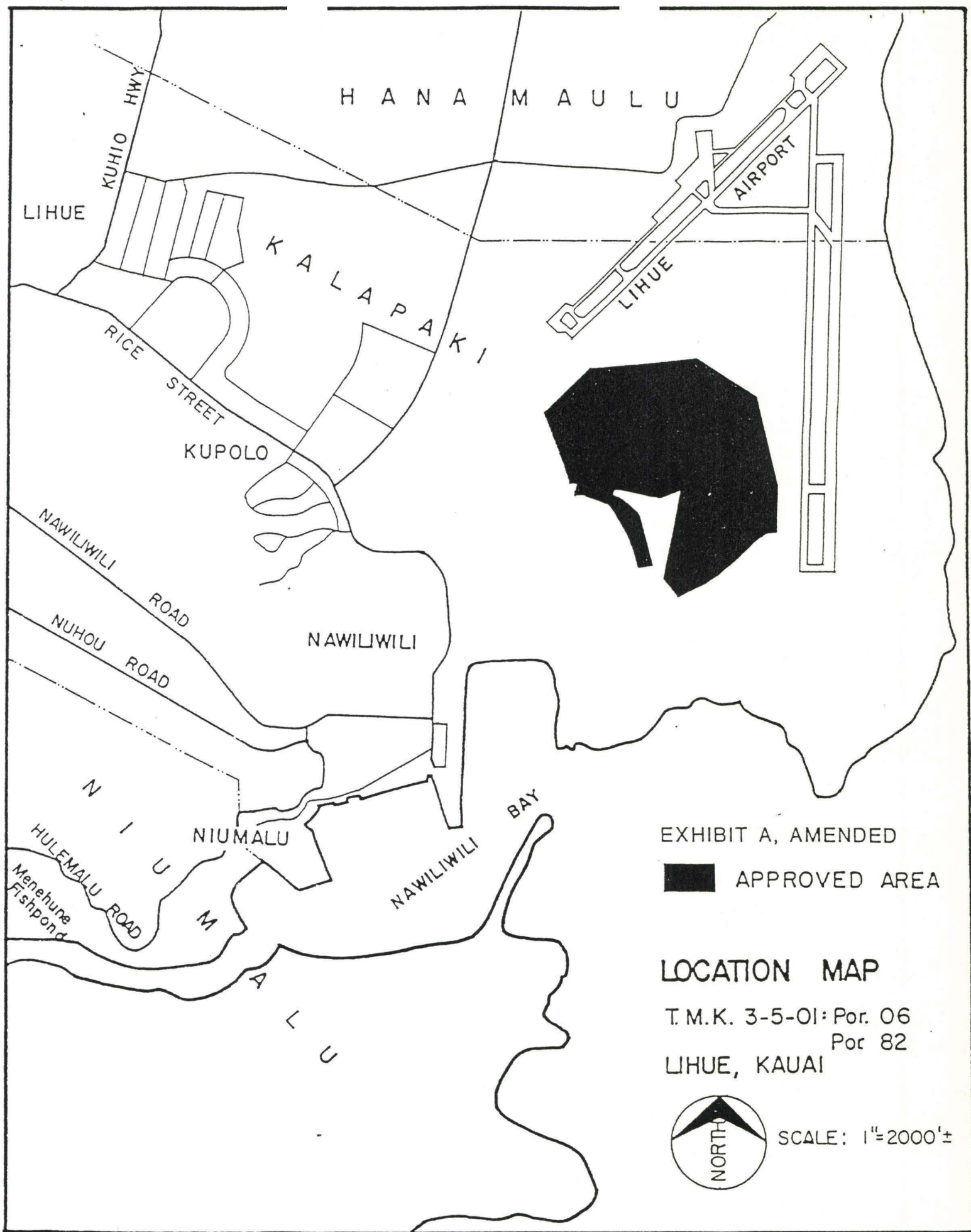
Should you have any questions, please feel free to contact Michael Laureta of my staff.



TOM H. SHIGEMOTO
Planning Director

cc: James Funaki
Sidney Fuke





CERTIFICATE OF SERVICE

I hereby certify that due service of a copy of the
Petitioner's Motion to Amend Decision and Order was made by
depositing the same with the U.S. mail, postage prepaid,
on August 3, 1988, addressed to:

TOM SHIGEMOTO, Planning Director
Planning Department
County of Kauai
4280 Rice Street
Lihue, Kauai 96766

HAROLD S. MASUMOTO, Director
Office of State Planning
State of Hawaii
State Capitol, Room 405
Honolulu, Hawaii 96813

ABE MITSUDA, Administrator
Land Use Division
Office of State Planning
State of Hawaii
250 South King Street
Honolulu, Hawaii 96813

James T. Funaki
James T. Funaki
Attorney for Petitioner
HEMMETER/VMS KAUAI COMPANY III



STATE OF HAWAII
DEPARTMENT OF PLANNING
AND ECONOMIC DEVELOPMENT

LAND USE COMMISSION

Room 104, Old Federal Bldg., 335 Merchant Street
Honolulu, Hawaii 96813 Telephone: 548-4611

October 29, 1986

NOTIFICATION OF BOUNDARY AMENDMENT
DECISIONS BY STATE LAND USE COMMISSION

To all concerned agencies:

The Findings of Fact, Conclusions of Law and Decision and Order for the following boundary amendment petitions have been filed by the Land Use Commission:

GEORGE R. ARIYOSHI
Governor

TEOFILO PHIL TACBIAN
Chairman

FREDERICK P. WHITEMORE
Vice Chairman

COMMISSION MEMBERS:

Richard B. F. Choy
Lawrence F. Chun
Everett L. Cuskaden
Winona E. Rubin
Toru Suzuki
Robert S. Tamaye
William W. L. Yuen

ESTHER UEDA
Executive Officer

<u>Petition Docket No.</u>	<u>Boundary Amendment Requested</u>	<u>LUC Action on Sept. 23, 1986</u>	<u>DATE OF DECISION AND ORDER</u>
A86-600 WAITEC DEVELOPMENT, INC.	To reclassify approximately 691.5 acres from Agricultural to Urban at Hoaeae and Waikele, Ewa, Oahu, Hawaii	Approved approximately 547.5 acres at Hoaeae and Waikele, Ewa, Oahu, Hawaii, TMK: 9-4-02: portion of parcel 30, portion of parcel 1 and portion of parcel 17. Denied approximately 144 acres at Hoaeae and Waikele, Ewa, Oahu, Hawaii, TMK: 9-4-02: portion of parcel 30 and portion of parcel 1. (see map attached)	Oct. 24, 1986
A85-597 KAUPULEHU DEVELOPMENTS	To reclassify approximately 698 acres from Conservation to Urban and Urban to Conservation at Kaupulehu, North Kona, Hawaii	Approved approximately 575 acres at Kaupulehu, North Kona, Hawaii, TMK: 7-2-03: portion of parcel 1 from Conservation to Urban. Approved approximately 123 acres at Kaupulehu, North Kona, Hawaii, TMK: 7-2-03: portion of parcel 1 from Urban to Conservation. (see map attached)	Oct. 24, 1986
SP86-360 HEMMETER/ VMS KAUAI COMPANY III	For a Special Permit to allow the redesign of the existing golf course and the establishment of a driving range and related golf course accessory uses, boat docks, lake and waterways, parking areas, boat maintenance facility, irrigation lagoon, access roads, and other miscellaneous accessory uses on approximately 310 acres in the Agricultural District at Nawiliwili, Lihue, Kauai	Approved special permit for 310 acres at Nawiliwili, Lihue, Kauai, TMK: 3-5-01:83 and portion of 1, 6, 27 and 82. (see map attached)	Oct. 27, 1986

Should you have any questions, please do not hesitate to contact this office.

Sincerely,

A handwritten signature in dark ink, appearing to read "Esther Ueda", written in a cursive style.

ESTHER UEDA
Executive Officer

EU:to
Att.

NOTIFICATION OF BOUNDARY AMENDMENT DECISIONS BY LUC

Concerned Agencies

State (all petitions)

1. Dept. of Planning & Economic Development - Planning Division
2. Dept. of Planning & Economic Development - Land Use Division
3. Dept. of Transportation - Office of the Director
4. Board of Land & Natural Resources - Office of the Chairman
5. Dept. of Education - Facilities & Auxiliary Services Branch
6. Office of Environmental Quality Control
7. USDA Soil Conservation Service - Attention: Harry Sato
8. Board of Agriculture - Office of the Chairman
9. C&C, Dept. of Finance - Mapping Section
10. Deputy Attorney General - Everett Kaneshige

City & County of Honolulu (Oahu petitions only)

1. Dept. of General Planning - Chief Planning Officer
2. Dept. of General Planning - Division Head, Policy Analysis Division
3. Dept. of Land Utilization - Director
4. Planning Commission - Executive Secretary
5. Board of Water Supply - Manager and Chief Engineer
6. Dept. of Public Works - Director
7. C&C, Dept. of Finance - Property Assessment Section
8. C&C, Dept. of Finance - Property Technical Office

Hawaii County (Hawaii petitions only)

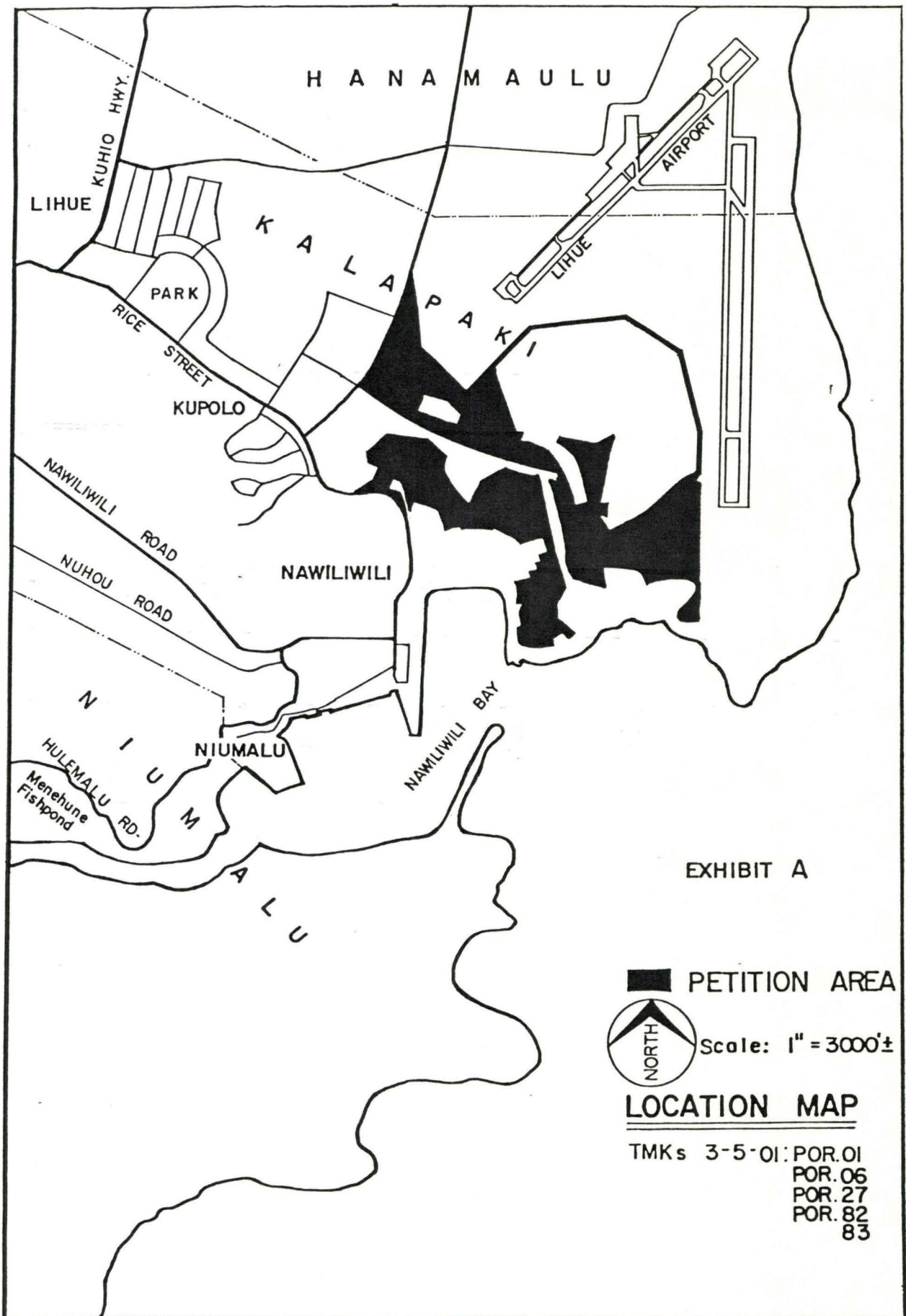
1. Dept. of Planning - Director
2. Planning Commission - Chairman
3. Dept. of Water Supply
4. Dept. of Public Works
5. Real Property Tax Office

Maui County (Maui petitions only)

1. Dept. of Planning - Director
2. Planning Commission - Chairman
3. Dept. of Water Supply
4. Dept. of Public Works
5. Real Property Tax Division

Kauai County (Kauai petitions only)

1. Dept. of Planning - Director
2. Planning Commission - Chairman
3. Dept. of Water Supply
4. Dept. of Public Works
5. Real Property Division



BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)
HEMMETER/VMS KAUAI COMPANY III)

SP86-360 - HEMMETER/
VMS KAUAI
COMPANY III

For a Special Use Permit to Allow the)
Redesign of the Existing Golf Course)
and the Establishment of a Driving)
Range and Related Golf Course)
Accessory Uses, Boat Docks, Lake)
and Waterways, Parking Areas, Boat)
Maintenance Facility, Irrigation)
Lagoon, Access Roads, and Other)
Miscellaneous Accessory Uses on)
Approximately 310 Acres of Land)
Situated within the Agricultural)
District at Nawiliwili, Lihue,)
Kauai, Tax Map Key Nos.: 3-5-01:83)
and Portions of 1, 6, 27 and 82)

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.

OCT 27 1986

Date

by

Robert L. Ladd
Executive Officer

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



This is to certify that this is a true and correct copy of the Decision and Order on the application of the State Land Use Commission, Honolulu, Hawaii.

Date

by
Executive Officer

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of	)	SP86-360 - HEMMETER/
	)	VMS KAUAI
HEMMETER/VMS KAUAI COMPANY III	)	COMPANY III
)	
For a Special Use Permit to Allow the)	
Redesign of the Existing Golf Course)	
and the Establishment of a Driving)	
Range and Related Golf Course)	
Accessory Uses, Boat Docks, Lake)	
and Waterways, Parking Areas, Boat)	
Maintenance Facility, Irrigation)	
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Miscellaneous Accessory Uses on)	
Approximately 310 Acres of Land)	
Situated within the Agricultural)	
District at Nawiliwili, Lihue,)	
Kauai, Tax Map Key Nos.: 3-5-01:83)	
and Portions of 1, 6, 27 and 82)	

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

Hemmeter/VMS Kauai Company III (hereinafter the "Petitioner") initiated this proceeding pursuant to Section 205-6, Hawaii Revised Statutes, as amended, and Part IX of the Land Use Commission's Rules of Practice and Procedure. The Land Use Commission (hereinafter the "Commission") having considered the entire record on this matter, hereby makes the following findings of facts and conclusions of law:

FINDINGS OF FACT

GENERAL DESCRIPTION

1. The Commission received the Special Use Permit request and record of the County of Kauai Planning Department on August 18, 1986.

2. Under the Special Use Permit, Petitioner proposes to redesign the existing 18-hole golf course, establish a new driving range, a new golf clubhouse and starter's shed, golf and grounds maintenance areas, boat docks for 100 charter boats and three ferries, approximately 30 acres of waterways and lake, parking for approximately 600 or more cars, boat maintenance facility, an irrigation lagoon of approximately nine acres, driveways for airport, service and public access, and miscellaneous accessory uses including, but not limited to, horse stables, carriage storage and carriage paths (hereinafter the "Project") on approximately 310 acres of land situated within the State Land Use Agricultural District in Nawiliwili, Island of Kauai.

3. The Project site is identified as Kauai Tax Map Key Numbers: 3-5-01:83 and portions of 1, 6, 27 and 82 and is approximately identified on Exhibit A attached hereto and incorporated by reference herein (hereinafter the "Property").

4. Petitioner's proposed Project is part of a revised overall development concept to expand the Westin Kauai Resort to a large scale, self-contained resort area with multiple attractions to include a new hotel and commercial areas set within golf, open space, and water related recreational amenities. The proposed

Westin Resort project, as presented to the Commission to date, will encompass approximately 454 acres of land.

5. The major elements of the proposed Westin Kauai Resort project are as follows:

I. FUTURE RESORT HOTEL:

A. 750 units

II. COMMERCIAL AREAS:

- A. The Cliffs Commercial Area, 25,000 sq. ft. leasable
- B. The Island Commercial Area, 25,000 sq. ft. leasable
- C. The Lagoons Commercial Area, 60,000 sq. ft. leasable

III. MAIN LAGOON:

- *A. 36 acres of lagoon
- *B. 10 boat docks for 100 charter boats and 3 ferries

IV. GOLF COURSES:

- *A. Kiele Lake (redesigned existing 18-hole golf course and driving range, 286+ acres)
- *B. 26,000 sq. ft. golf clubhouse
- *C. Irrigation lagoon (9+ acres)
- *D. Golf and grounds maintenance area
- *E. Starter's shed
- *F. Parking for 600+ cars (also used for other activities)

V. OTHER ITEMS:

- A. Access road for restaurant/inn
- B. 15,000 sq. ft. restaurant (makai area)
- *C. Horse stables, carriage storage
- *D. 20,000 linear feet internal carriage path network
- *E. Entry drive, airport access, and other service roadways
- *F. Public access road and shoreline access easement

*Elements that are part of this Special Permit request Docket No. SP86-360 to be built on the Property in the Agricultural District.

6. The predominant uses of the Property are an existing golf course and sugar cane cultivation. Lands to the north and east of the Property are used for sugar cane cultivation and

airport facilities. Lands to the south are in the State Land Use Conservation District. Adjacent lands to the west and southwest contain the Lihue Industrial Park, the Lihue Sewage Treatment Plant (STP), Nawiliwili Harbor, and the 550-room Kauai Surf Hotel and golf course now undergoing major upgrading to become the Westin Kauai Resort Hotel.

7. Access to the Westin Kauai is currently provided from Rice Street which connects to Kapule Highway.

8. Ownership of the Property, according to the state tax map dated August 28, 1986, is as follows:

TMK 3-5-01:	1	William H. Rice, Ltd.
	6	Lihue Plantation Co., Ltd.
	27	Hemmeter/VMS Kauai Company I
	82	Hemmeter/VMS Kauai Company I
	83	Hemmeter/VMS Kauai Company I

9. The Lihue Plantation Co., Ltd., by letter dated June 17, 1986, has authorized Petitioner to request this Special Use Permit as well as the application for rezoning, special management area, development, and other permits as necessary for its lands.

10. Petitioner is an affiliate of Hemmeter/VMS Kauai Company I, which is a lessee of William H. Rice, Ltd. for parcel 1.

Past Land Use Commission Actions for the Area

11. On May 8, 1970, the Commission approved the special use permit request of Amfac Properties in Docket No. SP70-77 for the addition of nine-hole golf course on approximately 80 acres located east of the existing Kauai Surf Hotel. The first nine-hole golf course was a permitted use under Commission rules in effect prior to 1969. The approval was subject to a condition

that the 80 acres be replaced with land capable of producing the equivalent production of sugar.

12. On December 6, 1973, the Commission approved the special use permit request of Inter-Island Resorts in Docket No. SP73-163 for a tennis complex on approximately 8.5 acres adjacent to the existing hotel.

13. On April 20, 1979, the Commission approved the special use permit request of the State Department of Transportation in Docket No. SP78-316 for a new runway and related improvements on approximately 554 acres northeast of the Kauai Surf Hotel and golf course. This approval was granted prior to the decision of the Hawaii Supreme Court in Neighborhood Board No. 24 V. State Land Use Commission, 64 Haw. 265 (1982). The approval included a condition that the petitioner seek a land use district boundary amendment within one year after the approval of the special permit.

The boundary amendment petition by the Department of Planning and Economic Development in Docket No. A80-474 was filed and subsequently approved by the Commission on April 24, 1981.

14. On June 2, 1976, the Commission approved the boundary amendment request of Amfac Communities Hawaii in Docket No. A75-402 to reclassify approximately 34 acres from Agricultural to Urban for an industrial subdivision located at the eastern corner of the Kapule Highway - Rice Street intersection, without imposing conditions for approval of this amendment.

15. On August 22, 1983 the Commission partially approved the boundary amendment petition of Amfac Development Company in Docket No. A82-530 and reclassified approximately 56 acres from Agricultural to Urban on August 22, 1983 for resort condominiums on areas north and east of the existing Kauai Surf Hotel and including a portion makai of the second nine-hole golf course approved under Docket No. SP70-77. Eight conditions were imposed by the Commission for this boundary amendment.

Summary of Environmental Concerns

16. The Property contains a combination of Lihue Silty clay, Lihue gravelly silty clay, Halii gravelly silty clay, Mokuleia fine sandy loam, badland and rough broken land.

17. Major portions of the Property are also rated "B" according to the Land Study Bureau.

18. The State Department of Agriculture rates the majority of the Property as Prime Agricultural Land in its Agricultural Lands of Importance to the State of Hawaii classification system.

19. No endangered plants or animals were observed on the Property except for a pair of Gallinule birds inhabiting a drainage reservoir in the Kauai Surf Golf Course.

20. Petitioner's consultant, Belt, Collins & Associates concluded that due to the area's history of cane cultivation and golf course use, no historical or archaeological remains are expected to exist on the site.

Petitioner states that if remains are uncovered, work will discontinue until appropriate governmental authorities have an opportunity to survey the find and determine when work may resume.

21. Steven J. Dollar prepared an environmental assessment in August 1980 of near shore marine life and concluded that there is no reason to expect significant adverse impacts to water quality or relevant biological communities from the proposed development.

22. The County sewage treatment plant is surrounded by the Property and is located northwest of the existing Kauai Surf Hotel. The use of open air sludge bed to treat sewage effluent and noxious gas by-products originating from this facility will impact some golf course holes during normal wind conditions.

23. The State Department of Health (DOH) stated it had concerns that the removal of additional sugar cane fields will reduce the size of the mill wastewater disposal in the lower Lihue fields and may affect the condition imposed by the Commission that neither the lower fields, nor any other areas subject to the mill wastewater disposal shall have a saturation factor in excess of 1.0.

The DOH also commented that potential for mosquito problems will exist as long as wastewater is discharged into the lower fields and that Petitioner must abate these problems before inhabitation of the proposed Project.

Furthermore, the DOH was concerned on whether the use of treated effluent from the County sewage treatment plant for golf

course irrigation would comply with public health standards and statutory requirements.

The County Department of Public Works also had similar concerns which were presented to the County Planning Commission.

24. In response to the concerns submitted by the County Department of Public Works and the State Department of Health, the County Planning Commission, in its meeting of August 13, 1986, approved Petitioner's requests for zoning, special management area use, project development use, and class IV zoning permits with the following conditions:

Zoning Amendment ZA-86-7 from Agriculture
District (A) to Resort Residential District
(RR-20) for approximately 56 acres
(A82-530/Amfac Properties Development Corp.)

- "2. Prior to building permit approval for any improvements within Phase II, the applicant shall submit the necessary documentation and/or legal agreements reflecting the resolution of the following:
 - a. The disposal or use of the Lihue Sewage Treatment effluent for golf course irrigation and use within the lagoons.
 - b. Disposal of the Lihue mill wastewater and the L-20 reservoir.
 - c. Conditions upon which sewer service will be provided by the County since the proposed development is outside of the service area of the present 1.5 mgd STP capacity.
- "3. Applicant shall establish a landscaped buffer zone around the Lihue STP. Size of the buffer zone and type of landscaping shall be subject to Planning Department review and approval.

"4. Applicable conditions imposed by the State Land Use Commission at time of district boundary amendment shall be completed by August 22, 1988."

25. Petitioner is working with Amfac Development Company to satisfy conditions imposed by the Commission regarding the mill wastewater and sewage effluent disposal in Docket No. A82-530.

26. Petitioner proposes to design its storm drain system to County standards and no adverse impacts are anticipated. Golf course irrigation ponds containing treated sewage effluent will be isolated from drainageways. Low lying areas of the proposed Project will be well above the 13 feet inundation level as determined by the flood insurance rate map.

27. Petitioner estimates that much of the traffic generated will come from adjacent on-site hotels and that traffic generated by the golf course will be relatively light. Approximately 100 trips per day are expected from public use of the hotel access.

Petitioner proposes to provide an airport access road which links the resort development directly to Lihue Airport which will allow visitors to circulate to various destination areas in the proposed Project without using government roads.

28. The State Department of Transportation (hereinafter the "DOT") commented that the Petitioner should work with the DOT so that the existing Lihue Airport and the proposed Project are compatible.

The DOT is currently conducting a study to update day-night noise contours. The study will consider plans for the existing runway and any future development for the Lihue Airport.

29. Darby & Associates prepared a noise study in 1985 and determined that small portions of the eastern and northern part of the Property lie within the 60 day-night noise contour (Ldn). The affected areas are proposed for golf courses, horse stables and maintenance areas which are deemed acceptable uses for the 60 Ldn noise levels.

Public Services and Facilities

30. Kauai Electric Company will provide electrical services to the Property.

31. The County Department of Water Supply indicated that its water source and distribution system are adequate to accommodate the potable water demand of the proposed Project.

For non-potable requirements of the water features and golf irrigation, Petitioner proposes to develop two deep wells to supplement treated wastewater effluent from the County sewage treatment plant for irrigation of the golf areas. Water for the lagoons will come from the deep wells.

32. Petitioner anticipates the County sewage treatment plant, located within the Property will accommodate the sewage generated by the proposed Project.

Currently, sewage effluent from this facility is being disposed within the Lihue plantation sugar fields and the

existing golf course. Effluent for irrigation will be mixed with well water in the irrigation lagoon. Petitioner proposes to design one of the deep wells for both withdrawal and injection of excess effluent.

33. Petitioner proposes to dispose solid waste by private contract to County disposal areas.

34. Telephone service, police protection, and fire protection are adequate or will be provided to accommodate the proposed Project.

Conformance to Special Permit Guidelines

35. The proposed Project will use either vacant and uncultivated land or land in existing golf course use. Those portions of the Property to be removed from sugarcane cultivation by the Lihue Plantation Company will not adversely affect continued economic survival of its operations, and will not be contrary to the objectives sought to be accomplished by the Land Use Law and Regulations.

36. The proposed Project will not generate adverse noise, odors or emissions which could adversely impact surrounding properties. The activities proposed are low intensity in nature.

37. The requested uses will not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage and school improvements, or police and fire protection. All public service functions are available, and where they are not or they are substandard, appropriate upgrades and improvements will be made by the applicant, as required by the applicable

government agencies and/or the Planning Commission as conditions of approval.

38. Unusual conditions, trends, and needs have arisen since the district boundaries and regulations were established. The requested uses are an extension of the primary hotel/resort function of the overall property, and functionally more a part of that than an agricultural activity.

39. Although the property is suited for the purposes permitted within the Agricultural District, the project would be more compatible with the adjoining uses of the Westin Kauai resort operations.

40. On August 13, 1986, the County Planning Commission recommended that the subject special use permit be approved subject to the following condition:

"Within one (1) year from Planning Commission approval, the applicant shall submit a Land Use Boundary Amendment application (from Agriculture to Urban) to the Land Use Commission for all lands within the Agriculture District subject to all phases of development."

CONCLUSIONS OF LAW

The proposed use is an "unusual and reasonable" use as defined by Chapter 205-6, Hawaii Revised Statutes and the proposed use is not contrary to the objectives to be accomplished by the State Land Use Law and Regulation in that it could further the purpose of the Land Use Law to preserve, protect and encourage the development of lands in the State for those uses to which they are best suited in the interest of the public health and welfare.

ORDER

IT IS HEREBY ORDERED that Special Permit Docket No. 86-360 for the redesign of the existing 18-hole golf course, the establishment of a new driving range, a new golf clubhouse and starter's shed, golf and grounds maintenance areas, boat docks for 100 charter boats and three ferries, approximately 30 acres of waterways and lake, parking for approximately 600 or more cars, boat maintenance facility, an irrigation lagoon of approximately nine acres, driveways for airport, service and public access, and miscellaneous accessory uses including, but not limited to, horse stables, carriage storage and carriage paths, on approximately 310 acres of land situated within the State Land Use Agricultural District at Nawiliwili, Island of Kauai, Tax Map Key Numbers: 3-5-01:83 and portions of 1, 6, 27 and 82 and approximately identified on Exhibit A attached hereto and incorporated by reference herein be approved subject to the condition imposed by the Kauai County Planning Commission and the following additional condition.

2. Petitioner shall begin construction of the proposed Project within one year after the date of this Order and complete construction within three years thereafter.

DOCKET NO. SP86-360 - HEMMETER/VMS KAUAI COMPANY III

Done at Honolulu, Hawaii, this 27th day of October
1986, per motions on September 23, 1986 and October 21, 1986.

LAND USE COMMISSION
STATE OF HAWAII

By *J.P. Tacbian*
TEOFILO PHIL TACBIAN
Chairman and Commissioner

By *Frederick P. Whittemore*
FREDERICK P. WHITTEMORE
Vice Chairman and Commissioner

By *Toru Suzuki*
TORU SUZUKI
Commissioner

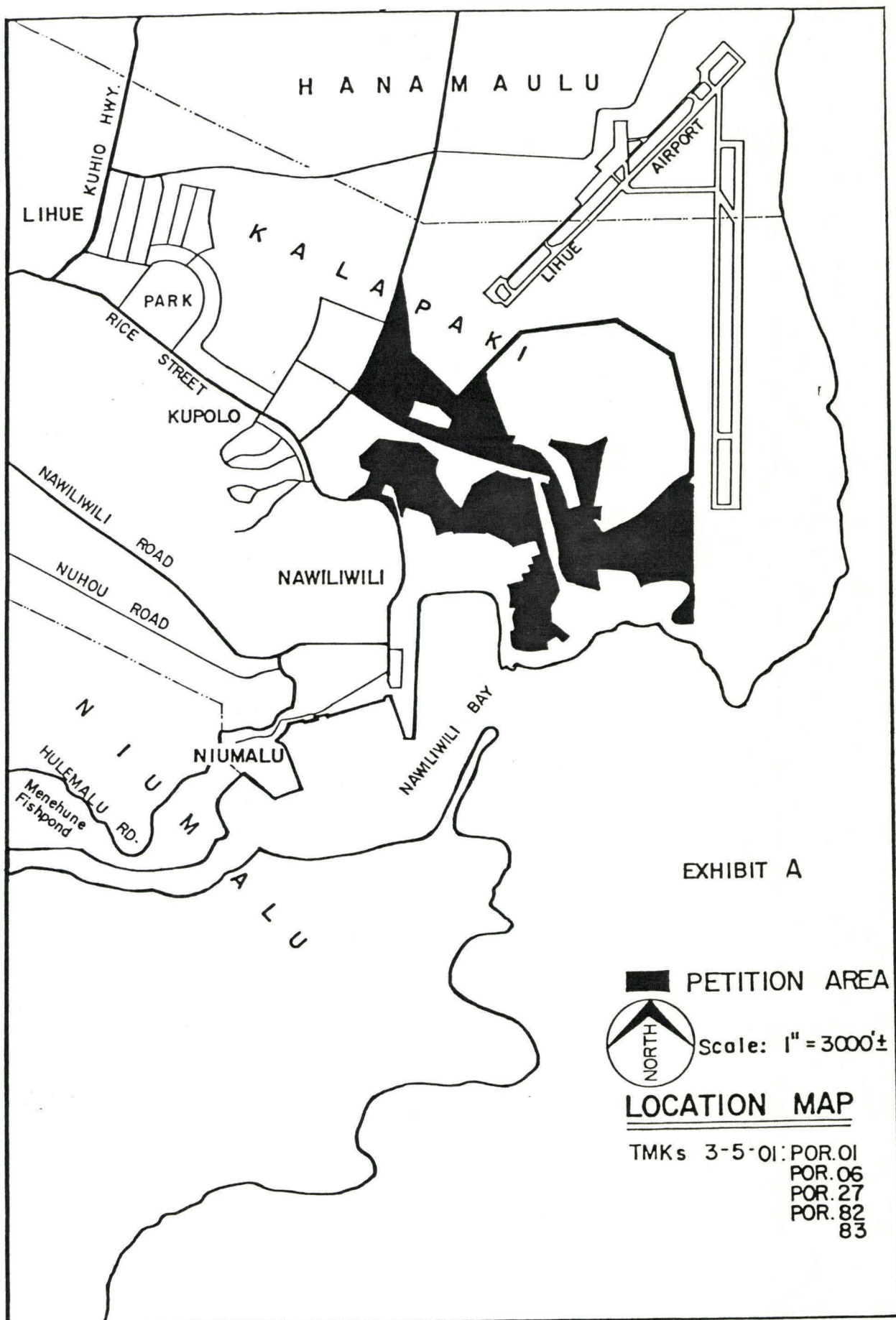
By *Everett Cuskaden*
EVERETT L. CUSKADEN
Commissioner

By *Winona E. Rubin*
WINONA E. RUBIN
Commissioner

By *William W. L. Yuen*
WILLIAM W. L. YUEN
Commissioner

By *Richard B. F. Choy*
RICHARD B. F. CHOY
Commissioner

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



P 124 044 367

RECEIPT FOR CERTIFIED MAIL

NO INSURANCE COVERAGE PROVIDED
NOT FOR INTERNATIONAL MAIL

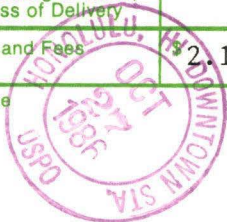
(See Reverse)

SP86-360/Hemmeter/VMS Kauai Company III

★ U.S.G.P.O. 1984-446-014

PS Form 3800, Feb. 1982

Sent to		Avery Youn
Street and No.		
P.O., State and ZIP Code		
Postage	\$	.73
Certified Fee		.75
Special Delivery Fee		
Restricted Delivery Fee		
Return Receipt Showing to whom and Date Delivered		.70
Return receipt showing to whom, Date, and Address of Delivery		
TOTAL Postage and Fees	\$	2.18
Postmark or Date		



**STICK POSTAGE STAMPS TO ARTICLE TO COVER FIRST-CLASS POSTAGE,
CERTIFIED MAIL FEE, AND CHARGES FOR ANY SELECTED OPTIONAL SERVICES. (see front)**

1. If you want this receipt postmarked, stick the gummed stub on the left portion of the address side of the article leaving the receipt attached and present the article at a post office service window or hand it to your rural carrier. (no extra charge)
2. If you do not want this receipt postmarked, stick the gummed stub on the left portion of the address side of the article, date, detach and retain the receipt, and mail the article.
3. If you want a return receipt, write the certified mail number and your name and address on a return receipt card, Form 3811, and attach it to the front of the article by means of the gummed ends if space permits. Otherwise, affix to back of article. Endorse front of article. **RETURN RECEIPT REQUESTED** adjacent to the number.
4. If you want delivery restricted to the addressee, or to an authorized agent of the addressee, endorse **RESTRICTED DELIVERY** on the front of the article.
5. Enter fees for the services requested in the appropriate spaces on the front of this receipt. If return receipt is requested, check the applicable blocks in item 1 of Form 3811.
6. Save this receipt and present it if you make inquiry.

SP96-360/Hemmeter/VMS Kauai Co.

SENDER: Complete items 1, 2, 3 and 4.

Put your address in the "RETURN TO" space on the reverse side. Failure to do this will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for service(s) requested.

1. ☐ Show to whom, date and address of delivery.
2. ☐ Restricted Delivery.

3. Article Addressed to:

Avery Youn

4. Type of Service:

- ☐ Registered ☐ Insured
☒ Certified ☐ COD
☐ Express Mail

Article Number

P 124 044 367

Always obtain signature of addressee or agent and
DATE DELIVERED.

5. Signature - Addressee

X

6. Signature - Agent

X

7. Date of Delivery

10/28/86

8. Addressee's Address (ONLY if requested and fee paid)

DOMESTIC RETURN RECEIPT

UNITED STATES POSTAL SERVICE

OFFICIAL BUSINESS

SENDER INSTRUCTIONS

Print your name, address, and ZIP Code in the space below.

- Complete items 1, 2, 3, and 4 on the reverse.
- Attach to front of article if space permits, otherwise affix to back of article.
- Endorse article "Return Receipt Requested" adjacent to number.



**PENALTY FOR PRIVATE
USE, \$300**

**RETURN
TO**



(Name of Sender)

(No. and Street, Apt., Suite, P.O. Box or R.D. No.)

(City, State, and ZIP Code)

State of Hawaii
LAND USE COMMISSION
Room 104, Old Federal Building
335 Merchant Street
Honolulu, Hawaii 96813

P 124 044 368

RECEIPT FOR CERTIFIED MAIL

NO INSURANCE COVERAGE PROVIDED
NOT FOR INTERNATIONAL MAIL

(See Reverse)

SP86-360/Hemmeter/VMS Kauai Co.

★ U.S.G.P.O., 1984-446-014

PS Form 3800, Feb. 1982

Sent to Henry Shigekane, Esq.	
Street and No.	
P.O., State and ZIP Code	
Postage	\$.73
Certified Fee	.75
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt Showing to whom and Date Delivered	.70
Return receipt showing to whom, Date, and Address of Delivery	
TOTAL Postage and Fees	\$ 2.18
Postmark or Date	



**STICK POSTAGE STAMPS TO ARTICLE TO COVER FIRST-CLASS POSTAGE,
CERTIFIED MAIL FEE, AND CHARGES FOR ANY SELECTED OPTIONAL SERVICES. (see front)**

1. If you want this receipt postmarked, stick the gummed stub on the left portion of the address side of the article leaving the receipt attached and present the article at a post office service window or hand it to your rural carrier. (no extra charge)
2. If you do not want this receipt postmarked, stick the gummed stub on the left portion of the address side of the article, date, detach and retain the receipt, and mail the article.
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4. If you want delivery restricted to the addressee, or to an authorized agent of the addressee, endorse **RESTRICTED DELIVERY** on the front of the article.
5. Enter fees for the services requested in the appropriate spaces on the front of this receipt. If return receipt is requested, check the applicable blocks in item 1 of Form 3811.
6. Save this receipt and present it if you make inquiry.

SENDER: Complete items 1, 2, 3 and 4.

Put your address in the "RETURN TO" space on the reverse side. Failure to do this will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for service(s) requested.

1. ☐ Show to whom, date and address of delivery.
2. ☐ Restricted Delivery.

3. Article Addressed to:

Henry Shigekane, Esq.

4. Type of Service:

- ☐ Registered ☐ Insured
☒ Certified ☐ COD
☐ Express Mail

Article Number

P 124 044 368

Always obtain signature of addressee or agent and
DATE DELIVERED.

5. Signature — Addressee

X

6. Signature — Agent

X

7. Date of Delivery**8. Addressee's Address (ONLY if requested and fee paid)**

UNITED STATES POSTAL SERVICE

OFFICIAL BUSINESS

SENDER INSTRUCTIONS

Print your name, address, and ZIP Code in the space below.

- Complete items 1, 2, 3, and 4 on the reverse.
- Attach to front of article if space permits, otherwise affix to back of article.
- Endorse article "Return Receipt Requested" adjacent to number.



**PENALTY FOR PRIVATE
USE, \$300**

**RETURN
TO**



(Name of Sender)

State of Hawaii

LAND USE COMMISSION

(No. and Street, Apt., Suite, P.O. Box or R.D. No.)

Room 104, Old Federal Building

335 Merchant Street

(City, State, and ZIP Code)

Honolulu, Hawaii 96813

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of	)	Docket No. SP86-360
)	
HEMMETER/VMS KAUAI COMPANY III	)	HEMMETER/VMS KAUAI
	)	COMPANY III
For a Special Use Permit to Allow the)	
Redesign of the Existing Golf Course and)	
the Establishment of a Driving Range and)	
Related Golf Course Accessory Uses, Boat)	
Dockes, Lake and Waterways, Parking Areas,)	
Boat Maintenance Facility, Irrigation)	
Lagoon, Access Roads, and Other Miscella-)	
neous Accessory Uses on Approximately 310)	
Acres of Land Situated within the)	
Agricultural District at Nawiliwili,)	
Lihue, Kauai, Tax Map Key Nos.: 3-5-01:83)	
and Portions of 1, 6, 27 and 82)	

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Land Use Commission 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:

- ✓ AVERY YOUN, Planning Director
Kauai County Planning Department
4280 Rice Street
Lihue, Kauai 96766

- ✓ HENRY SHIGEKANE, Esq., Attorney for Petitioner
Hemmeter/VMS Kauai Company III
2424 Kalakaua Avenue
Honolulu, Hawaii 96815

DATED: Honolulu, Hawaii, this 27th day of October 1986.



ESTHER UEDA
Executive Officer

Of Counsel:
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VMS KAUAI COMPANY III

ORIGINAL

LAND USE COMMISSION
STATE OF HAWAII
SEP 22 2 09 PM '06

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In the Matter of the Application of)	
HEMMETER/VMS KAUAI COMPANY III)	Special Permit SP86-360
For a Special Permit from the)	
Planning Commission of the)	
County of Kauai (SP-86-18) for)	
certain uses in the Agricultural)	
District)	
_____)	

PETITIONER'S MEMORANDUM IN
SUPPORT OF SPECIAL PERMIT

(CERTIFICATE OF SERVICE ATTACHED)

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)	
HEMMETER/VMS KAUAI COMPANY III)	Special Permit SP86-360
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District)	
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PETITIONER'S MEMORANDUM IN
SUPPORT OF SPECIAL PERMIT

I. BACKGROUND

Pursuant to HRS § 205-6, the planning commission of the County of Kauai ("county planning commission") issued special permit to allow Hemmeter/VMS Kauai Company III ("Petitioner") certain uses within the Agricultural District in SP-86-18. A copy of the decision on the special permit together with the complete record of the proceeding in SP-86-18 before the county planning commission has been transmitted by the county planning commission to the Land Use Commission ("LUC") for action by the LUC to approve, approve with modification, or deny the petition for special permit. By its letter of September 8, 1986 to the Petitioner, the LUC raised, sua sponte, "some concerns with respect to the appropriateness of the Special Use Permit process for the proposed development in light of the Supreme Court Decision on the Kahe Theme Park Special Use Permit" and invited the Petitioner's discussion. That issue is discussed below.

II. NEIGHBORHOOD BOARD v. LAND USE COMMISSION: A CASE OF LIMITED APPLICATION

In Neighborhood Board v. State Land Use Commission, 64 Haw. 265 (1982), ("Kahe Theme Park Case"), the developer had sought and obtained a special permit under HRS § 205-6 for a theme park use within an Agricultural district. An appeal of the decision on the special permit to the Hawaii Supreme Court followed. The Court stated the rule of law that a special permit under HRS § 205-6 could issue from the county planning commission and the LUC for certain "unusual and reasonable uses" within agricultural and rural districts other than those for which the district is classified, but only when the use would promote the effectiveness and objectives of Chapter 205 of the HRS. The Kahe Theme Park Case did not establish any new or novel decisional law; it merely restated and confirmed existing statutory law. In application of that law, the Court turned to the facts and circumstances of the case to determine whether or not the conditions of the special permit under HRS § 205-6 had been satisfied particularly with respect to whether or not the use sought for approval under the special permit process was contrary to the objectives of Chapter 205 of the HRS. After reviewing the facts and circumstances of the proposed Kahe Theme Park development, the Court found that the granting of the proposed theme park use under the special permit process would frustrate the objectives and effectiveness of Hawaii's land use scheme. Accordingly, the Court determined that the desired use for the development of the proposed theme

park was not an "unusual and reasonable use" and therefore had not met the conditions of HRS § 205-6 for a special permit and that the request for such a use was more properly the subject of a district boundary amendment petition.

The facts upon which the Court found the theme park use approved under the special permit process to be contrary to the objectives sought to be accomplished by the land use laws and regulations were carefully noted and weighed to support its decision in the Kahe Theme Park Case. More particularly, it noted that the application for the special permit sought permission to develop a recreational theme park covering 103 acres of agricultural lands. As proposed, the theme park was to consist of cultural theme rides, restaurants, fast-food shops, retail stores, exhibits, theaters, an amphitheater, a bank, nurseries, twelve acres of parking, a sewage treatment plant, and other related support services. The theme park was viewed as a major commercial undertaking which the developers estimated would attract approximately 1.5 million people annually to the Waianae Coast. The proposed situs for this major commercial undertaking had been vacant and undeveloped since 1960, isolated from any urban or commercial development, and surrounded by a 13-home agricultural subdivision, a power plant and other lands designated for agricultural use. Based on these facts, the stark contrast between the essential character of the district in which the proposed situs was located and the character of a theme park use was readily apparent.

Inasmuch as the Court's decision that the theme park use allowed under the special permit was contrary to the objectives of the land use laws turned on facts and circumstances unique and peculiar to the Kahe Theme Park Case, the application of that case should be limited to those cases with the same or similar factual context. Thus, the appropriateness of a special permit in any case would be judged on its own facts and circumstances by the approving agencies or the courts conducting the oversight to determine whether or not the conditions of the special permit have been satisfied under HRS § 205-6; that is, whether the desired use under the special permit is "unusual and reasonable" based on the guidelines in Land Use District Regulation § 5-2, and whether the use would promote the effectiveness and objectives of Chapter 205 of the Hawaii Revised Statutes.

III. THE FACTS OF THE INSTANT CASE ARE SIGNIFICANTLY DIFFERENT FROM THE FACTS OF THE KAHE THEME PARK CASE

Under the special permit in this case, the Petitioner seeks permission for certain uses within the Agricultural district (with a productivity rating of "B" according to the Detailed Land Classification System) in order to develop the following improvements:

Redesign existing 18-hole golf course and relocate driving range

Replace existing golf clubhouse and starter's shed with new construction at new location to upgrade the quality and to improve customer service and convenience

Replace existing golf and grounds maintenance areas with new construction at new location to

upgrade quality and to improve efficiency of operation

Include approximately 35 acres of waterways and lagoons in the redesign of the existing 18-hole golf course with boat docks and boat maintenance facility at certain locations within the waterways and lagoons to provide open area recreational amenities

Relocate existing irrigation lakes in the redesign of the golf course (10 acres)

Relocate and expand existing parking areas to improve customer service and convenience (10 acres)

Add stable and carriage storage house (10 acres)

Improve existing access and service roadways and easements and add new access and service roadways and easements

The total area covered by the special permit is approximately 310 acres which include 125 acres of the existing 18-hole golf course. Thus, a substantial portion of the special permit area had already been approved under prior special permits for the same use now being requested. The existing golf course has long been an amenity to the existing hotel and resort located on approximately 25 acres of land adjacent to the golf course. The Agricultural districts containing the special permit area are interspersed among the Urban districts adjacent thereto including the urban district containing the hotel and resort. Clearly, the character of the land in the Urban district containing the hotel and resort and the land in the Agricultural district containing the existing 18-hole golf course is essentially hotel and resort use. The redesign of the existing golf course would extend the golf course beyond its existing boundaries and cover approximately

additional 120 acres into the adjoining Agricultural district not currently covered by golf course use.

The waterways and lagoons would add park-like aesthetics, provide recreational amenity in the movement of people by small boats, and serve as integral parts of the challenges of the golf course. Uses accommodating boat docks, parking area, roadways and stables would be accessory to the recreational amenities attendant to and supportive of the existing hotel and resort use which now predominates the Nawiliwili area and which is sought to be expanded.

The Nawiliwili area, being the north end of Nawiliwili Bay from Kalapaki Beach to Ninini Point, is designated as a visitor destination area for tourism growth in the State Tourism Plan. The property covered by the special permit is generally within the footprint identifying Nawiliwili as a visitor destination area on a map contained in the State Tourism Plan. (State Tourism Plan, Technical Reference Document, DPED, October 1981; See pp. 64-67)

Comparing the facts in the Kahe Theme Park Case and the facts in the instant case, certain salient contrasts appear. In the Kahe Theme Park Case, the proposed situs of the theme park development was a vacant and undeveloped area void of any proximate commercial development and surrounded by a sparse agricultural subdivision, a power plant and agricultural lands. In this land use context, a special permit to allow for the first time the development of a major theme park with the various and sundry uses thereof had been sought. In contrast,

in the instant case, the Petitioner is proposing recreational amenities to hotel and resort use in an area which is a part of, or contiguous to, lands long committed and used for hotel and resort purposes.

The nature of the uses in the Kahe Theme Park Case also differs significantly from the nature of the uses in the instant case with respect to objectives of the land use laws. In the Kahe Theme Park Case, the uses proposed in the Agricultural district included rides, restaurants, fast-food shops, retail stores, exhibits, theaters, amphitheater, and a bank. These uses are facially inapposite to uses in an agricultural district. On the other hand, in the special permit now before the LUC, the Petitioner seeks uses for golf course and related accessory uses, stables, horse drawn carriages, waterways, and boating activities as recreational amenities to an existing hotel and resort use all of which uses could reasonably be construed as embraced within or reasonably compatible with the expressly permitted activity or use of "open area recreational facilities" within the Agricultural district under HRS § 205-2(4). Indeed, "public and private open area types of recreational uses including day camps, picnic grounds, parks, and riding stables" are permitted uses in an Agricultural district under HRS § 205-4.5(a)(6). The nature of such permitted uses is strikingly similar to the nature of uses proposed by the Petitioner.

From the foregoing comparison, significant differences emerge in fact and circumstances between the Kahe Theme Park

Case and the instant case such that the application of the Kahe Theme Park Case to the instant case does not obtain.

IV. THE USES REQUESTED BY THE PETITIONER UNDER THE SPECIAL PERMIT ARE REASONABLE AND NOT CONTRARY TO THE OBJECTIVES SOUGHT TO BE ACCOMPLISHED BY THE LAND USE LAWS AND REGULATIONS

In the Kahe Theme Park Case, the Court held that if the proposed uses for a theme park were allowed by a special permit under the circumstances of that case, it would conspicuously frustrate the objectives of the land use laws. The Court recognized that unlimited use of the special permit would undermine certain objectives of the land use laws. However, as earlier stated and demonstrated, the facts and circumstances in the Kahe Theme Park Case, which spawned the Court's concern that a special permit would frustrate the objectives of the land use laws, are not present in the instant case. Thus, the objectives of the land use laws that the Court sought to protect in the Kahe Theme Park Case are not threatened by a special permit in the instant case as discussed below.

A. The Proposed Uses Under Special Permit Do Not Constitute Ad Hoc Infusion Of Major Urban Uses Into Agricultural Districts.

The Nawiliwili area, of which the land covered by the special permit is a part, is a designated visitor destination area under the State Tourism Plan. Moreover, the Nawiliwili area is already planned for, and portion of the area is currently in, hotel and resort use. The proposed use to allow a redesign of an existing golf course in an Agricultural district and an extension thereof into adjacent lands in an

Agricultural district could hardly be described as an ad hoc infusion of major urban uses into Agricultural districts. The proposed uses in the special permit are intended as amenities to the existing and future hotel and resort uses unlike the Kahe Theme Park Case where the surrounding areas were agricultural and the proposed theme park uses had no direct relationship to the surrounding areas thereby constituting an infusion of a use foreign to the long standing agricultural ambience of the Kahe area.

B. Scattered Urban Development Is Avoided.

As the proposed uses of the special permit are expansions of existing recreational amenities and additions of new recreational amenities to serve an existing hotel and resort, scattered urban development is avoided. On the other hand, the Kahe Theme Park would have resulted in the creation of a scattered urban development, an objective admonished by and contrary to the land use laws and regulations.

C. Proposed Uses Under The Special Permit Would Not Change The Essential Character Of The Existing Use Of The Agricultural District And The Surrounding Uses Nor Be Inconsistent Therewith.

In the Kahe Theme Park Case, the Court instructed that a special permit may be appropriate where the use desired would not change the essential character of the district nor be inconsistent therewith. In the instant case, the essential character of the district is not violated. The Nawiliwili area is a designated visitor destination area under the State Tourism Plan. The area includes an existing hotel and resort

and an 18-hole golf course. State Policy and the actual existing uses have established the essential character of the Nawiliwili area as hotel, resort, golf course, and related uses.

Of the approximately 310 acres covered in the special permit, about 125 acres in an Agricultural district are now part of the existing golf course, and an additional 120 acres on adjacent lands within the Agricultural district are sought for golf course use for, and to be included in, the redesign of the existing 18-hole golf course. The remaining uses proposed are for the lagoons and waterways with docks (35 acres), stable and carriage house (10 acres), parking (10 acres) and irrigation lagoon (10 acres). As submitted earlier, the waterways with docks for boating, the stable and carriage house for the horse drawn carriages, the parking, and the irrigation lagoon are all intended as recreational amenities and accessory uses in support of the existing hotel and resort use long established for the Nawiliwili area. As such, approval for such uses can be reasonably supported and justified inasmuch as such uses are not inconsistent with the nature of uses connected (i) with "private open area types of recreational facilities" permitted in an Agricultural district under HRS § 205-4.5(a)(6) or (ii) with "open area recreational facilities" permitted in an Agricultural district under HRS § 205-2(4). And again, such uses are consistent with, and serve as enhancement to, the essential character of the Nawiliwili area that is hotel and resort.

The redesign of the existing 18-hole golf course would require that parts of the golf course extend into approximately 120 acres of land within the Agricultural district not currently in golf course use. Of the 310 acres in the special permit, 245 acres are proposed for golf course and related uses. Historically, golf course use has been recognized as a compatible use within an Agricultural district. The first nine holes of the existing 18-hole golf course were developed before the enactment of the land use laws. Under the then applicable regulatory processes, the first nine holes were permitted to be developed in the Agricultural district. The second nine holes were approved for development in the Agricultural district around 1970 under the special permit process.

In 1985, the land use law was amended to expressly allow golf courses and driving ranges as open area recreational facilities within the Agricultural district; provided that they are not located within Agricultural districts with a Class A or B rating under the Land Study Bureau's Detailed Land Classification. (See Act 298, SLH 1985) Despite the limitation of golf course use with respect to lands classified A or B, the legislature expressed its general findings on the compatibility of golf course use in the Agricultural district as follows:

"Under existing law, public and private open area types of recreational uses are permissible uses within the agricultural districts. Such open area types of recreational uses include daycamps, picnic grounds, parks and riding stables, but not dragstrips, airports, drive-in theaters, golf courses, golf driving ranges,

country clubs, and overnight camps. Inasmuch as golf course and golf driving range activities are primarily day-time recreational activities, do not generate noise, and do not require extensive permanent improvements on the land so as to render it irretrievably lost for future agricultural uses, the legislature [sic] finds that golf course and golf driving range activities are compatible recreational uses in an agricultural district. Certain counties have long recognized that a golf course use is a compatible and permitted use within an agricultural district." (Act 298, SLH 1985, Section 1)

The legislature's finding and acknowledgment that because of the nature of their uses, golf courses and golf driving ranges, of themselves, will not inherently violate nor strain the objectives of the land use laws would serve to support the appropriateness of approval of golf course use in the Agricultural district by special permit. In the wake of the legislature's finding that golf course and golf driving range activities are compatible recreational uses in an Agricultural district, it is submitted that the review by the county planning commission and the LUC of a special permit proposing golf course use in the Agricultural district be exercised in a manner most favored to coincide with the legislature's finding.

For the reasons stated above, the Petitioner respectfully requests that its special permit now before the LUC be approved.

DATED: Honolulu, Hawaii, September 22, 1986.

Respectfully submitted,

James T. Funaki.
James T. Funaki
Attorney for Petitioner
HEMMETER/VMS KAUAI COMPANY III

CERTIFICATE OF SERVICE

I hereby certify that due service of a copy of the
within Petitioner's Memorandum in Support of Special Permit was
made by depositing the same with the U.S. mail, postage
prepaid, on September 22, 1986, addressed to:

Avery H. Youn, Director
Department of Planning
County of Kauai
4280 Rice Street
Lihue, Kauai, Hawaii 96766

Planning Commission
County of Kauai
4280 Rice Street
Lihue, Kauai, Hawaii 96766

James T. Funaki
James T. Funaki
Attorney for Petitioner
HEMMETER/VMS KAUAI COMPANY III

1. HEMMETER-VMS KAUAI COMPANY I (hereinafter "Applicant") is the applicant for the permits sought herein. The Applicant owns certain portions of the Property and is the authorized agent for the owners of the remaining portions of the Property.
2. The Planning Department of the County of Kauai (hereinafter "Department") is the agency responsible for coordinating the review of applications for the types of permits sought herein and for preparing reports for the Commission's consideration concerning the approval of such permits.
3. Richard Block, Mountain Pacific Properties (a Colorado General Partnership), Kalapaki Cliff Properties (a Colorado General Partnership), and Jaya Resources, Inc. (a Colorado Corporation) (hereinafter collectively referred to as "Intervenor Block") are the owners of certain properties identified by Kauai Tax Map Key Nos. 3-5-02: parcels 18, 20, 21, 26, 28, 29, 32, 34, 37, 39, 40 and 41. These properties are part of a group of contiguous lots known as the Pali Kai Cottages, all of which are adjacent to the Property.

4. The Albert P. Ley Pension Trust (hereinafter "Intervenor Ley") is the owner of one of the Pali Kai Cottages, identified by Kauai Tax Map Key No. 3-5-02:33.
5. Beatrice Lovell (hereinafter "Intervenor Lovell") is the owner of certain property, identified by Kauai Tax Map Key No. 3-5-02:10, which is adjacent to the Property.
6. Carl Stepath (hereinafter "Intervenor Stepath") is the lessee, pursuant to a twenty-year lease, of certain property, owned by Patricia S. Rice and identified by Kauai Tax Map Key No. 3-5-02:12, which is adjacent to the Property.

PROCEDURAL MATTERS

7. The Applicant filed an application dated March 18, 1985 for a Project Development Use Permit, a Class IV Zoning Permit, a Special Permit, and an SMA Use Permit to develop the Property.
8. Hearings before the Commission in this matter were held on May 8, 1985 in Lihue, Kauai, Hawaii, pursuant to notice published in The Garden Island and Star Bulletin newspapers on April 17, 1985. Notice was also given to adjoining property owners in accordance with Ordinance No. 402 of the County of Kauai and Section 9.0 of the SMA Rules. At its May 8, 1985 meeting the Commission took testimony from all interested members of the public and at its May 28, 1985 meeting the Commission took testimony from the parties as part of the contested case proceedings in this matter.
9. By motion duly made and passed at its May 8, 1985 meeting, the Commission allowed Intervenor Block, Ley, Lovell and Stepath to participate as parties in this proceeding.

DESCRIPTION OF THE PROPERTY

10. The Property consists of approximately 213.514 acres identified by Kauai Tax Map Key Nos. 3-5-01: parcels 1, 27, 82 and 83 and 3-5-02: parcels 2 and 19, located in Nawiliwili, County and Island of Kauai, State of Hawaii. The Property is the site of the Kauai Surf Hotel, which consists of 553 hotel rooms, several restaurants and bars, a convention center, and other amenities, including tennis courts and an 18-hole golf course. Portions of the Property adjoin Kalapaki Beach and Nawiliwili Bay.
11. The Property is located within the State Land Use Agriculture and Urban Districts, is classified as Resort and Open by the Kauai General Plan Update Ordinance (Ordinance No. 461), and is zoned within the Resort-Residential District (RR-20), the Agriculture District (A) and the Open District (O) of the CZO. Portions of the Property are also within the SMA, as defined by the SMA Rules and the SMA maps incorporated therein, in particular SMA Map No. 4 for the Kapaa-Lihue area.
12. Portions of the Property are located within the V-19 and A-4 flood zones as shown on the Kauai County Flood Insurance Rate (hereinafter "FIRM") Map (Panel 202) and within the Coastal High Hazard (Tsunami) area shown on the Kauai County Floodway, Flood Boundary and Floodway (hereinafter "Floodway") Map (Panel 202), and as such are subject to the applicable provisions of the County's Drainage and Flood Control Ordinance (Ordinance No. 416, hereinafter the "Flood Control Ordinance").

PROPOSAL FOR DEVELOPMENT

13. The Applicant proposes to make the following improvements to the Property:

- a. Existing Hotel. Refurbish and/or upgrade all hotel rooms, elevators and lobby areas, and construct a new porte cochere (entry) area.
- b. Ten-Story Hotel Addition. Construct a new ten-story hotel building, approximately 88 feet tall at its highest point from ground elevation and setback 90 feet from the shoreline, containing approximately 240 rooms and 10 suites, and located east of the existing hotel and perpendicular to the beach.
- c. Three-Story Hotel Addition. Construct a new three-story hotel building, attached to, and in front of, the existing ten-story ocean hotel tower, 26 feet in height and setback ten feet from the shoreline, and containing approximately 43 rooms.
- d. Beach Villa Suite. Construct a new one-story structure, 25 feet tall and setback 40 feet from the shoreline, containing a single suite with kitchen facilities, and located on the eastern end of Kalapaki Beach below the Pali Kai Cottages. The Applicant proposes to design the roof of the Beach Villa Suite so that it will be visually unobstrusive when viewed from the Pali Kai Cottages.
- e. Convention Center. Construct a 20,000 square foot addition to the existing convention center and convert the existing ballroom (10,000 sq. ft.) into smaller, expandable meeting rooms.
- f. Restaurant And Bars. Demolish all existing restaurants and bars; convert the Golden Cape Room into a coffee shop and hospitality room; construct space below the proposed Outrigger Club for storage of canoes, and additional space for meetings and a bar; and construct six new restaurants, including a Japanese Restaurant (3,000 sq. ft.), a Carriage House Restaurant/Bar (8,300 sq. ft.), an Outrigger Club Restaurant/Bar (13,000 sq. ft.), a Poolside Bar/Grill (5,000 sq. ft.), an Inn #1 (3,000 sq. ft.) and an Inn #2 (2,800 sq. ft.).
- g. Health Spa and Recreational Center. Construct a new Health Spa facility (19,000 sq. ft.) with tennis and golf pro shops and a 1,600-seat tennis exhibition area.
- h. Tennis Courts. Upgrade five existing tennis courts and construct six new ones.
- i. Sound And Light Show. Construct a 1,200-seat amphitheater facility, with bar and restroom facilities, for a sound and light show featuring marble sculptures of Hawaiian royalty. The Applicant will consult with Hawaiian community groups regarding the content and appropriateness of the show.
- j. Carriage House. Construct a new facility for the proposed horse carriage operations, to also serve as the site for the new Carriage House Restaurant.
- k. Chapel. Construct a new 50-seat nondenominational chapel at the eastern end of Kalapaki Bay. The Applicant proposes to restrict

the hours and use of the Chapel to mitigate any adverse impact on the Pali Kai Cottages or other residences in the vicinity of the Property.

- l. Swimming Pool And Waterways. Construct a new swimming pool (31,000 sq. ft.) with fountain and waterfall, located in front of the existing ten-story hotel tower; construct new, lined waterways below the Carriage House and Convention Center.
 - m. Tramways And Walkways. Construct a new tramway connecting the new ten-story hotel to the Recreational Center; construct new covered walkways connecting all major structures, including the Sound and Light Show area.
 - n. Parking Area. Construct new parking areas to accommodate 1,000 cars and ten buses; which includes 20 stalls for the public in the beach access area near the eastern end of Kalapaki Beach and five stalls for fishermen along the road easement near Kukii Point.
 - o. Heliport. Construct a single new helipad for the Applicant's private use and relocate an existing helipad as a "grandfathered" (nonconforming) use by Jack Harter Helicopters, but only until such time as that use is abandoned.
 - p. Horse Stables. Construct horse stables and related facilities which are permitted uses within the Open Zone, at the north-western end of the Property and pursuant to all Health Department requirements.
 - q. Carriage Pathways. Construct approximately three miles of pathways for the horse drawn carriages, together with landscaped berms and median strips; construct a service access and carriage path from the road easement along the eastern end of Nawiliwili Harbor to one of the Inns.
 - r. Landscaping And Boardwalk. Install and improve landscaping through the development; construct a 20-foot wide boardwalk along Kalapaki Beach from the single story beach suite to the Outrigger Club, outside of the 40-foot shoreline setback area; construct an extension of the boardwalk to the Nawiliwili Beach Park parking lot if property owners' consent and governmental approvals can be obtained.
 - s. Access And Roadways. Construct a new entrance from Rice Street to the hotel; construct a new service access road to the inns and restaurants located along the northeastern end of the Property and within the golf course; provide a public pedestrian shoreline access along the eastern end of Kalapaki Beach; provide vehicular access through the road easement to the cul-de-sac near Kukii Point. The Applicant proposes to relocate the existing vehicular road easement to the Pali Kai Cottages with one of equal or better design.
14. The total number of new hotel rooms to be constructed is approximately 294, which when added to the 553 existing hotel rooms will make a total of 847 hotel rooms for the entire Property upon completion of the proposed improvements.
15. The Applicant proposes to locate all proposed development to meet the setback requirements of the CZO and the Shoreline Setback Rules and Regulations of the County of Kauai (hereinafter "Shoreline Setback Rules").

REQUIRED PERMITS

16. A Project Development Use Permit is necessary since the Applicant proposes a project that involves comprehensive site planning and design productive of optimum adaptation of development of a significant land area and requires diversification in the relationship of various uses, buildings, building heights, streets and parking areas in the planning and design of the requested use facilities. This permit must conform to the standards and provisions contained in the Project Development section of the CZO (RCO Article 17).
17. A Class IV Zoning Permit is necessary as a procedural requirement for the issuance of a Project Development Use Permit (RCO S8-17.5). This permit must conform to the standards and provisions contained in the Zoning Permits section of the CZO (RCO Article 18).
18. An SMA Use Permit is necessary since portions of the Property, and the proposed development thereof, are located within the SMA, and the costs of such proposed development exceeds \$65,000. This permit must conform to the standards and provisions contained in the SMA Rules.
19. A Special Permit is necessary since portions of the Property, and the proposed development and uses thereof, are located within the State Land Use Agriculture District, and such development and uses are not generally permitted in the Agriculture District. This permit must conform to the standards and provisions of Part V of the SLUD Regulations.

PLANNING DEPARTMENT COMMENTS AND CONSIDERATIONS

20. Project Development Use Permit and Class IV Zoning Permit.
 - a. The proposed ten-story structure exceeds the four-story height limitation as reflected by the CZO (RCO S8-3.7(b) (2)). However, special consideration of this proposal is warranted based on two unique characteristics of the site that do not exist for any other Resort-zoned properties on Kauai: the surrounding topography; and the presence on the Property of two existing ten-story structures. In reviewing all resort zoned areas for Kauai, the subject site is unique since it is the only area where, due to the bluffs surrounding the site, a structure that exceeds the height limitation can be constructed without causing adverse visual impacts to the surrounding community. The resort districts in Poipu, Wailua, and Hanamaulu are located on coastal flat lands, with Princeville on bluffs; these have no outstanding geographical features in which to satisfactorily screen or surround a ten-story structure. A ten-story building in these other areas would be contrary to the intent and purpose of the four-story height limit for Kauai and would definitely result in adverse visual impacts to the environment. In this case, however, the construction of a third ten-story building on the site would not create substantial adverse visual impacts on the Property or to the surrounding area. The proposed perpendicular orientation of the structure to the beach also does much in reducing the visual mass when viewed from Kalapaki Beach and Bay, more so than the existing ten-story buildings. A precedence will not be created for future requests to exceed the four-story building height restriction in the Resort districts should this request be approved due to the special circumstances that exist at this location.

In evaluating this site, the portion that is zoned RR-20 and most suited for hotel expansion is the limited grassed area between the existing Japanese Garden and Kalapaki Beach. With the exception of the three story wing to be built makai of the oldest ten (10) story structure, to develop at any other location on the site would not afford best possible views and would interfere with existing viewplanes also. The development of four (4) story structures within the grassed area would appear more congested, would not take advantage of the spectacular view offered by Kalapaki Beach, and would interfere with the water amenities offered by the developer. A ten (10) story tower properly located in the lower portion of the site, would reduce congestion, would allow for additional landscaping, and would provide an area for the Applicant to develop an elaborate pool, fountain and spa facility that would definitely be a recreational asset to this project.

- b. The development of other uses within the Agriculture and Open zones were reviewed in terms of compatibility to existing and neighboring uses, and impact to public health, safety and welfare.
- 1) The two inns, (Inn #1 located in the Agriculture zone and Inn #2 in the Open zone) although commercial in nature, can be considered accessory to the resort use and functional to its operation. Because of its isolated locations, no adverse visual or noise impacts are anticipated. Its location with the golf course will not involve removing any lands from agricultural production.
 - 2) The chapel, is an added amenity and not a necessary function for the hotel operation. Because of its prominent location and serene setting, a proper shoreline setback should be established and the use itself could be compatible to the adjacent cliff cottages since a small chapel as proposed should not generate noise or heavy traffic. Additional parking stalls will be provided for the chapel. Its design however, should attempt to use local building materials such as lava or moss rock, such that it can be visually compatible to its surroundings. If usage is kept to a small scale, it could be considered an appropriate use in the Open zone.
 - 3) The private heliport, to include two helipads, is for the purpose of relocating the existing helicopter operation on the site and to accommodate the Applicant's private helicopter. The new location is approximately the same distance away from existing residences as the former heliport site, and even further away from the hotel rooms. Because the use is not being expanded to include other helicopter companies, no additional impacts to adjoining neighbors are anticipated as a result of relocating the heliport. The heliport can be allowed in the Open zone only if negative impacts, especially noise, do not create nuisances to neighboring residences. Should surrounding properties become developed whereby noise from helicopter landings and take-offs become a nuisance to neighboring residences, the Planning Commission should reserve the right to revoke the Use Permit and have the heliport operations cease or be relocated.
 - 4) The sound and light show is also situated at an isolated location and functions more as an outdoor recreation amenity. There are no residences or guest rooms nearby so

the sound and lights should not generate negative impacts from adjoining property owners. Although separate parking requirements were made for this facility, it is anticipated that the majority of viewers will be from the hotel, thereby lessening the need for more parking. As raised by the Health Department, no sewage effluent should flow into the lake for this facility.

- 5) The pro shop, spa, restaurant and bar facility will replace the existing pro shop and snack shop. The proposed use is compatible to the existing golf course and tennis court facilities. The spa is also a recreation-oriented facility which would be compatible to the existing uses. The proposed uses can be considered as accessory uses to a major recreational function and therefore is appropriate for development within the Open zone.
- 6) The carriage pathways within the Open zone can be permitted since it will function as a connector to the various resort-oriented uses. It can be considered as an accessory use however it does have a main function, which is to link different components and activities together in order to unify the overall resort operation.
- 7) The new parking area, to include 1,000 stalls will be necessary to accommodate the hotel expansion and further relieve the shortage of parking spaces that prevails at present facility. The utilization of the Open zone for parking purposes is warranted since the Applicant is adding significant landscaped areas and lagoons in the RR-20 zone. From a design standpoint, it enhances the project, whereby the open area lost as a result of the parking lot is now replaced by extensive landscaping and water amenities.

The CZO parking requirements for the new improvements proposed are 899 stalls (RCO SS8-4.5(b) and 8-5.5(e)). The Applicant's provision of 1,000 parking stalls is an improvement over the approximately 390 existing parking stalls serving the present hotel. However, since the existing hotel has such a parking problem, the additional stalls provided should be utilized to make up the present deficiency, and no parking credits should be given to allow additional development on the property. The Commission should reserve the right to require additional parking stalls should parking again become a problem after the hotel becomes operational. In addition, the Applicant should provide as many parking stalls over the 1,000 figure as possible and future parking areas should be reserved and plotted on the site plan in order to accommodate future parking if required.

- 8) A portion of the new convention center appears to fall in the Open zone and straddle a property line. As in the previous cases, the convention facilities are accessory to the main hotel use and should be allowed. From an overall design standpoint, expansion of the existing convention center would be most logical and functional if constructed towards the Open zone. Straddling of the property line can be resolved through consolidation of adjoining lots or through a joint development agreement as per (RCO) Art. 17, Sec. 8-17.6.

- 9) The Carriage House Museum, Restaurant and Bar falls partially in the Open zone, and will be used to store carriages and serve as a guest boarding area. The museum, restaurant and bar portion appears to fall primarily within the Resort zone. Since the storage of carriages and boarding of guests are accessory uses, its use in this case can be considered in the Open zone. The location of the carriage house is situated on a knoll which presently screens the existing ten-story towers. Because the knoll effectively shields the development and reduces its visual impact, the carriage house would have to be relocated slightly to accommodate this objective.
- c. Although all of the above uses fall in the Agriculture and Open zones, the General Plan designation for the area involved is "Resort." Under that designation, such uses are permitted, however, before the zoning can be brought into conformity, a land use change from "Agriculture" to "Urban" must first be secured. Should this application be approved, such a change should be required so that the zoning can be brought into conformity with the uses established through the Project Development Use Permit.
21. Special Management Area Use Permit.
- a. With the exception of Inn #1, the entire project is located within the Special Management Area (SMA). The proposed development will not encroach into the 40-foot shoreline setback area, will not adversely affect ocean dependent resources, will improve beach access and public parking areas, will improve upland drainage and waterways which will help restoration of nearshore coastal waters, will not affect historical or archeological resources or disrupt coastal ecosystems, makes provisions for solid and liquid waste treatment and/or disposal in order to minimize any potential for degradation of the coastal resources, and will not reduce existing public rights to beaches, shoreline, streams, or similar tidal areas over what presently exists.
- b. As reflected on the plans submitted, it appears that certain structures proposed by the Applicant may adversely affect the quality of the coastal scenic and open space resources and/or the existing recreational resources of the site unless the following mitigative measures are taken:
- 1) Ten-story building. This structure as proposed presents additional building mass upon Kalapaki Beach and could adversely affect the view planes from the first Pali Kai Cottage. In order to preserve the scenic and open space resources of this beach, the structure should be setback a minimum of 100 feet from the certified shoreline. Such a modification will lessen the visual impact of the building as seen from the beach, while also preserving a reasonable view of the ocean from the first Pali Kai cottage, which is most directly affected. The 100 feet setback line follows the intent of the Open zone strip along Kalapaki Bay, which was originally established at 100 feet also.

Presently, the two existing ten-story towers are shielded by knolls when viewed from Rice Street. Should a third 10-story tower be allowed, it would also be shielded and, therefore, it is important that these knolls be preserved. As discussed

previously in Sec. 20 b.9, (carriage house) preservation of the knoll requires shifting the location of the carriage house.

In comparison to the two existing towers, the third structure proposed is 33 ft. and 13 ft. lower respectively, in overall height, which tops off at elevation 101 feet above mean sea level. It should, therefore, have a lesser impact when viewed from Rice Street.

- 2) Inn #2. The site of the inn is presently utilized by night fisherman. The inn should be relocated further mauka on the golf course in order to minimize lighting and noise impacts to the fishing activities of the area.
- 3) Chapel. As previously mentioned, because the chapel is located on a prominent point, its architectural style and the building materials proposed should be subdued in order not to contrast with the environment. The use of lava or moss rock for the exterior would better reflect the character of the area and would be more visually compatible to the site. Since its location may also affect an existing access to fishing areas, an alternate pathway should also be provided in a location acceptable to the Planning Department.
- 4) Beach Suite. As proposed, the beach suite would be 25 feet high and setback 40 feet from the certified shoreline. In plotting the Open zone line onto the site plan, it was discovered that the beach suite was situated entirely within the Open zone. As such, resort uses are not permitted within the Open zone and the beach suite would have to be re-sited out of the Open and into the Resort (RR-20) zone. Such a suite could be permitted only if it's considered and designed as a single family residence, a permitted use in the Open zone. The Open zone strip, however, was established as a buffer zone between resort uses and the ocean and could accommodate accessory uses such as swimming pools, beach concessions, pavilions, etc. Should a residence instead of a beach suite be desired in the open zone, strict design criteria would have to be adhered to which would include but not be limited to the following:
 - a. height restriction and utilization of a low profile roof, not to exceed 25 feet;
 - b. conformance with all building and shoreline setbacks measured from the exterior wall including decks;
 - c. use of earth tone colors;
 - d. type of building materials used;
 - e. landscaping; and
 - f. design review and approval.
- c. Prior architectural design review and approval, and the staking out of the building sites for the above improvements, as well as all other proposed improvements abutting the shoreline (including the boardwalk and Outrigger Restaurant), is essential in assuring that those improvements are architecturally compatible,

unobtrusive and properly located. The architectural design review and approval, and the staking out of the building sites, should occur prior to building permit approval.

- d. The extensive landscaping proposed for the project will improve the quality of the coastal scenic and open spaces of the site. A landscaping masterplan, subject to prior review and approval, should also be required.
- e. The three existing beach accesses located at Kukii Point, the north end of Kalapaki Bay and adjacent to Nawiliwili stream, will be maintained for public use and parking stalls near Kukii Point and near the eastern end of Kalapaki Beach will be provided.
- f. Since the hotel site sits in a natural drainage channel, it would be subject to occasional flooding, which would definitely affect the lagoons at the Japanese gardens, the swimming pool area and the turbidity of Kalapaki Bay. In addition to compliance with flood requirements, the applicant intends to revamp the drainage system to handle storm flows and to build a lake which will be part of the sound and light show and also serve as a settling basin which may improve the water quality of Kalapaki Bay.

22. Special Permit.

- a. The requested uses will not be contrary to the Land Use Law since the land in question is either vacant and uncultivated, or used as part of the Kauai Surf golf course. No active agricultural production will be displaced or curtailed since options for continued agricultural use were foreclosed when the golf course use was established, or by topographic constraints such as gulches and drainageways.
- b. The proposed activities will not generate adverse noise, odors, or emissions which will significantly impact the surrounding properties. The activities proposed are low intensity in nature.
- c. The requested uses will not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage and school improvements, or police and fire protection. All public service functions are available, and where they are not, appropriate upgrades and improvements will be made by the Applicant, as required by the affected government agencies.
- d. Unusual conditions, trends, and needs have arisen since the district boundaries and regulations were established. The proposed uses and improvements are in response to trends and needs within the community and the visitor industry to provide visitors with experiences that are unique and make optimum use of existing and available resources. The passive use of the subject property for the uses requested (i.e. carriage trails, inns accessible by carriages, etc.) is a different and unique approach as compared to the traditional development of resort areas which emphasize only beach-oriented activities. The requested uses are an extension of the primary hotel/resort function of the Property, and functionally more a part of that than an agricultural activity.
- e. The land upon which the proposed use is sought is unsuited for the purposes permitted within the Agricultural district due to the existence of the golf course, golf pro shop, snack bar and tennis courts already on the site.

- f. The proposed resort related uses in the Agriculture District do not require an area exceeding 15 acres and consist of the following items: parking area (300,000 sq. ft.); the Sound and Light amphitheater; the two inns; one heliport; stable and carriage facilities; the new access road; the Health Spa and Recreational Center; and the carriage paths and landscaping.

STATE AND COUNTY AGENCIES' COMMENTS AND CONSIDERATIONS

- 23. The Department of Public Works of the County of Kauai (hereinafter "Public Works") has made the following comments:
 - a. The proposed stable appears to occupy the old railroad easement which also serves as a sewer easement for a proposed County sewer line from the Nawiliwili area to the Kauai Surf Sewage Pump Station. The proposed stable is also in the way of Menehune Village's proposed force main.
 - b. The proposed layout appears to delete the present roadway that abuts the County's Kauai Surf Sewage Pump Station. Vehicular access to the front side of the pump station must be kept intact.
 - c. The new main entrance in the vicinity of the present Nilson's baseyard will render the present County owned access roadway to Kauai Surf useless.
 - d. The present force main that leads from the Kauai Surf Sewage Pump Station to the County's Lihue Sewage Treatment Plant runs along the service road just mauka of the convention center. The force main should be protected from damage during the construction of the new roadways and parking areas.
 - e. County records show that Kauai Surf Hotel to date has paid a sewer assessment that covers only the existing facilities. The proposed room additions will require an additional assessment of \$200/unit.
 - f. There are several watercourses which naturally drain into the Kauai Surf site. The Applicant's proposed lakes and dam appear to be situated in these watercourses. The Applicant must design and construct the dam to insure its stability. Further, although the dam may retard storm waters in the watercourse, there should be downstream channel improvements to handle the storm flowage from the drainage watershed area.
 - g. The proposed renovation appears to involve extensive grading work, which will require a grading permit.
 - h. The subject Property is within the high coastal hazard flood zone (tsunami). The FIRM Map shows a portion of the Property to be within the V-19 and A-4 flood zone. The flood elevation in these zones vary from elevation 7 to 9 feet above mean sea level. It appears from the site plan that some of the new structures, such as the Outrigger Club, three-story hotel, ten-story hotel and possibly the chapel and Inn #2, would fall in the tsunami zone. The shoreline survey map provides existing ground elevation which, if based upon mean sea level, indicates that some of the structures will be sited on ground that is higher than the flood elevation. If this is the case, there would be no flood requirements. Otherwise, the Applicant will need to conform to the requirements of the Flood Control Ordinance before obtaining a building permit. Some of the more pertinent requirements are

that no fills are allowed and the lowest beam supporting the floor must be elevated above the flood levels in the high coastal hazard flood zone.

24. The Department of Water of the County of Kauai (hereinafter "Water Department") has no objections to the requested Zoning, Project Development Use, Special and SMA Use Permits, provided that no building permit be granted until:
 - a. The Applicant prepares and receives the Water Department's approval of construction drawings for necessary water system facilities and either constructs said facilities or posts a performance bond. These facilities shall include:
 - 1) An extension of a main, 12 inches in diameter, approximately 1,000 feet in length, beginning at the existing 12-inch waterline at the intersection of Waapa Road and Rice Street to the proposed entrance of the hotel.
 - 2) The installation of an on-site fireline service connection.
 - 3) The installation of an appropriate backflow prevention device, including manifold, at the existing meters or at the new meters.
 - b. The Applicant understands and agrees that approval of any requests for additional water meters or increase in meter size will be dependent on the adequacy of the source, storage and transmission facilities existing at that time.
 - c. The Applicant pays the Facilities Reserve Charge. Said payment will be the current charges at the time of receipt. At the present time, these charges are: 290 units at \$420 per unit or \$121,800.
25. The Fire Department of the County of Kauai (hereinafter "Fire Department") is concerned with providing fire protection for the proposed complex as submitted, but has no objections to the proposed permit application provided that:
 - a. The Applicant installs a complete automatic fire sprinkler system for the entire complex.
 - b. Access lanes to all structures and buildings have a minimum clearance of at least 20 feet width.
 - c. The Applicant provides water lines and fire hydrants in accordance with Water Department standards within 250 feet of all sections of the buildings and structures being protected.
 - d. All Fire Department connections, including automatic fire sprinkler supply connections, are located within 50 feet of a fire hydrant.
 - e. The Fire Department is consulted before any final drawings are completed to insure compliance with the County Fire Code and installation of the best fire protection for this complex.
26. The Department of Health of the State of Hawaii (hereinafter "DOH") has stated the following:

- a. The existing conditions and activities and some of the proposed activities outlined in the Applicant's plans will have a significant environmental health impact on the project. The Applicant shall be informed of these conditions and activities and they should be considered in the development plans.
- b. The Kauai Surf is located near, and down wind of, sugar cane fields farmed by The Lihue Plantation Company ("LPCo."). These fields, and the cultivation operations carried out in these fields, are sources of smoke, dust, odor, mosquito and noise nuisances. In addition, odor nuisances may emanate from the ditch transporting recycled mill wastewater.
- c. The Kauai Surf is located near the Lihue Airport and will be affected by noise from aircraft operations.
- d. The Kauai Surf is located near the County of Kauai's Lihue Sewage Treatment Plant which may be a source of odor nuisances.
- e. The Kauai Surf is located next to Kalapaki Beach in Nawiliwili Bay. Water sampling for bacterial quality has shown that the water at Kalapaki may exceed the specific criteria for recreational areas in that the fecal coliform levels frequently exceed the established limit. The sources of this bacterial contamination include the discharges to the beach from Nawiliwili Stream and the lagoon located on the Kauai Surf property. The lagoon receives water from several sources. The Applicant should implement all possible measures to abate this discharge or to prevent bacterial contamination which may occur within his Property.
- f. A drain in the vicinity of the existing dining room discharges to Kalapaki Beach. This unauthorized discharge must be abated.
- g. The Kauai Surf golf course is irrigated in part utilizing effluent from the Lihue sewage treatment plant. The Applicant should provide appropriate warning signs and access control for open reservoirs, ponds or water features which may contain sewage treatment plant effluent. Any hose bibs or piping of water systems utilizing sewage treatment plant effluent shall be clearly marked as required by Department of Health Administrative rules. Sewage treatment plant effluent shall not be discharged to the coastal water or to the drainage systems.
- h. The new lake for the light and sound show appears to be located at the site of the present irrigation reservoir. The present reservoir receives effluent from the Lihue sewage treatment plant. The new drainage system appears to begin at the new lake. Effluent shall not be discharged into the drainage system. If effluent is to be used in the lake, workers and spectators cannot be exposed to the water or to aerosols from fountains, sprays or other water features.
- i. The new lagoon to be located in the present parking lot should not drain or discharge into the drainage system or into the Kalapaki Beach area or Nawiliwili Bay.
- j. The LPCo.'s lower Lihue field near the Kauai Surf Hotel has been a source of mosquito nuisance for a number of years. Waste water from the LPCo.'s cane wash and mill operations, which is discharged into the lower Lihue cane fields and ditches for irrigation, periodically floods in these areas, creating a

condition favorable for breeding of the night mosquitoes. Flooding results because the land area is inadequate to handle the amount of waste water being discharged and to a lesser extent, the management of the irrigation water has been inadequate. The recurring mosquito nuisance has caused problems to the Kauai Surf Hotel. Although LPCo. has made major improvement to minimize the problem and the mosquito population has been decreased, the hotel will continue to be affected by the night-biting mosquitoes. Especially affected will be night activities, such as the proposed open-air sound and light show and restaurants in the golf course area.

- k. To prevent fly problems, the proposed stables must be adequately cleaned and maintained, and manure droppings from the horses along the carriage paths shall be adequately removed.
 - l. The proposed project must meet all applicable rules of Title II, Administrative Rules and Public Health Regulations, Department of Health.
 - m. Effective soil erosion and dust control measures must be provided by the Applicant during all phases of construction.
 - n. Grubbed materials and debris resulting from grading, landclearing and demolition must be disposed at an approved site. Open burning of the materials will be prohibited.
 - o. Due to the general nature of the plans submitted, DOH reserves the right to impose further environmental health restrictions on this project when more detailed plans are submitted.
27. The Highways Division of the State Department of Transportation (hereinafter "DOT") has stated the following:
- a. DOT has no objections to the proposed permits.
 - b. DOT wishes to review all construction plans to insure that: there will be no additional water run-off into Rice Street; that the intersection of the project's access road and Rice Street will be improved with left-turn lanes, right-turn lanes, and acceleration and deceleration lanes; and that there will be only one access from the project onto Rice Street.

INTERVENORS' CONCERNS

28. The Pali Kai Cottages do not have direct access onto a public roadway. The present legal access to these lots is designated Easements "F" and "G" on the appropriate Land Court documents. These easements provide for ingress, egress and utilities over a portion of the Property. The Applicant's proposed development would block portions of these easements. The Applicant proposes to provide an alternate access easement.
29. The Pali Kai Cottages presently obtain electric, telephone, water, sewer and trash collection services pursuant to an agreement executed between them and the former owner of the Property, Interisland Resorts, Ltd. If this arrangement is not continued, then the Pali Kai Cottages owners might be forced to install separate utilities in their easements in order to provide electric, telephone, water and sewer services to their properties.

30. Intervenor Block was also concerned with: the visual and noise impacts, and the intrusion into privacy, that the new ten-story hotel, the Chapel, the Beach Villa Suite and the Tramway will have on his properties, in particular the parcel designated by Kauai Tax Map Key No. 3-5-02:41; the noise impact created by buses using the road easement adjacent to the Pali Kai Cottages; and the adverse effect on the shoreline should any of the proposed development intrude into the 40-foot shoreline setback area.
31. Intervenor Ley was also concerned with: maintaining the four-story height limitation for the new hotel because of the visual impacts that the new ten-story hotel would have on the area in general and his property in particular; the location of certain proposed developments on his access easement; the potential for health hazards posed by the horse drawn carriage operations and the stables; the noise impact of helicopter operations; and the location of the Beach Villa Suite in an area presently used by local beachgoers.
32. Intervenor Lovell and Stepath were concerned with the boundary line of the Property in relation to their properties, and in preserving the public beach access easement which begins in the vicinity of their properties and runs across the Property to the beach.

PLANNING DEPARTMENT'S RESPONSE TO INTERVENORS' CONCERNS

33. Pali Kai Cottages Access and Utility Easement. The concern issued by the intervenor is valid since the proposed ten-story tower and other improvements will block the existing access and utility easement. Although the cottage owners also have a separate sewer easement, it is not an independent system but is connected to the system for the hotel. The water service is also fed from the hotel system and approval is needed from the Applicant should the cottage owners desire to continue having their water and sewer services tapping into the hotel system. Should approval not be given, then the cottage owners would have to provide their own water transmission and sewer lines.

On the same token, approval is needed from the cottage owners for the applicant to relocate the access and utility easement. The alternate access provided, in staff's review is an improvement over the existing since it provides more direct access to the cottages by bypassing the hotel operations. A situation exists here where both parties can mutually benefit from the relocation of the easement. Should consent be given by both parties, the cottage owners can enjoy a better access road and continued water and sewer services, and the applicant would be able to develop on the existing easement.

34. Visual Impact. The most critical impact will be the view that would be obstructed by the proposed ten-story tower, especially from the first Pali Kai cottage (TMK: 3-5-02: 41). As previously discussed in Sec. 21 b.1, setting back the tower 100 feet from the shoreline would improve the situation in that a complete ocean view will be afforded with the harbor and Kipu mountain range beyond. The ten-story tower would block the inland view, which basically consists of the hotel grounds. As such, a reasonable view is still afforded to the first Pali Kai cottage. The other lots or cottages will not have their views seriously affected by the tower. Should any mechanical equipment be located on the roof of the tower, it should be screened for aesthetic purposes.

Because the Pali Kai cottages are situated at elevations 75-80 feet above mean sea level, the views will not be seriously affected by the

beach suite, its highest point being proposed at 40 feet above mean sea level. Should the beach suite comply with specific design criteria, to control height, color, materials, setback, etc., it could be constructed to be compatible with the above Pali Kai cottages.

35. Noise Impacts. Noise created by buses using the access easement fronting the Pali Kai cottages can be easily mitigated by not allowing buses to enter that portion of the easement serving the cottages. Noise from the tramway can also be mitigated by design of the tramway itself by soundproofing the mechanical equipment rooms and utilizing rubberized track wheels.

The noise from the heliport should not generate additional impacts since the existing operation will not be increased, the flight patterns will not be changed, and the new heliport location is slightly further away from the cottages than the existing one.

36. Preserving of Public Beach Access. The Applicant has assured that all public beach access easements will be preserved, including that which is situated adjacent to intervenor Lovell and Stepath's property.

37. Ownership of Property. Intervenor Lovell's claim that they may have an interest in TMK: 3-5-02: por. 2, where the outrigger club is proposed. Because their claim may only be a fractional interest, the Applicant, who has the controlling interest still has a right to apply. In questioning their attorney, resolution of the ownership question can be resolved independent of this application.

38. Other Concerns. It was felt that the placement of a chapel at Kukii Point would increase usage of the easement fronting the cottages and bring more noise and traffic to the area. Such a statement would be true, however, the chapel will be small, low-keyed, and used only intermittently, and should generate additional traffic only on occasion. The applicant will further improve the access way by providing additional parking, which will be of primary benefit to the cottage owners.

The health hazards posed by the horse drawn carriages can be mitigated through monitoring by the Health Department and through proper maintenance by the hotel operator.

STANDARDS FOR ISSUANCE OF PERMITS

Project Development Use Permit.

39. The Applicant has submitted a general development plan that satisfies the requirements of RCO S8-17.4(a).
40. The Applicant can and will substantially commence construction of the project within one year of approval and complete it within the Applicant's development schedule, all in accordance with RCO S8-17.4(b).
41. The Applicant's proposed project development substantially conforms to the Kauai General Plan Update Ordinance as required by RCO S8-17.4(c).

42. The Applicant's project, if developed in accordance to the conditions imposed herein, will create an environment of sustained desirability and stability, can be compatible with the character of the surrounding neighborhood, and will not result in an intensity of land coverage and density of dwelling units higher than permitted in the Agriculture, Open and Resort Zoning Districts, all in accordance with RCO S8-17.4(d).
43. The Applicant's project will be a harmonious and integrated whole and the proposed arrangements and uses justify the applications of regulations and requirements differing from those ordinarily applicable in the Agriculture, Open and Resort Zoned Districts, all in accordance with RCO S8-17.4(g).

Class IV Zoning Permit.

44. The Applicant has met the procedural requirements contained in RCO S8-18.6 in that: a proper application has been filed with the payment of appropriate fees; the Planning Director has determined that the project, if developed in accordance with the conditions placed upon it, can conform to the applicable CZO standards; the application has been referred to the appropriate governmental agencies for comment or approval; and a public hearing, subject to the appropriate notice requirements, has been held in this matter.

SMA Permit.

45. The development of the Property in accordance with the conditions contained herein can conform to the requirements of Section 4B of the SMA Rules in that:
 - a. It will not have any substantial adverse environmental or ecological effect. Any adverse environmental or ecological effect that may result will be minimized to the extent practicable and is clearly outweighed by public health, safety and welfare, and other compelling public interests. The development of the Property will not have adverse effects by itself or in conjunction with other individual developments, the potential cumulative impacts of which would result in a substantial adverse environmental or ecological effect and the elimination of planning options.
 - b. It is consistent with: the objectives and policies contained in HRS Chapter 205-A; the objectives and policies contained in Section 3 of the SMA Rules; and the SMA guidelines contained in Section 4.0 of the SMA Rules.
 - c. It is consistent with the Kauai General Plan Update Ordinance and CZO.

Special Permit.

46. The proposed development and use of the Property in accordance with the conditions imposed herein conforms to the requirements of Part V of the SLUD Regulations in that:
 - a. The proposed use will not be contrary to the objectives sought to be accomplished by the Land Use Law and Regulations.
 - b. The proposed use will not adversely affect surrounding property.

- c. The proposed use will not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage and school improvements, and police and fire protection.
- d. Unusual conditions, trends and needs have arisen since the district boundaries and regulations were established.
- e. The portions of the Property upon which the proposed use is sought are unsuited for agriculture use.

RULINGS ON EVIDENCE

- 47. For the purposes of this proceeding the Commission takes judicial notice of: the entire contents of the Department files for PDU-28-85, SMA(U)-85-3, SP-85-5, and Z-IV-85-35; the CZO; the Kauai General Plan Update Ordinance; the SMA Rules (including SMA Map No. 4); the Flood Control Ordinance (including Panels 202 of the FIRM and Floodway Maps); Title 11, Administrative Rules and Public Health Regulations, DOH; and the SLUD Regulations.
- 48. The Commission accepts for the record all of the documents offered by the parties at the hearings held herein.

RULINGS ON PROPOSED FINDINGS

- 49. Any of the proposed findings of fact submitted by any other party to this proceeding not already ruled upon by the Commission by adoption herein, or rejected by clearly contrary findings of fact herein, are hereby denied and rejected.

CONCLUSIONS OF LAW

The Commission finds upon the clear preponderance of the evidence that, subject to the conditions imposed herein, the Applicant's application for a Project Development Use Permit, a Class IV Zoning Permit, an SMA Use Permit and a Special Permit satisfies all of the legal requirements contained in the CZO, the SMA Rules and the SLUD Regulations.

DECISION AND ORDER

IT IS HEREBY ORDERED that the application by HEMMETER-VMS KAUAI COMPANY I for the Project Development Use Permit, a Class IV Zoning Permit, an SMA Use Permit and a Special Permit to develop approximately 213.514 acres of land identified by Kauai Tax Map Key Nos. 3-5-01: parcels 1, 27, 82 and 83 and 3-5-02: parcels 2 and 19, located in Nawiliwili, County and Island of Kauai, State of Hawaii, is approved; subject, however, to the following conditions:

- 1. As recommended by the Water Department:
 - a. The Applicant shall prepare and receive Department of Water's approval of construction drawings for necessary water systems facilities and either construct said facilities or post a performance bond therefore. These facilities shall include:
 - 1) An extension of a main, 12 inches in diameter and approximately 1,000 feet in length, beginning at the existing 12-inch waterline at the intersection of Waapa and Lala Roads, and running north along Waapa Road and Rice Street, to the proposed entrance of the hotel.

- 2) The on-site fireline service connection.
 - 3) The appropriate backflow prevention device, including manifold, at the existing meters or at the new meters.
 - b. The Applicant understands and agrees that approval of any requests for additional water meters or increase in meter size will be dependent on the adequacy of the source, storage and transmission facilities existing at that time.
 - c. The Applicant shall pay a Facilities Reserve Charge. Said payment will be the current charges at the time of receipt. At the present time, these charges are: 290 units at \$420/unit or \$121,800.
2. As recommended by the State Highways Divisions, the construction plans shall provide that the development:
- a. Will produce no additional run-off into Rice Street; and
 - b. Will have only one access to the Property from Rice Street, with left-turn lanes, right-turn lanes, acceleration and deceleration lanes.
3. As recommended by the Fire Department:
- a. The Applicant shall provide a complete automatic fire sprinkler system for the entire complex.
 - b. Access lanes to structures and buildings shall have a minimum clearance of at least 20-foot width.
 - c. The Applicant shall provide water lines and fire hydrants in accordance with Water Department standards within 250 feet of all sections of the buildings being protected.
 - d. All Fire Department connections, including automatic fire sprinkler supply connections, shall be located within 50 feet of a fire hydrant.
 - e. The Fire Department shall be consulted before any final drawings are completed to ensure compliance with the County Fire Code and installation of the best fire protection for this project.
4. The following conditions be resolved with the Public Works Department:
- a. Vehicular access to the front side of Kauai Surf Sewage Pump Station shall be kept intact.
 - b. The present force main that leads from the Kauai Surf Sewage Pump Station to the Lihue STP shall be protected from damage during the construction of the new roadways and parking areas.
 - c. Applicant shall pay the necessary sewer assessment of \$200/unit.
 - d. A grading permit shall be required.
 - e. All construction must conform to the requirements of the Flood Control Ordinance.

f. The proposed stable shall be relocated so that it will not straddle the sewer easement for the proposed sewer line from the Nawiliwili area and the Menehune Village's force main.

5. The Applicant shall provide drainage improvements for the project. These drainage facilities shall be designed to accommodate the existing and future storm flowage from the drainage watershed areas on and above the Property in accordance with the standards and requirements imposed by Public Works.

6. The Applicant shall resolve the comments and concerns of the State Health Department as submitted which addresses drainage, water quality, effluent disposal, mosquito nuisances, fly problems and manure droppings from horses along the carriage path. The project shall comply with all State Health Department rules and regulations.

7. The number of helicopter landing pads shall be reduced to two (2): One for use by Jack Harter Helicopters and one for the Applicant's private use. At such time as Jack Harter Helicopters relocates its operations, the existing helicopter landing site shall be abandoned.

8. Payment of an Environmental Impact Assessment Fee, as required by County Ordinance No. 396, shall be resolved at time of building permit approval. The fee is based on \$1,000 per new hotel unit plus \$100 per minimum number of additional stalls required for new commercial uses.

9. The Applicant shall submit schematic design plans for the Planning Department's review and approval for each new or renovated structure prior to applying for building permits for each such structure.

10. The beach suite if operated as a hotel room, shall not be located within the Open zone. Should it be constructed and be used only as a single family residence, it shall comply with the following:

a. meet all building and shoreline setback requirements;

b. color samples and building materials shall be reviewed and approved by the Planning Commission;

c. a maximum height of 25 feet measured from grade to top of roof, shall not be exceeded;

d. The roof shall be designed to be aesthetically pleasing when viewed from the Pali Kai cottages above;

e. the existing grassed area shall be maintained within the 40 feet shoreline setback; and

f. preliminary design plans shall be submitted to the Planning Commission for review and approval prior to building permit application.

11. The Applicant shall stake out, for the Planning Department's review and approval, the seaward locations of the Oceanside Inn, Chapel, ten-story hotel, Outrigger Club, beach suite, and boardwalk prior to applying for building permits for each such improvement.

12. The Applicant shall submit for the Planning Department's review and approval a landscaping master plan prior to any building permit application. The parking lot adjacent to the new 10-story tower shall be screened from the view of the Pali Kai cottages by a canopy of trees, as reflected on the landscaping plans.

the applicant relocate any of these utilities, the Applicant shall be responsible for providing all necessary conduits and service lines for the changed utilities to the existing easement G to accommodate the Pali Kai Cottages.

25. Within one year from the Planning Commission approval, the Applicant shall submit a Land Use Boundary Amendment application (from Agriculture to Urban) to the Land Use Commission for all of the lands in the Agriculture District subject to the permits granted herein.
26. The Planning Commission may impose additional conditions, restrictions or requirements, on the permits approved herein should unanticipated or unforeseen circumstances arise which require such additional conditions to insure compliance with the standards contained in the CZO, the SMA Rules, or the SLUD Regulations.

Approved by a 5 to 0 vote of the Planning Commission at its August 7, 1985, special meeting held in the Council Chambers at the County Building, Lihue, Kauai.

By _____
GWEN HAMABATA
Chairman and Commissioner
Dated: _____

By _____
THOMAS CONTRADES
Commissioner
Dated: _____

By _____
BETTY MATSUMURA
Commissioner
Dated: _____

By _____
HISAO MUNECHIKA
Commissioner
Dated: _____

By _____
REBECCA SIALANA
Commissioner
Dated: _____

✓ 13. The new ten-story hotel building shall be setback a minimum of 100 feet from the certified shoreline. All rooftop mechanical equipment shall be shielded.

✓ 14. The Applicant shall consult with Hawaiian organizations, and experts on Hawaiiana concerning the content and appropriateness of the proposed sound and light show. A list of reviewers shall be provided for the Planning Commission approval. The text of the show must be approved by the reviewers prior to its release for public viewing.

N.I.C

15. The design of the chapel should reflect a character appropriate to the vicinity, utilizing local materials such as lava or moss rock. Should noise problems arise, the Planning Commission reserves the right to restrict hours of usage.

16. No buses shall be allowed on the road adjacent to the Pali Kai Cottages. N/A

✓ 17. A minimum of 1,000 parking stalls shall be provided, including 20 public stalls near the eastern end of Kalapaki Beach and five public stalls near Kukii Point. Should parking become a problem, the Commission shall have the right to require additional stalls. A master plan indicating where future parking could be accommodated shall be submitted prior to building permit approval.

✓ 18. The Applicant shall provide public pedestrian shoreline access to and along Kalapaki Beach and public vehicular access to Kukii Point. Said accesses shall be resolved with the Planning Department prior to building permit processing.

✓ 19. All buildings and structures shall conform to the setback requirements of the CZO and the 40-foot setback contained in the Shoreline Setback Rules and Regulations.

✓ 20. The equipment room for the tramway shall be soundproofed and rubberized or low-noise producing track wheels shall be used. DELETED FROM PROJECT

✓ 21. The knoll situated in the vicinity of the carriage house shall be preserved to act as a visual screen for the ten-story buildings, when viewed from Rice Street.

22. The Applicant shall extend the agreement made between the previous owner and the County, to accept sewage effluent from the County sewage treatment plant for ponding and irrigation of the golf course. A B L E

23. The Applicant shall not unlawfully interfere with the utility easements to the Pali Kai Cottages, and shall not unlawfully interfere with, or construct any improvements on the access easements to the Pali Kai Cottages, unless and until: The Applicant has obtained the written consent of all of the owners of the Pali Kai Cottages to do so, and has submitted such consent to the Planning Department; or the Applicant has obtained a final judgment and order from the Land Court approving the relocation of such access easements and has submitted such judgment and order to the Planning Department. Resolution of the easement relocation may occur after building permit approval, but must be resolved prior to the actual blocking of or construction on the existing easement. A B L E

24. If the Pali Kai owners agree to the relocation of utility and access easements proposed by the Applicant, then the Applicant shall allow the Pali Kai Cottages to continue to use the same water, sewer, electric and telephone services that they presently enjoy. Should

clear preponderance of the evidence that the reclassification of approximately 56 acres consisting of Sites 2, 3 and 4 of the subject property from the Agricultural District to the Urban District for resort and residential uses conforms to the standards established in the State Land Use District Regulations; is reasonable, is not violative of Section 205-2, Hawaii Revised Statutes, as amended; and is consistent with the Hawaii State Plan, as set forth in Chapter 226, Hawaii Revised Statutes, as amended.

The Commission further concludes that reclassification of the remaining 22 acres consisting of Site 1 of the subject property from the Agricultural District to the Urban District for industrial uses has not been shown to be reasonably necessary, would not conform to the standards established by the State Land Use District Regulations, and would be violative of Section 205-2 and Chapter 226, Hawaii Revised Statutes.

DECISION AND ORDER

IT IS HEREBY ORDERED that approximately 56 acres of land, representing a portion of the area in the petition by Amfac Property Development Corporation in Docket No. A82-530, more particularly identified by Fourth Division Tax Map Key 3-5-01: Portion of 6, and as illustrated in Exhibit A attached hereto and incorporated by reference herein, situated at Lihue, Island and County of Kauai, State of Hawaii, shall be and hereby is reclassified from the Agricultural District to the Urban District, and the Land Use District Boundaries are hereby amended accordingly; subject, however, to the following conditions:

- a. The Petitioner shall be required to enter into an agreement with the County to offer for sale to the County at "cost," as employee housing, a portion of the lots in Petitioner's Hanamaulu subdivision presently classified Urban by the Land

Use Commission. The number of lots to be offered shall be equivalent to ten percent (10%) of the total number of units to be constructed on the subject property herein. The term "cost" shall be defined by the cost policy used by the County at the time of transaction. In the alternative, the County may require a cash payment in lieu of the transfer of lots, provided that any such payment shall be used exclusively as part of the County's public housing program.

- b. The Petitioner shall enter into an agreement with the County containing the following conditions.
 - 1. The Petitioner shall make available to the County the lands described in "Existing Waste Water Disposal Areas" (Petitioner's Exhibit 14, Figure 14, Figure 2) and, if necessary, other suitable lands, for the disposal of up to 4.5 mgd of wastewater from the Lihue STP.
 - 2. The lands made available to the County shall be in an amount necessary to maintain a saturation factor of no more than 1.0 on the disposal areas.
 - 3. This agreement shall be incorporated into the deeds to the affected lands as easements running with the land in favor of the County of Kauai.
 - 4. The term of these easements shall be for twenty years from the date of approval of this boundary change.
- c. The Petitioner shall construct and implement a system for the disposal of the Lihue mill waste water which will ensure that neither the lower Lihue fields, nor any other areas subject to the

mill wastewater disposal, shall have a saturation factor in excess of 1.0. This condition shall be implemented within five years from the date of approval of this boundary change.

- d. All deeds or instruments transferring interests in the subject property, or in the structures or improvements thereon, easements running in favor of the State of Hawaii and the Land Use Commission, the County of Kauai, and The Lihue Plantation Company, Limited shall indemnify and hold the State of Hawaii and Land Use Commission, County of Kauai, and The Lihue Plantation Company, Limited harmless from any complaints or claims due to noise, odor, dust, mosquitoes, and other nuisances and problems emanating from the operation of the Lihue airport, the use of the lower Lihue fields for agricultural and wastewater disposal purposes, and the operation of the Lihue STP.
- e. The Petitioner shall not permit any resort or residential condominium unit to be placed on the subject property within any noise exposure forecast (NEF) contour in excess of 25 NEF. However, construction of no more than twenty percent (20%) of the total number of residential or resort condominiums for a particular site may be allowed in NEF contours that do not exceed 30 NEF if the County finds that such placement is compatible with the proposed residential or resort use, and subject to such mitigative measures, including sound attenuating construction requirements, that the County shall impose. The NEF contours for the subject property shall be established by actual testing once the new Lihue runway is completed and

in use.

- f. The Petitioner shall comply with any height restriction to be set by the State of Hawaii pursuant to specifications established in FAA regulations for avigational easement purposes along the perimeter of the Lihue Airport runways.
- g. The Petitioner shall set aside a portion of Site 4 at the eastern end for a park and for parking, and shall provide public access to and along shoreline.
- h. The Petitioner shall complete all of the conditions contained in subparagraphs a., b., c., and g., above, within five years from the date of the boundary change.

These conditions may be fully or partially released by the Commission as to all or any portion of the subject property upon timely motion and provision of adequate assurance of satisfaction of these conditions by the Petitioner.

BE IT FURTHER ORDERED that the balance of the subject property in this petition by Amfac Property Development Corporation in Docket No. A82-530, consisting of Site 1 of approximately 22 acres, identified by Fourth Division Tax Map Key 3-5-01: Portion of 6, and as illustrated in Exhibit A attached hereto and incorporated by reference herein, situated at Lihue, Island and County of Kauai, State of Hawaii, shall be and hereby is denied reclassification into the Urban District, and therefore, remains in the Agricultural District.

DOCKET NO. A82-530 - AMFAC PROPERTY DEVELOPMENT CORPORATION,
a division of AMFAC INC.

Done at Honolulu, Hawaii, this 10th day of August,
1983 per motions on June 27, 1983 and August 10, 1983.

LAND USE COMMISSION
STATE OF HAWAII

By William W. L. Yuen
WILLIAM W. L. YUEN
Chairman and Commissioner

By Richard B. F. Choy
RICHARD B. F. CHOY
Vice Chairman and Commissioner

By Lawrence F. Chun
LAWRENCE F. CHUN
Commissioner

By Shinsei Miyasato
SHINSEI MIYASATO
Commissioner

By Winona E. Rubin
WINONA E. RUBIN
Commissioner

By T. P. Tacbian
TEOFILO PHIL TACBIAN
Commissioner

By Robert S. Tamaye
ROBERT S. TAMAYE
Commissioner

By Frederick P. Whittemore
FREDERICK P. WHITTEMORE
Commissioner

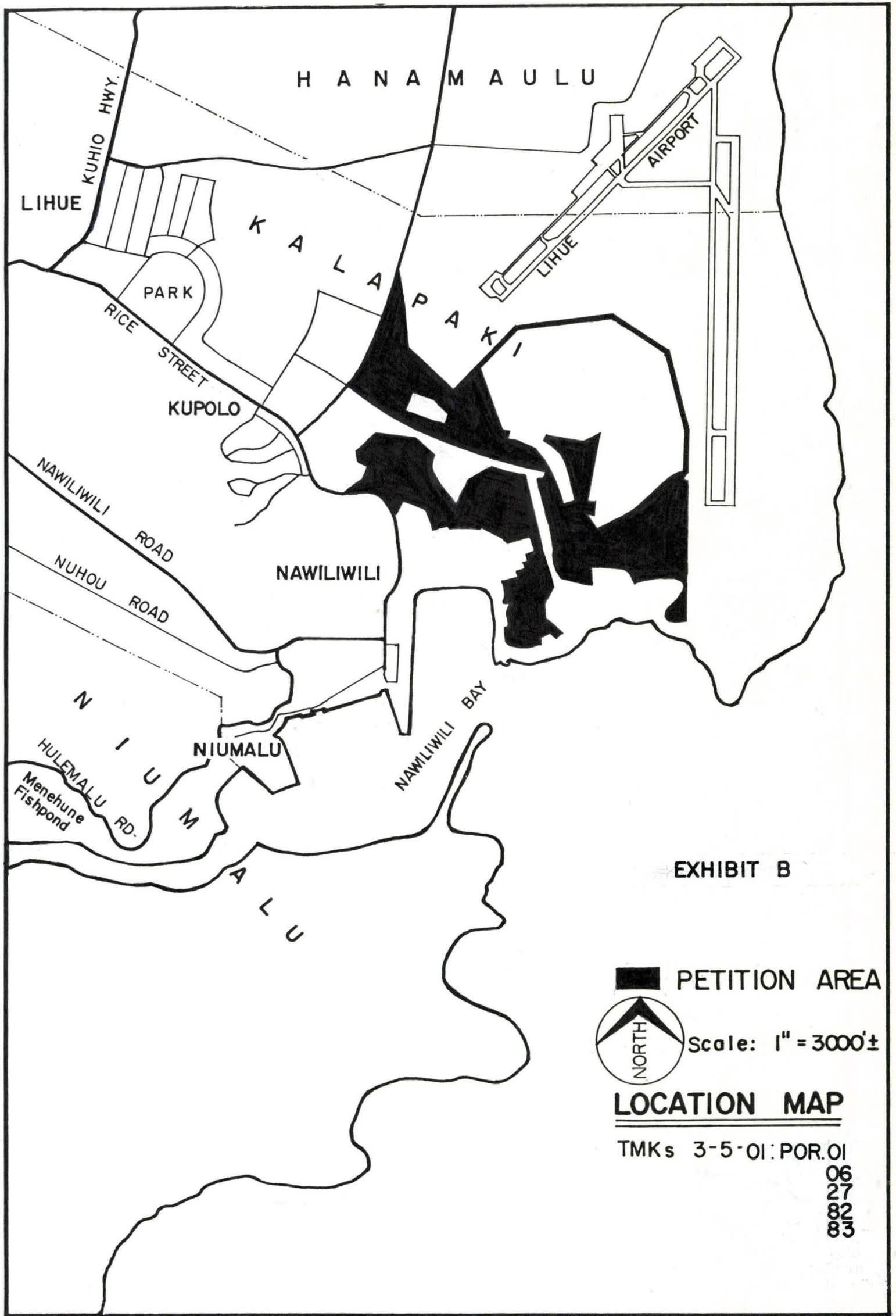


EXHIBIT B

 PETITION AREA

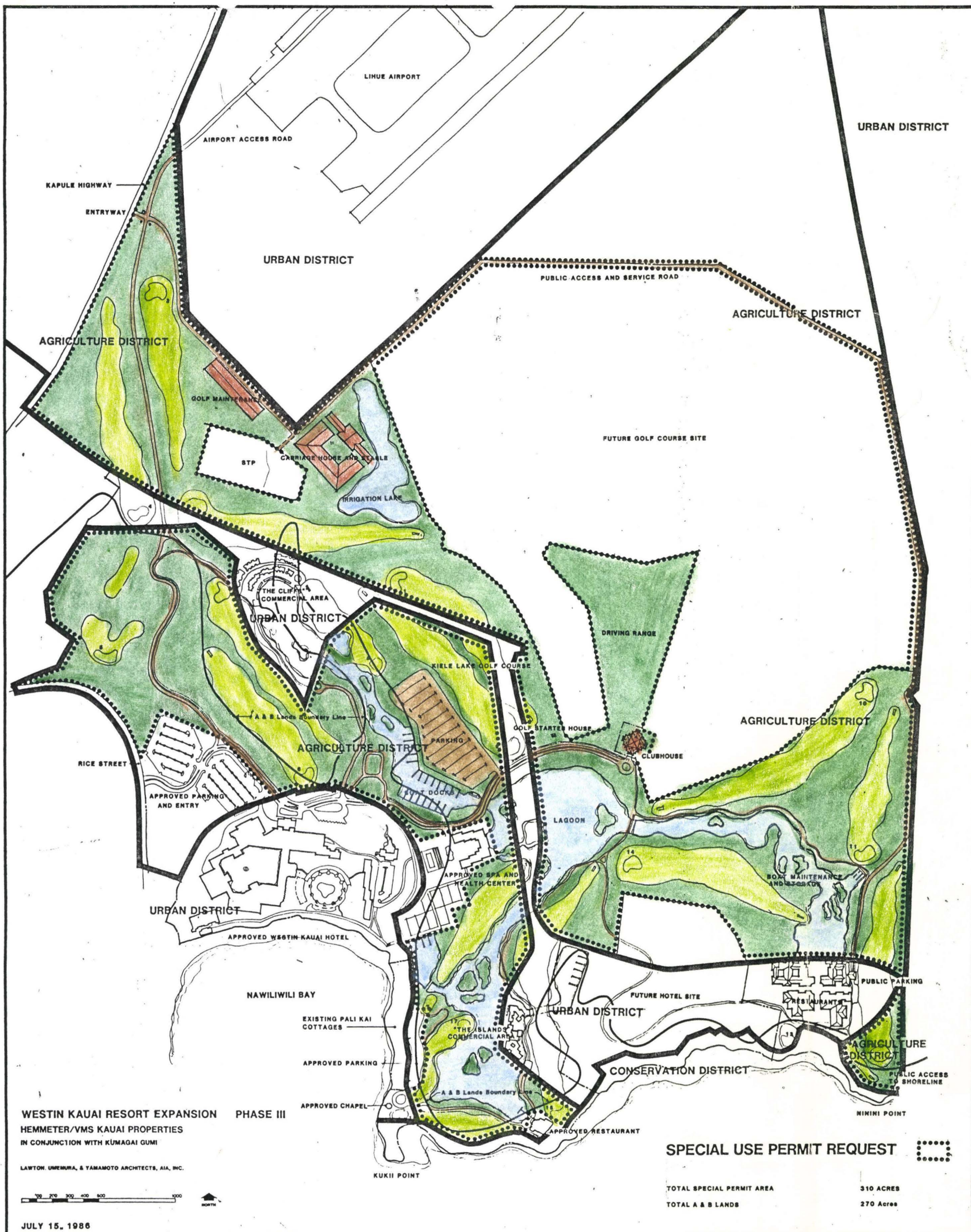


Scale: 1" = 3000'±

LOCATION MAP

TMKs 3-5-01:POR.01

06
27
82
83





STATE OF HAWAII
DEPARTMENT OF PLANNING
AND ECONOMIC DEVELOPMENT

LAND USE COMMISSION

Room 104, Old Federal Bldg., 335 Merchant Street
Honolulu, Hawaii 96813 Telephone: 548-4611

GEORGE R. ARIYOSHI
Governor

TEOFILO PHIL TACBIAN
Chairman

FREDERICK P. WHITEMORE
Vice Chairman

COMMISSION MEMBERS:

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Winona E. Rubin
Toru Suzuki
Robert S. Tamaye
William W. L. Yuen

ESTHER UEDA
Executive Officer

September 17, 1986

MEMORANDUM

TO: Land Use Commissioners

FROM: Staff

SUBJECT: Special Permit SP86-360/Hemmeter/VMS Kauai
Company III

General Description

Hemmeter/VMS Kauai Company III is requesting a Special Use Permit to allow the redesign of the existing 18-hole golf course, the establishment of a new driving range, a new golf clubhouse and starter's shed, golf and grounds maintenance areas, boat docks for 100 charter boats and three ferries, approximately 30 acres of waterways and lake, parking for approximately 600 or more cars, boat maintenance facility, an irrigation lagoon of approximately nine acres, driveways for airport, service and public access, and miscellaneous accessory uses including, but not limited to, horse stables, carriage storage and carriage paths. The Special Permit is for approximately 400 acres of land situated mostly on lands classified as Master Productivity Rating "B" within the State Land Use Agricultural District in Nawiliwili, Island of Kauai. The request is for lands more specifically identified by Kauai Tax Map Key Numbers: 3-5-01: 1, 6, 27, 82 and 83 and located between the existing Westin Kauai Resort and the Lihue Airport (hereinafter the "Property").

Petitioner's request is part of an overall development concept to expand the Westin Kauai Resort to a large scale, self-contained resort area with multiple attractions to include a new hotel and commercial areas set within golf, open space, and water related recreational amenities. The entire Westin Resort project will encompass approximately 454 acres of land.

The major elements of the proposed Westin Kauai Resort Center are as follows:

I. FUTURE RESORT HOTEL:

- A. 750 units

II. COMMERCIAL AREAS:

- A. The Cliffs Commercial Area, 25,000 sq. ft. leasable
- B. The Island Commercial Area, 25,000 sq. ft. leasable
- C. The Lagoons Commercial Area, 60,000 sq. ft. leasable

III. MAIN LAGOON:

- *A. 36 acres of lagoon
- *B. 10 boat docks for 100 charter boats and 3 ferries

IV. GOLF COURSES:

- *A. Kiele Lake (redesigned existing 18-hole golf course and driving range, 286+ acres)
- *B. 26,000 sq. ft. golf clubhouse
- *C. Irrigation lagoon (9+ acres)
- *D. Golf and grounds maintenance area
- *E. Starter's shed
- *F. Parking for 600+ cars (also used for other activities)

V. OTHER ITEMS:

- A. 15,000 sq. ft. restaurant (mauka area) (1)
- B. Access road for restaurant/inn
- C. 15,000 sq. ft. restaurant (makai area)
- *D. Horse stables, carriage storage
- *E. 20,000 linear feet internal carriage path network
- *F. Entry drive, airport access, and other service roadways
- *G. Public access road and shoreline access easement

*Projects that are part of this special permit application.

- (1) A 30-unit Japanese Inn was deleted from the proposal per letter from James R. Bell to Avery Youn dated July 11, 1986.

The predominant uses of the Property are an existing golf course and sugar cane cultivation. Lands to the north and east of the Property are used for sugar cane cultivation and airport facilities. Lands to the south are in the Conservation District. Adjacent lands to the west and southwest contain the Lihue Industrial Park, the Lihue Sewage Treatment Plant, Nawiliwili Harbor, and the 550-room Kauai Surf Hotel and the

course now undergoing major upgrading to become the Westin Kauai Resort Hotel.

Access to the Westin Kauai is currently provided from Rice Street which connects to Kapule Highway.

The Property's ownership, according to the State Tax Map dated August 28, 1986, is as follows:

TMK 3-5-01: 1 William H. Rice, Ltd.
6 Lihue Plantation Co., Ltd.
27 Hemmeter/VMS Kauai Company I
82 Hemmeter/VMS Kauai Company I
83 Hemmeter/VMS Kauai Company I

The Lihue Plantation Co., Ltd., by letter dated June 17, 1986, has authorized Petitioner to request this Special Use Permit as well as application for Rezoning, Special Management Area, Development, and other permits as necessary for its lands.

Petitioner also has a lease agreement with William H. Rice, Ltd. for parcel 1 to allow the proposed uses.

Past Land Use Commission Actions for the Area

The Land Use Commission has approved several Special Permits and Boundary Amendments for the general area since 1970.

On May 8, 1970, the Commission approved the special permit request of Amfac Properties in Docket No. SP70-77 for the addition of 9-holes of golf on approximately 80 acres located east of the existing Kauai Surf Hotel. The first 9-holes of golf was a permitted use under LUC rules in effect prior to 1969. The approval was subject to a condition that the 80 acres be replaced with land capable of producing the equivalent production of sugar.

On December 6, 1973, the Commission approved the special permit request of Inter-Island Resorts in Docket No. SP73-163 for a tennis complex on approximately 8.5 acres adjacent to the existing hotel.

On April 20, 1979, the Commission approved the special permit request of the State Department of Transportation in Docket No. SP78-316 for a new runway and related improvements on approximately 554 acres northeast of the Kauai Surf Hotel and golf course. This approval was granted prior to the Supreme Court Decision on the Kahe Theme Park Special Use Permit. The approval included a condition that the petitioner seek a land use district boundary amendment within one year

after the approval of the special permit. (The boundary amendment petition was filed and subsequently approved by the Commission on April 24, 1981.)

On June 2, 1976, the Commission approved the boundary amendment request of Amfac Communities Hawaii in Docket No. A75-402 to reclassify approximately 34 acres from Agricultural to Urban for an industrial subdivision located at the eastern corner of the Kapule Highway - Rice Street intersection. No Commission conditions were attached to this amendment.

The latest Commission action for the area was on the petition of Amfac Development Company Docket No. A82-530 in which approximately 56 acres was reclassified from Agricultural to Urban on August 22, 1983 for resort condominiums north and east of the existing Kauai Surf Hotel and included a portion makai of the second nine-hole golf course approved under Docket No. SP70-77. Eight conditions were imposed by the Commission on this boundary amendment and are attached as Exhibit A.

Summary of Environmental Concerns

A planning and engineering report was prepared for the project by Belt, Collins, & Associates.

The Property contains a combination of Lihue Silty clay, Lihue gravelly silty clay, Halii gravelly silty clay, Mokuieia pine sandy loam, badland and rough broken land.

The State Department of Agriculture rates the majority of the Property as Prime Agricultural Land in its Agricultural Lands of Importance and State of Hawaii classification system.

Major portions of the Property are also rated "B" according to the Land Study Bureau.

No endangered plants or animals were observed on the Property except for a pair of Gallinule birds inhabiting a drainage reservoir in the Kauai Surf Golf Course.

The County sewage treatment plant is surrounded by the Property and is located northwest of the existing Kauai Surf Hotel. The use of open air sludge bed to treat sewage effluent and noxious gas by-products originating from this facility will impact some golf course holes during normal wind conditions.

A 1985 noise study prepared by Darby & Associates determined that small portions of the eastern and northern part of the project lie within the 60 day-night noise contour (Ldn). The affected areas are proposed for golf courses, horse

stables and maintenance areas which are deemed acceptable uses for the 60 Ldn noise levels. However, according to the County staff report, the noise study did not adequately address the frequency of noise events and sound level may not be as major a concern as the frequency of takeoffs and landings of all types of aircraft.

The Department of Transportation (DOT) commented that the petitioner should work with the DOT so that the existing Lihue Airport and the proposed project are compatible. The DOT is currently conducting a study to update day-night noise contours which will consider plans for the existing runway and any future development for the Lihue Airport. (Transcript dated July 23, 1986, pages 7 & 8, Hearing of the Kauai Planning Commission)

The Department of Health's major concerns as it relates to wastewater and irrigation are as follows:

- "1. The proposed project will remove more sugar cane fields than shown on map provided by AMFAC Properties Development Corporation (GPA-86-3 & ZA-86-3). This will reduce the size of the mill wastewater disposal area in the lower Lihue fields and may affect the condition imposed by the State Land Use Commission Decision and Order dated August 10, 1983 that 'neither the lower Lihue fields, nor any other areas subject to the mill wastewater disposal shall have a saturation factor in excess of 1.0.'
- "2. The potential for mosquito problems in the project site will exist as long as wastewater from the sugar cane operation is discharged into the lower Lihue canefields. The mosquito problem resulting from the Lihue Plantation operations must be abated by both short term and long term measures before inhabitation of the proposed development.
- "3. The developer states that effluent from the County Sewage Treatment Plant will be used for golf course irrigation. The irrigation system shall comply with the requirements of Act 282, Session Laws of Hawaii, 1985, Section 4.4.B., Effluent irrigation systems, in that the developer shall submit an irrigation management plan addressing the public health factors and showing that the system will comply with the requirements of section 4.4.B. (2) to (6).

The County Public Works Department had similar concerns regarding the effect of removing cane lands on wastewater disposal and follows:

"4. Disposal of effluent from our Lihue Sewage Treatment Plant is a serious concern. Similar to conditions imposed by the State Land Use Commission on the reclassifying of the subject lands, the County should impose conditions to the permits to resolve the problem of effluent disposal satisfactorily.

" Also similar to the State Land Use Commission, the County should also impose conditions for the developer to hold the County harmless from any complaints or claims due to noise, odor, visual impacts, and other nuisances and problems emanating from the operation of the Lihue STP.

"5. Page IV - 19 Golf Course Irrigation. The report indicates that sewage effluent from the STP is available for golf course irrigation. Previously, we had an agreement with Inter-Island Resorts (Kauai Surf) for the use of effluent from our Lihue STP for golf course irrigation. However, at the time of transfer of ownership of Kauai Surf Hotel to Hemmeter - VMS the assumption of that agreement was to have been prepared by the new owner. To date, no assumption of the agreement has been made. The original agreement with Inter-Island Resorts expires in June 1989. In light of what is being proposed relative to use of the effluent, (see comment 6 below) a new agreement for use of the effluent should be entered into.

"6. Page IV - 20 Water Feature. The lagoon where recreational activities are planned is to be filled with a mixture of STP effluent and well water. We are concerned with the quality of effluent required for such use. Additional treatment of the effluent may be required. The developer should be required to obtain all approvals from appropriate agencies for such use of effluent. An agreement for the use of STP effluent will need to be entered into.

"7. Page IV - 21 Sewerage. The report indicates that the existing County sewage facilities can accommodate the sewage to be generated by the proposed development. However, the report fails to indicate that accommodation is conditional.

" The proposed development is outside of the service area of the present 1.5 mgd capacity. An agreement must be reached on the conditions upon which sewer service will be provided by the County."

Petitioner estimates that much of the traffic generated will come from adjacent on-site hotels and that traffic generated by the golf course will be relatively light. Approximately 100 trips per day are expected from public use of the hotel access.

Petitioner proposes to provide an airport access road which links the resort development directly to Lihue Airport which will allow visitors to circulate to various destination areas in the proposed resort without using government roads.

The County Public Works Department also recommended a roadway connection between Halau Road in the Lihue Industrial Subdivision and the internal Westin Kauai Roadway. The extension of Halau Road is the most likely choice.

Petitioner proposes to design its storm drain system to County standards and no adverse impacts are anticipated. Golf course irrigation ponds containing treated sewage effluent will be isolated from drainageways. Low lying areas of the proposed project will be well above the 13 feet inundation level as determined by the flood insurance rate map.

An environmental impact assessment was prepared by Steven J. Dollar in August 1980. Based on Amfac's previous proposal, the study concluded that there "is no reason to expect significant adverse impacts to the area." An updated assessment should be provided to include consideration of the new proposed Westin Kauai Resort and future expansion plans. This updated assessment should expand on the impact of sewage effluent on the Kiele Lake and its discharge into nearshore water upon overflow conditions.

Petitioner's consultant concluded that due to the area's history of cane cultivation and golf course use, no historical or archaeological remains are expected to exist on the site. Petitioner states that if remains are uncovered, work will discontinue until appropriate governmental authorities have an opportunity to survey the find and determine when work may resume.

Public Services and Facilities

Electrical services will be provided by the Kauai Electric Company.

The Department of Water Supply indicated that its water source and distribution system are adequate to accommodate the potable water demand of the proposed development. For non-potable requirements of the water features and golf

irrigation, Petitioner proposes to develop two deep wells to supplement treated wastewater effluent from the County sewage treatment plant for irrigation of the golf areas. Water for the lagoons will come from the deep wells.

The existing County sewage treatment plant, located within the Property, is anticipated to accommodate the sewage generated by the proposed development.

Currently, sewage effluent from this facility is being disposed of within the Lihue plantation sugar fields and the existing golf course. Effluent for irrigation will be mixed with well water in the irrigation lagoon. Petitioner proposes to design one of the deep wells for both withdrawal and injection of excess effluent.

Solid waste will be hauled by private contract to County disposal areas.

Telephone service, police protection, and fire protection are adequate or will be enforced to accommodate the proposed development.

In support of the subject request, the Kauai County Planning Department provided the following:

- "1. The requested uses within the State's "Agriculture" Land Use District will not be contrast to the Land Use Law since the land in question is either vacant and uncultivated or were used as part of the Kauai Surf Golf course. Those portions used by Lihue Plantation are a minor portion of their land holdings and are not essential to their agricultural operations.
- "2. The proposed activities will not generate adverse noise, odors or emissions which could adversely impact surrounding properties. The activities proposed are low intensity in nature.
- "3. The requested uses will not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage and school improvements, or police and fire protection. All public service functions are available, and where they are not or they are substandard, appropriate upgrades and improvements will be made by the applicant, as required by the affected government agencies and/or the Planning Commission as conditions of approval.
- "4. Unusual conditions, trends, and needs have arisen since the district boundaries and regulations were established. The

proposed uses and improvements are in response to trends and needs within the community and the visitor industry to provide visitors with experiences that are unique and make optimum use of existing and available resources. The passive use of the subject property for the uses requested (i.e., carriage trails, lagoons, golf course, etc.), is a unique approach as compared to the traditional development of resort areas which emphasize only the beach oriented activities. The requested uses are an extension of the primary hotel/resort function of the overall property, and functionally more a part of that than an agricultural activity.

- "5. Although the land upon which the proposed uses are sought is suited for the purposes permitted within the Agricultural District, it would be incompatible to the surrounding uses due to the expanded nature of the both the airport operations and the Westin Kauai resort operations."

In response to the concerns submitted by the County Department of Public Works and the State Department of Health, the County Planning Commission, in its meeting of August 13, 1986, approved Petitioner's requests for zoning, special management area use, project development use, and class IV zoning permits with the following pertinent conditions:

Zoning Amendment ZA-86-7 from Agriculture District (A) to Resort Residential District (RR-20) for approximately 56 acres

- "2. Prior to building permit approval for any improvements within Phase II, the applicant shall submit the necessary documentation and/or legal agreements reflecting the resolution of the following:
- a. The disposal or use of the Lihue Sewage Treatment effluent for golf course irrigation and use within the lagoons.
 - b. Disposal of the Lihue mill wastewater and the L-20 reservoir.
 - c. Conditions upon which sewer service will be provided by the County since the proposed development is outside of the service area of the present 1.5 mgd STP capacity.
- "3. Applicant shall establish a landscaped buffer zone around the Lihue STP. Size of the buffer zone and type of landscaping shall be subject to Planning Department review and approval.

"4. Applicable conditions imposed by the State Land Use Commission at time of district boundary amendment shall be completed by August 22, 1988."

During the public hearing on July 23, 1986, the Planning Commission accepted public testimony from Cheryl Lovell Obatake, Dr. Albert Ley, David Pratt, Bert Lyon, Andy Nichols and Leslie Lovell.

On August 13, 1986, the Planning Commission recommended that the subject special use permit be approved subject to the following conditions:

"Within one (1) year from Planning Commission approval, the applicant shall submit a Land Use Boundary Amendment application (from Agriculture to Urban) to the Land Use Commission for all lands within the Agriculture District subject to all phases of development."

The Land Use Commission office received the record of the Special Permit application from the County of Kauai Planning Department on August 18, 1986.

Attached for your information are the following exhibits in addition to the materials transmitted by letter dated August 26, 1986:

Exhibit A - Order for Docket No. A82-530/Amfac Development Company

Exhibit B - Location map of special permit areas

Exhibit C - Color map of special permit request

TONY T. KUNIMURA
MAYOR



AVERY H. YOUN
PLANNING DIRECTOR

TOM H. SHIGEMOTO
DEPUTY PLANNING DIRECTOR

TELEPHONE (808) 245-3919

COUNTY OF KAUAI
PLANNING DEPARTMENT
4280 RICE STREET
LIHUE, KAUAI, HAWAII 96766

September 12, 1986

SEP 16 1 04 PM '86
LAND USE COMMISSION
STATE OF HAWAII

Esther Ueda
Executive Officer, Land
Use Commission
335 Merchant Street, Room 104
Honolulu, Hawaii 96813

Subject: Clarification of requested uses for Land Use Commission
Special Permit SP-86-360/Hemmeter-VMS Kauai Company III
(SP-86-18)

The following uses were inadvertently included as approved in Phase III of the above request, and include:

- 7. Rice Street access
- 10. Helicopter landing pads (2)
- 13. Golf, racquet and spa athletic club facilities
- 14. Restaurant
- 16. Tennis courts

These uses were approved during the Phase I review of the project by the Planning Commission. Review by the Land Use Commission was not necessary since the total land area did not exceed 15 acres.

My apologies for any confusion that may have resulted.

Michael Laureta
Planner

STATE OF HAWAII
LAND USE COMMISSION

Minutes of Meeting

Mauna Loa Conference Room
Kona Surf Hotel
Kailua-Kona, Hawaii

September 23, 1986 - 10:30 a.m.

Approved
10/21/86

COMMISSIONERS PRESENT: Teofilo Phil Tacbian, Chairman
Frederick Whittemore
Lawrence Chun
Winona Rubin
Toru Suzuki
Robert Tamaye
Everett Cuskaden
William Yuen
Richard Choy

STAFF PRESENT: Esther Ueda, Executive Officer
Raymond Young, Staff Planner
Darlene Kinoshita, Chief Clerk
Annette Chock, Deputy Attorney General
Wendy Munekata, Court Reporter

ACTION

Chairman Tacbian called the meeting to order.

A86-600 - WAITEC DEVELOPMENT, INC. (Oahu)

Commissioner Yuen did not participate in this proceeding due to a previously declared conflict of interest.

Chairman Tacbian announced that the Commission would take action in the matter of the petition by Waitec Development, Inc. to reclassify approximately 691.5 acres of land currently in the Agricultural District into the Urban District at Waikele and Hoaeae, Oahu, for a residential community. A hearing was conducted by the Land Use Commission on June 17 and 18, 1986 and June 27, 1986.

Appearances

Jan Sullivan, Esq. and Roy Takeyama, Esq. - Attorneys representing the Petitioner.

Everett Kaneshige, Esq. - Deputy Attorney General
representing the Dept. of Planning and Economic Development.
Abe Mitsuda - Land Use Division, Dept. of Planning and
Economic Development.
Jean Nishida - Land Use Division, Dept. of Planning
and Economic Development.

The City and County of Honolulu and Mr. Sam Lee of the
Mililani/Waipio/Melemanu Neighborhood Board No. 25, Intervenor,
waived appearance at this hearing.

It was determined by Chairman Tacbian that all of the
Commissioners present today were eligible to participate in the
action of the petition.

Closing arguments were heard from Jan Sullivan and
Everett Kaneshige. After hearing arguments, examinations by
the Commissioners were held.

Commissioner Whittemore moved for approval of Docket
No. A86-600, Waitec Development, Inc. (Oahu) to reclassify
approximately 547.5 acres of land situated in Waikele and
Hoaeae, Oahu, from the Agricultural District into the Urban
District subject to the following conditions:

1. Petitioner shall provide housing opportunities for
low and moderate income Hawaii residents by offering for sale
or rent on a preferential basis on its own or in cooperation
with either or both the Hawaii Housing Authority and the City
and County of Honolulu, a number of residential units equal to
ten percent (10%) of the residential units to be developed on
the Property, to residents of the State of Hawaii of low or
moderate family income as determined by standards promulgated
by the Hawaii Housing Authority and/or the City and County of
Honolulu from time to time. The preferential residential units
shall be developed on the Property and shall be offered for
sale at prices not exceeding prices that enable such purchasers
to qualify for and obtain State-assisted financing (e.g. Act
105 or Hula Mae) or Federally-insured or assisted financing
(e.g. FHA Section 245 Program) intended to encourage home
ownership for low and moderate income families.

2. Petitioner shall coordinate the development with
the Department of the Navy to insure that no residential units

are constructed within the Naval Magazine Waikele Branch blast Zone.

3. Petitioner shall, in coordination with the State Department of Land and Natural Resources, Department of Health, and the Board of Water Supply, provide an adequate supply of potable water and the necessary transmission system to the Property.

4. Petitioner shall fund all costs for highway and access improvements for the proposed development as required by the State Department of Transportation.

5. 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.

IT IS HEREBY FURTHER ORDERED that the balance of the Property in the Petition, Docket No. A86-600, consisting of approximately 144 acres situate at Waikele and Hoaeae, Ewa, Oahu, Hawaii, Tax Map Key Nos.: 9-4-02: Portion of Parcel 30, Portion of Parcel 1, and also approximately identified on Exhibit A attached hereto and incorporated herein, shall be and hereby is denied reclassification into the Urban District and shall remain in the Agricultural District.

The motion was seconded by Commissioner Tamaye.

Commissioner Rubin moved to amend Condition #2 so that the condition reads: "Further, Petitioner shall construct a berm which shall be approximately landscaped at the minimum height of 10 feet in the area bordering the western end, the designated blast zone area, to insure that residents would be sheltered from adverse effects such as soundwaves, any turbulence, fragmentations in the event unexpected explosions does occur."

The motion to amend Condition #2 was seconded by Commissioner Whittemore.

Commissioner Cuskaden moved for incremental districting on phases 6 and 7, but there was no second on the motion so the motion was not carried.

The motion to approve the petition with five conditions as amended was unanimously approved as follows:

Ayes: Commissioner Choy, Tamaye, Rubin, Chun, Whittemore, Cuskaden, Suzuki, and Chairman Tacbian.

Commissioner Chun was not present for the rest of the proceedings.

During the recess break, an executive session was held by the Commission to seek legal advice from the Deputy Attorney General in regards to the special use permit.

* SP86-360 - HEMMETER VMS/KAUAI CO. III

Ray Young, staff planner, gave a summary report of the special use permit request by Petitioner to allow "the redesign of the existing 18-hole golf course and the establishment of a driving range and related golf course accessory uses, boat docks, lake and waterways, parking areas, boat maintenance facility, irrigation lagoon, access roads, two helicopter landing pads, restaurant, athletic club facilities, tennis courts, and other miscellaneous accessory uses on approximately 310 acres of land situated within the Agricultural District at Nawiliwili, Lihue, Kauai."

Arguments were heard from James Funaki, Petitioner's attorney and Max Graham, County of Kauai's attorney. After hearing arguments, questions were asked by the Commissioners.

A lunch recess was taken at 1:00 p.m. to reconvene at 2:00 p.m.

2:00 p.m.

* SP86-360 - HEMMETER VMS/KAUAI CO. III (Cont'd)

Commissioner Yuen moved for approval of Docket No. SP86-360, Hemmeter VMS/Kauai Co. III, with the deletion of the Kauai County Planning Commission's condition that the Petitioner "Within one year from Planning Commission approval, the applicant shall submit a Land Use Boundary amendment application (from Agricultural to Urban) to the Land Use Commission for all lands within the agricultural District subject to all phases of development."

It was seconded by Commission Whittemore.

Commissioner Cuskaden moved for an amendment to the motion and not delete the Kauai County Planning Commission's condition.

It was seconded by Commissioner Choy.

Commissioner Yuen further moved to amend the motion to have Petitioner commence construction of proposed improvements within one year of the date of Commission approval and complete construction within 3 years.

It was seconded by Commissioner Choy.

After further discussions on the motion, the Commissioners were polled on the motion, as amended to approve the special use permit of Hemmeter VMS/Kauai Co. III subject to two conditions.

Ayes: Commissioner Yuen, Suzuki, Cuskaden, Rubin, Choy, Tamaye, Whittemore, and Chairman Tacbian. The motion was unanimously carried.

A86-603 Huehue Ranch (Hawaii)

The Commission acted to consider the untimely Petition for Intervention filed by Elizabeth Ann Stone. Ms. Stone was not present at the hearing.

Commissioner Yuen moved to deny Elizabeth Ann Stone's request for intervention. It was seconded by Commissioner Rubin. The motion was carried unanimously by voice votes.

A84-576 HALEAKALA GREENS CORPORATION (MAUI)

The Commission acted to consider Petitioner's request for release of all conditions of the Decision and Order which reclassified approximatey 229.3 acres of land from the Agricultural District into the Urban District at Kula, Makawao, Maui for a golf course.

It was moved by Commissioner Cuskaden to approve Petitioner's request to release all conditions. It was seconded by Commissioner Whittemore.

Commissioner Choy moved to amend said motion to delete condition number 2 and 3. The motion was seconded by Commissioner Rubin.

The motion to approve release of condition number 1 only was unanimously carried by voice votes.

A85-597 KAUPULEHU DEVELOPMENTS (Hawaii)

Commissioner Yuen did not participate in this proceeding due to a previously declared conflict of interest.

Chairman Tacbian announced that the Commission would take action in the matter of the petition by Kaupulehu Developments to reclassify approximately 123 acres of land currently in the Urban District into the Conservation District, and to reclassify approximately 575 acres of land currently in the Conservation District into the Urban District at Kaupulehu, North Kona, Hawaii for intermediate resort and golf course uses. A hearing was conducted by the Land Use Commission on July 8 and 9, 1986.

Appearances

R. Ben Tsukazaki, Esq. - Attorney representing
Petitioner

Albert Lono Lyman - County of Hawaii
Norman Hayashi - County of Hawaii

Everett Kaneshige - Deputy Attorney General,
representing the Dept. of Planning and Economic Development
Abe Mitsuda- Land Use Division, Dept. of Planning and
Economic Development

It was determined by Chairman Tacbian that all of the Commissioners present today were eligible to participate in the action of the petition.

Closing arguments were heard from R. Ben Tsukazaki, Albert Lono Lyman, and Everett Kaneshige. After hearing arguments, examinations by Commissioners were held.

Commissioner Tamaye moved to adopt Docket No. A85-597 Kaupulehu Developments, situate at Kaupulehu, North Kona, Hawaii, and identified as Hawaii Tax Map Key No. 7-2-03: portion of parcel 1, for reclassification from the Conservation

District to the Urban District; and the remaining balance of the Property, consisting of approximately 123 acres, situate at Kaupulehu, North Kona, Hawaii, and identified as Hawaii tax Map Key No. 7-2-03: portion of parcel 1, for reclassification from the Urban District to the Conservation District, shall be and hereby is approved subject to the following conditions:

1. Petitioner shall cause to be provided housing opportunities for low and moderate income Hawaii residents and for employees employed on the Property by constructing and offering for sale or rent, on a preferential basis on its own or in cooperation with either or both the Hawaii Housing Authority and the County of Hawaii, within or without the Property, a number of residential units not less than ten percent (10%) of the number of residential units to be developed on the Property to residents of Hawaii and/or employees employed on the Property of low and moderate income as determined by the Hawaii Housing Authority or the County of Hawaii from time to time or by contributing to the development of such housing without the Property. The preferential units shall be offered for sale or rent at prices that would enable such purchasers to qualify for and obtain State-assisted financing (e.g., Act 105 or Hula Mae) or federally-insured or assisted financing (e.g., FHA, Section 245 Program) intended to encourage home ownership by low and moderate income families or employees.

2. Petitioner shall coordinate with Bishop Estate and Kona Village Resort to construct a buffer zone on the Property, separating the Kona Village Resort and expansion area from the Property as per agreement dated June 5, 1986, and as approximately located in Petitioner's Exhibit 24.

3. Petitioner shall fund the design and construction of highway improvements for access to the Property as may be required by the State Department of Transportation.

4. Petitioner shall develop a full service hotel on the Property in conjunction with the recreational and residential projects in order to assure greater employment opportunities.

5. Petitioner shall provide a minimum of two mauka to makai public accesses from the Queen Kaahumanu Highway to the

shoreline and a continuous trail along the seaward boundary of the Property, which trail shall be available to the public for recreational use. Petitioner shall provide space for parking stalls at each of the mauka-makai accesses. Petitioner shall coordinate plans for shoreline access with the Department of Land and Natural Resources and the County of Hawaii.

6. Petitioner shall conduct an intensive archaeological survey of the Property and submit the findings to the Department of Land and Natural Resources, Historic Sites Office. Should any sites be discovered during construction, work within the affected area shall stop immediately and Petitioner shall notify appropriate State and County agencies and take such measures as required by the appropriate State and County agencies to preserve such historical or archaeological site.

7. Petitioner shall develop a management plan for the existing anchialine ponds in coordination with the State Department of Land and Natural Resources and other appropriate agencies.

8. 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.

The motion was seconded by Commissioner Cuskaden.

Chairman Tacbian asked Commissioner Tamaye if he had any objections in adding the County of Hawaii to Condition #7 after the Dept. of Land and Natural Resources and before other appropriate agencies. Commissioner Tamaye and the other Commissioners had no objections.

The motion to approve the petition with 8 conditions as amended was unanimously approved as follows:

Ayes: Commissioner Tamaye, Whittemore, Suzuki, Choy, Cuskaden, Rubin, and Chairman Tacbian.

Minutes - September 23, 1986
Page 9

MISCELLANEOUS

Adoption of Minutes

The following minutes were approved as circulated:

September 3, 1986 and September 5, 1986.

The meeting was adjourned at 4:00 p.m.

STATE OF HAWAII
LAND USE COMMISSION

LI. GOVERNOR'S OFFICE

NOTIFICATION OF LAND USE COMMISSION MEETING

1986 SEP 11 PM 2 12

DATE, TIME AND PLACE

REC'D. BY

September 23, 1986 - 10:30 a.m.

Mauna Loa Conference Room
Kona Surf Hotel
Kailua-Kona, Hawaii

A G E N D A

I. ACTION

1. A86-603 - HUEHUE RANCH (Hawaii)

To consider the Petition to Intervene filed by Elizabeth Ann Stone.

2. A84-576 - HALEAKALA GREENS CORPORATION (Maui)

To consider Petitioner's request for release of all conditions of the Decision and Order which reclassified approximately 229.3 acres of land from the Agricultural District into the Urban District at Kula, Makawao, Maui, for a golf course.

3. A86-600 - WAITEC DEVELOPMENT, INC. (Oahu)

To reclassify approximately 691.5 acres of land currently in the Agricultural District into the Urban District at Waikele and Hoaeae, Oahu, Hawaii for a residential community.

4. A85-597 - KAUPULEHU DEVELOPMENTS (Hawaii)

To reclassify approximately 123 acres of land currently in the Urban District into the Conservation District, and to reclassify approximately 575 acres of land currently in the Conservation District into the Urban District at Kaupulehu, North Kona, Hawaii for intermediate resort and golf course uses.

9/10/86 - A copy of this Agenda was mailed to all persons and organizations on the following mailing lists:

1. STATEWIDE 2. HAWAII 3. MAUI 4. KAUAI 5. OAHU

✓ 5. SP86-360 - HEMMETER/VMS KAUAI COMPANY III (Kauai)

To allow the redesign of the existing golf course and the establishment of a driving range and related golf course accessory uses, boat docks, lake and waterways, parking areas, boat maintenance facility, irrigation lagoon, access roads, two helicopter landing pads, restaurant, athletic club facilities, tennis courts, and other miscellaneous accessory uses on approximately 400 acres of land situated within the Agricultural District at Nawiliwili, Lihue, Kauai.

II. HEARING

1. A86-602 - KAHALA CAPITAL CORPORATION (Hawaii)

To reclassify approximately 313.66 acres of land currently in the Conservation District into the Urban District at O'oma II, North Kona, Hawaii for an intermediate resort.

III. MISCELLANEOUS

1. Adoption of Minutes
2. Tentative Meeting Schedule

P 601 826 328

RECEIPT FOR CERTIFIED MAIL

NO INSURANCE COVERAGE PROVIDED
NOT FOR INTERNATIONAL MAIL

(See Reverse)

★ U.S.G.P.O. 1983, 403-517

PS Form 3800, Feb. 1982

Sent to	
Henry Shigekane	
Street and No.	
P.O., State and ZIP Code	
Postage	\$.22
Certified Fee	.75
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt Showing to whom and Date Delivered	.70
Return receipt showing to whom, Date, and Address of Delivery	
TOTAL Postage and Fees	\$ 1.67
Postmark or Date	



SP86-360 HEMMETER/VMS KAUAI CO.

III

**STICK POSTAGE STAMPS TO ARTICLE TO COVER FIRST CLASS POSTAGE,
CERTIFIED MAIL FEE, AND CHARGES FOR ANY SELECTED OPTIONAL SERVICES. (see front)**

1. If you want this receipt postmarked, stick the gummed stub on the left portion of the address side of the article leaving the receipt attached and present the article at a post office service window or hand it to your rural carrier. (no extra charge)
2. If you do not want this receipt postmarked, stick the gummed stub on the left portion of the address side of the article, date, detach and retain the receipt, and mail the article.
3. If you want a return receipt, write the certified mail number and your name and address on a return receipt card, Form 3811, and attach it to the front of the article by means of the gummed ends if space permits. Otherwise, affix to back of article. Endorse front of article **RETURN RECEIPT REQUESTED** adjacent to the number.
4. If you want delivery restricted to the addressee, or to an authorized agent of the addressee, endorse **RESTRICTED DELIVERY** on the front of the article.
5. Enter fees for the services requested in the appropriate spaces on the front of this receipt. If return receipt is requested, check the applicable blocks in item 1 of Form 3811.
6. Save this receipt and present it if you make inquiry.

SENDER: Complete items 1, 2, 3 and 4.

Put your address in the "RETURN TO" space on the reverse side. Failure to do this will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for service(s) requested.

1. ☐ Show to whom, date and address of delivery.
2. ☐ Restricted Delivery.

3. Article Addressed to:

Henry Shigekane

4. Type of Service:

- | | |
|---|----------------------------------|
| <input type="checkbox"/> Registered | <input type="checkbox"/> Insured |
| <input checked="" type="checkbox"/> Certified | <input type="checkbox"/> COD |
| <input type="checkbox"/> Express Mail | |

Article Number

P 601 826 328

Always obtain signature of addressee or agent and
DATE DELIVERED.

5. Signature - Addressee

X

6. Signature - Agent

X

7. Date of Delivery

9.12.86

8. Addressee's Address (ONLY if requested and fee paid)

SP86-360 HENNETTER/YMS KAUA I CO. III

UNITED STATES POSTAL SERVICE

OFFICIAL BUSINESS

SENDER INSTRUCTIONS

Print your name, address, and ZIP Code in the space below.

- Complete items 1, 2, 3, and 4 on the reverse.
- Attach to front of article if space permits, otherwise affix to back of article.
- Endorse article "Return Receipt Requested" adjacent to number.



**PENALTY FOR PRIVATE
USE, \$300**

**RETURN
TO**



(Name of Sender)

State of Hawaii

LAND USE COMMISSION

(No. and Street, Apt., Suite, P.O. Box or R.D. No.)

Room 104, Old Federal Building

(City, State, and ZIP Code)

335 Merchant Street


Honolulu, Hawaii 96813

P 601 826 327

RECEIPT FOR CERTIFIED MAIL

NO INSURANCE COVERAGE PROVIDED
NOT FOR INTERNATIONAL MAIL

(See Reverse)

Sent to Avery Youn	
Street and No.	
P.O., State and ZIP Code	
Postage	\$.22
Certified Fee	.75
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt Showing to whom and Date Delivered	.70
Return receipt showing to whom, Date, and Address of Delivery	
TOTAL Postage and Fees	\$ 1.67
Postmark or Date 	

★ U.S.G.P.O. 1983-403-517

PS Form 3800, Feb. 1982

AP86-360 Hemmeter/VMS Kauai Co. II

**STICK POSTAGE STAMPS TO ARTICLE TO COVER FIRST CLASS POSTAGE,
CERTIFIED MAIL FEE, AND CHARGES FOR ANY SELECTED OPTIONAL SERVICES. (see front)**

1. If you want this receipt postmarked, stick the gummed stub on the left portion of the address side of the article leaving the receipt attached and present the article at a post office service window or hand it to your rural carrier. (no extra charge)
2. If you do not want this receipt postmarked, stick the gummed stub on the left portion of the address side of the article, date, detach and retain the receipt, and mail the article.
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4. If you want delivery restricted to the addressee, or to an authorized agent of the addressee, endorse **RESTRICTED DELIVERY** on the front of the article.
5. Enter fees for the services requested in the appropriate spaces on the front of this receipt. If return receipt is requested, check the applicable blocks in item 1 of Form 3811.
6. Save this receipt and present it if you make inquiry.

PS Form 3811, July 1983 447-845

III CO

KAUAI

VMS

093-98PS

DOMESTIC RETURN RECEIPT

SENDER: Complete items 1, 2, 3 and 4.

Put your address in the "RETURN TO" space on the reverse side. Failure to do this will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for service(s) requested.

1. ☐ Show to whom, date and address of delivery.
2. ☐ Restricted Delivery.

3. Article Addressed to:

Avery Youn

4. Type of Service:

- | | |
|---|----------------------------------|
| <input type="checkbox"/> Registered | <input type="checkbox"/> Insured |
| <input checked="" type="checkbox"/> Certified | <input type="checkbox"/> COD |
| <input type="checkbox"/> Express Mail | |

Article Number

P 601, 826 327

Always obtain signature of addressee or agent and DATE DELIVERED.

5. Signature - Addressee

X

6. Signature - Agent

X

7. Date of Delivery

9/12/86

8. Addressee's Address (ONLY if requested and fee paid)

UNITED STATES POSTAL SERVICE

OFFICIAL BUSINESS

SENDER INSTRUCTIONS

Print your name, address, and ZIP Code in the space below.

- Complete items 1, 2, 3, and 4 on the reverse.
- Attach to front of article if space permits, otherwise affix to back of article.
- Endorse article "Return Receipt Requested" adjacent to number.

**RETURN
TO**



State of Hawaii

LAND USE COMMISSION

Room 104, Old Federal Building

335 Merchant Street

Honolulu, Hawaii 96813



**PENALTY FOR PRIVATE
USE, \$300**

(Name of Sender)

(No. and Street, Apt., Suite, P.O. Box or R.D. No.)

(City, State, and ZIP Code)

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Special Permit of	)	Docket No. SP86-360
)	
HEMMETER/VMS KAUAI COMPANY III	)	HEMMETER/VMS KAUAI
	)	COMPANY III
To Allow the Redesign of the Existing)	
Golf Course and the Establishment of a)	
Driving Range and Related Golf Course)	
Accessory Uses, Boat Docks, Lake and)	
Waterways, Parking Areas, Boat Maintenance)	
Maintenance Facility, Irrigation Lagoon,)	
Access Roads, Two Helicopter Landing Pads,)	
Restaurant, Athletic Club Facilities,)	
Tennis Courts, and Other Miscellaneous)	
Accessory Uses on Approximately 400 acres)	
of land situated within the Agricultural)	
District at Nawiliwili, Lihue, Kauai)	
)	

CERTIFICATE OF SERVICE

I hereby certify that a copy of the agenda of the Land Use Commission meeting of September 23, 1986 was served upon the following by either hand delivery or depositing the same in the U.S. Postal Service by certified mail:

EVERY YOUNG, Planning Director
Kauai County Planning Department
4280 Rice Street
Lihue, Kauai 96766

HENRY SHIGEKANE, Esq., Attorney for Petitioner
Hemmeter/VMS Kauai Company III
2424 Kalakaua Avenue
Honolulu, Hawaii 96815

DATED: Honolulu, Hawaii, this 11th day of September 1986.



ESTHER UEDA
Executive Officer

STATE OF HAWAII
LAND USE COMMISSION
Room 104, Old Federal Bldg.
335 Merchant Street
Honolulu, Hawaii 96813

September 11, 1986

Mr. Kent M. Keith, Director
Department of Planning and
Economic Development
State of Hawaii
250 South King Street
Honolulu, HI 96813

Attention: Mr. Abe Mitsuda, Land Use Division

Dear Mr. Keith:

Enclosed is a Land Use Commission meeting agenda.

Please note that petitions

1. A86-603 - HUEHUE RANCH (HAWAII)*
2. A84-576 - HALEAKALA GREENS CORPORATION (MAUI)*
3. A86-600 - WAITEC DEVELOPMENT, INC. (OAHU)*
4. A85-597 - KAUPULEHU DEVELOPMENTS (HAWAII)*
- ✓ 5. SP86-360 - HEMMETER/VMS KAUAI COMPANY III (KAUAI)*
6. A86-602 - KAHALA CAPITAL CORPORATION (HAWAII)**

will be acted on* heard** at that time.

Should you have any questions on these matters, please
contact this office.

Very truly yours,



ESTHER UEDA
Executive Officer

Enclosure: Agenda

STATE OF HAWAII
LAND USE COMMISSION
Room 104, Old Federal Bldg.
335 Merchant Street
Honolulu, Hawaii 96813

September 11, 1986

Mr. Avery H. Youn
Planning Director
Planning Department
County of Kauai
4280 Rice Street
Lihue, Kauai, Hawaii 96766

Dear Mr. Youn:

Enclosed is a Land Use Commission meeting agenda.

Please note that petition(s)

SP86-360 - HEMMETER/VMS KAUAI COMPANY III

will be acted on at that time.

Should you have any questions on this matter, please
contact this office.

Very truly yours,



ESTHER UEDA
Executive Officer

Enclosure: Agenda

STATE OF HAWAII
LAND USE COMMISSION
Room 104, Old Federal Bldg.
335 Merchant Street
Honolulu, Hawaii 96813

Sept 11, 1986

Max Graham, Esq.
County Attorney
Office of the County Attorney
County of Kauai
4396 Rice Street
Lihue, Kauai, HI 96766

Dear Mr. Graham:

Enclosed is a Land Use Commission meeting agenda.

Please note that petition(s)

SP86-360 - HEMMETER/VMS KAUAI COMPANY III

will be acted on at that time.

Should you have any questions on this matter, please contact this office.

Very truly yours,

Esther Ueda

ESTHER UEDA
Executive Officer

Enclosure: Agenda

STATE OF HAWAII
LAND USE COMMISSION
Room 104, Old Federal Bldg.
335 Merchant Street
Honolulu, Hawaii 96813

September 11, 1986

Henry Shigekane, Esq.
Attorney At Law
2424 Kalakaua Ave.
Honolulu, HI 96815

Dear Mr. Shigekane:

Enclosed is a Land Use Commission meeting agenda.

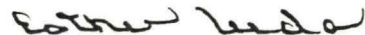
Please note that petition(s)

SP86-360 - HEMMETER/VMS KAUAI COMPANY III

will be _____ acted on _____ at that time.

Should you have any questions on this matter, please
contact this office.

Very truly yours,



ESTHER UEDA
Executive Officer

Enclosure: Agenda

TONY T. KUNIMURA
MAYOR



AVERY H. YOUN
PLANNING DIRECTOR

TOM H. SHIGEMOTO
DEPUTY PLANNING DIRECTOR

TELEPHONE (808) 245-3919

COUNTY OF KAUAI
PLANNING DEPARTMENT
4280 RICE STREET
LIHUE, KAUAI, HAWAII 96766

September 3, 1986

SEP 8 12 52 PM '86
LAND USE COMMISSION
STATE OF HAWAII

Esther Ueda
Executive Officer, Land
Use Commission
335 Merchant Street, Room 104
Honolulu, Hawaii 96813

Subject: Land Use Commission Special Permit SP-86-360/Hemmeter-VMS Kauai
Company III (SP-86-18)

- A. The acreage of the Special Use Permit area (Phase I and III) is approximately 400+ acres.
- B. The uses proposed within the Special Use Permit area include the following:
1. Boat maintenance area
 2. Golf clubhouse
 3. Lagoons
 4. Parking lot areas
 5. Boat docks
 6. Public beach access (vehicular and pedestrian)
 7. New airport, Kapule Highway and Rice Street access and internal roadway system
 8. Golf courses
 9. Landscaping, pedestrian and carriage paths
 10. Helicopter landing pads (2)
 11. Horse stables
 12. Golf and grounds maintenance area
 13. Golf, racquet and spa athletic club facilities
 14. Restaurant
 15. Driving range
 16. Tennis courts

Specific acreages of the above uses are not available.

- C. The County of Kauai Planning Commission has granted approval for all the above uses within the State Land Use "Agriculture" District. Additionally, a condition of approval was that the applicant submit a boundary amendment petition to the State Land Use Commission for those areas designated "Agriculture" by August 7, 1987, for re-districting to "Urban."

Specifically, the Planning Commission has approved:

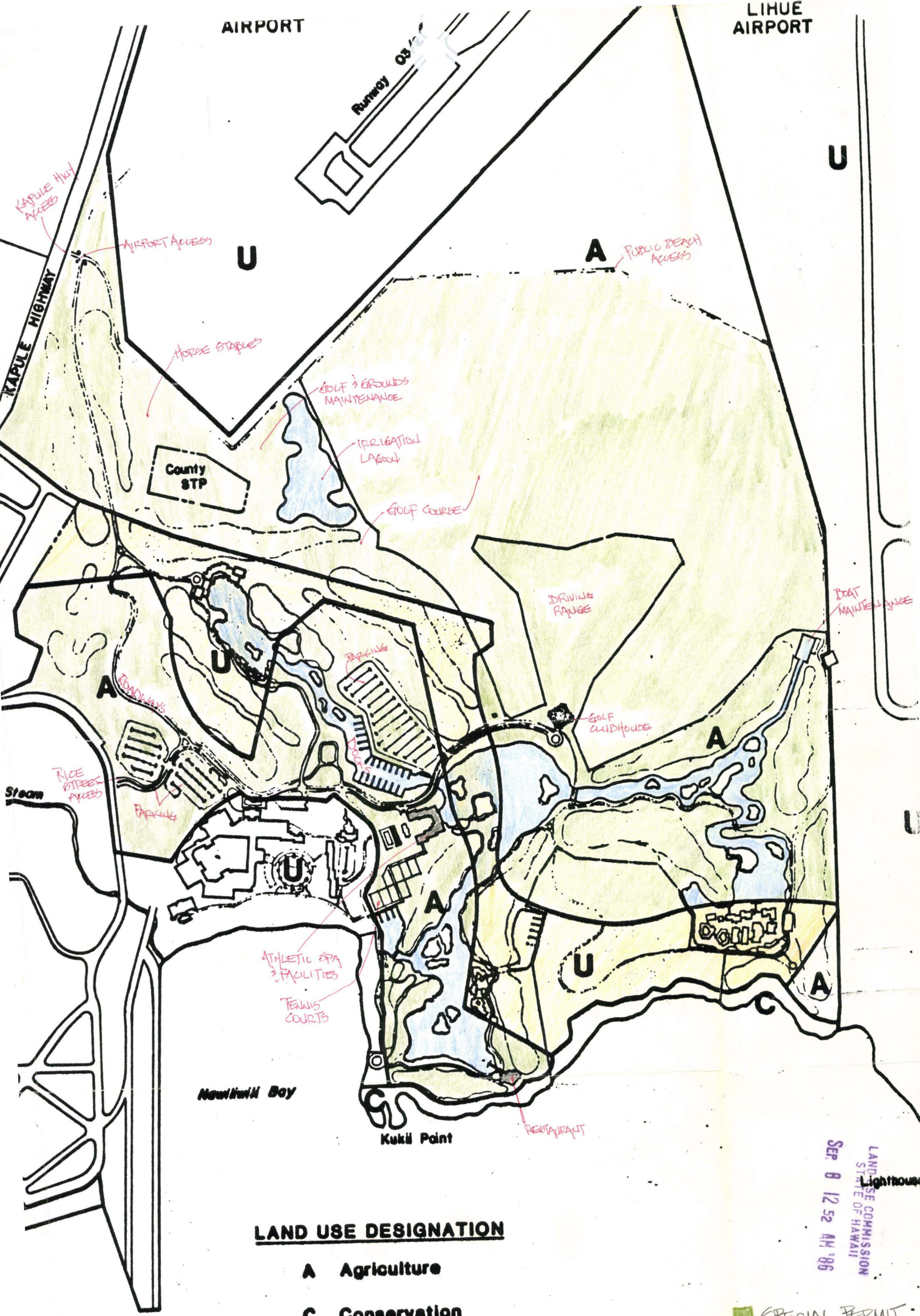
- Special Management Area Use Permits SMA(U)-85-3 and SMA(U)-86-16;
- Project Development Use Permits PD(U)-28-85 and PD(U)-86-60;
- Special Permits SP-85-5 and SP-86-18;
- Class IV Zoning Permits Z-IV-85-35 and Z-IV-86-70

D. An enlarged map is enclosed for your reference. A larger scale map from the applicant has not yet been received as of today.

Should you have any questions relative to the above, please contact me at 245-3919.

A handwritten signature in black ink, appearing to read "Michael Laureta".

Michael Laureta
Planner



LAND USE DESIGNATION

- A** Agriculture
- C** Conservation
- U** Urban

scale = 1" = 600'-0"

SPECIAL PERMIT AREA

Figure III-1
STATE LAND USE



LAND USE COMMISSION

Room 104, Old Federal Bldg., 335 Merchant Street
Honolulu, Hawaii 96813 Telephone: 548-4611

GEORGE R. ARIYOSHI
Governor

TEOFILO PHIL TACBIAN
Chairman

FREDERICK P. WHITEMORE
Vice Chairman

COMMISSION MEMBERS:

Richard B. F. Choy
Lawrence F. Chun
Everett L. Cuskaden
Winona E. Rubin
Toru Suzuki
Robert S. Tamaye
William W. L. Yuen

ESTHER UEDA
Executive Officer

August 22, 1986

Mr. Avery H. Youn, Director
County of Kauai Planning Department
4396 Rice Street
Lihue, Kauai, Hawaii 96766

Dear Mr. Youn:

Subject: Land Use Commission Special Permit SP86-360/
Hemmeter/VMS Kauai Company III (SP-86-18)

We have received the County's records for the subject Special Use Permit and have tentatively scheduled the matter for Commission action on September 23, 1986, in Kona, Hawaii.

Based on our review of the information provided, we find that there are several areas which we need to have clarified/additional information provided, in order to facilitate review of the proposal.

1. The acreage of the Special Use Permit area.
2. Clarification regarding what uses are proposed in the Special Use Permit area, and the acreages of the various uses, if available.
3. Information regarding what County approvals have been granted for the Special Use Permit area. (We understand that the County has approved several facilities in the SUP area.)
4. A large scale map reflecting the location of the Special Use Permit area in relation to the State Land Use District Boundaries, and the location of the proposed uses. (The Petitioner's consultants have indicated that they would be willing to provide such a map, however, we request the County's verification that the information is accurately depicted.)

Mr. Avery H. Youn
August 22, 1986
Page Two

Inasmuch as we have to prepare our report to the Commission as soon as possible, we would appreciate this information by September 10, 1986. We appreciate your assistance in this matter.

If you have questions, please call me or my staff at 548-4611.

Sincerely,



ESTHER UEDA
Executive Officer

EU:to

cc: Belt Collins and Associates

*Received on Sept 12, 1986
see large scale color maps (2)*

TBCA

**BELT, COLLINS
& ASSOCIATES**

Engineering • Planning
Landscape Architecture

September 5, 1986
533.2404/86-1616

Avery Youn
Planning Department
County of Kauai
4280 Rice Street
Lihue, Kauai, Hawaii 96766

SEP 8 12 52 AM '86
LAND USE COMMISSION
STATE OF HAWAII


Dear Avery,

Your staff planner, Michael Laureta, indicated to us that maps and other information regarding the Kiele Lake Golf Course Special Use Permit are needed to fulfill requests made to you by the State Land Use Commission. We have enclosed with this letter an enlarged colored map of the Special Use Permit area and a map of the Tax Map Key Parcels.

Our conversations with State Land Use Commission staff planner, Raymond Young, indicates that these maps will be useful in their processing of the Special Use Permit. They have also indicated to us that the Special Permit documents for the Kauai County STP site and the previously approved Westin Kauai projects in the Agriculture District would be useful as well. We hope that you will be able to forward to them copies of these Special Permits as well as the enclosed maps.

Please call me or Mike Teruya if you have any questions.

Sincerely yours,


James R. Bell

Enclosures

cc: Esther Ueda



LAND USE COMMISSION

Room 104, Old Federal Bldg., 335 Merchant Street
Honolulu, Hawaii 96813 Telephone: 548-4611

COMMISSION MEMBERS:

Richard B. F. Choy
Lawrence F. Chun
Everett L. Cuskaden
Winona E. Rubin
Toru Suzuki
Robert S. Tamaye
William W. L. Yuen

ESTHER UEDA
Executive Officer

September 8, 1986

Mr. Avery H. Youn, Director
County of Kauai Planning Department
4396 Rice Street
Lihue, Kauai, Hawaii 96766

Dear Mr. Youn:

Subject: Land Use Commission Special Permit SP86-360/
Hemmeter/VMS Kauai Company III (SP-86-18)

After reviewing the subject Special Permit, we have some concerns with respect to the appropriateness of the Special Use Permit process for the proposed development in light of the Supreme Court Decision on the Kahe Theme Park Special Use Permit. A copy of the Supreme Court Decision is attached for your reference

In light of this concern, we request that you or a representative be present at the Land Use Commission's action meeting on this matter and be prepared to discuss the appropriateness of a Special Use Permit versus a Boundary change for the proposed development. If you wish, written statements may be submitted to the Commission prior to the meeting date.

The Commission's action meeting is presently scheduled for September 23, 1986, 10:30 a.m. at the Resolution Room, Kona Surf Hotel, Kona, Hawaii.

Thank you for your cooperation in this matter. If you have any questions, please call me at 548-4611.

Sincerely yours,

ESTHER UEDA
Executive Officer

EU:to

Attachment



LAND USE COMMISSION

Room 104, Old Federal Bldg., 335 Merchant Street
Honolulu, Hawaii 96813 Telephone: 548-4611

COMMISSION MEMBERS:

Richard B. F. Choy
Lawrence F. Chun
Everett L. Cuskaden
Winona E. Rubin
Toru Suzuki
Robert S. Tamaye
William W. L. Yuen

ESTHER UEDA
Executive Officer

September 8, 1986

Henry Shigekane, Esq.
Hemmeter/VMS Kauai Company III
2424 Kalakaua Avenue
Honolulu, Hawaii 96815

Dear Mr. Shigekane:

Subject: Land Use Commission Special Permit SP86-360/
Hemmeter/VMS Kauai Company III (SP-86-18)

After reviewing the subject Special Permit, we have some concerns with respect to the appropriateness of the Special Use Permit process for the proposed development in light of the Supreme Court Decision on the Kahe Theme Park Special Use Permit. A copy of the Supreme Court Decision is attached for your reference

In light of this concern, we request that you or a representative be present at the Land Use Commission's action meeting on this matter and be prepared to discuss the appropriateness of a Special Use Permit versus a Boundary change for the proposed development. If you wish, written statements may be submitted to the Commission prior to the meeting date.

The Commission's action meeting is presently scheduled for September 23, 1986, 10:30 a.m. at the Resolution Room, Kona Surf Hotel, Kona, Hawaii.

Thank you for your cooperation in this matter. If you have any questions, please call me at 548-4611.

Sincerely yours,

ESTHER UEDA
Executive Officer

EU:to

Attachment

cc: Sidney Fuke
Belt Collins & Associates

TONY T. KUNIMURA
MAYOR



AVERY H. YOUN
PLANNING DIRECTOR

TOM H. SHIGEMOTO
DEPUTY PLANNING DIRECTOR

TELEPHONE (808) 245-3919

COUNTY OF KAUAI
PLANNING DEPARTMENT
4280 RICE STREET
LIHUE, KAUAI, HAWAII 96766

August 14, 1986

State of Hawaii
Land Use Commission
Room 104, Old Federal Building
335 Merchant Street
Honolulu, Hawaii 96813

LAND USE COMMISSION
STATE OF HAWAII
AUG 18 11 52 AM '86

Subject: Application for Special Permit
Our File No. SP-86-18
Hemmeter/VMS Kauai Company III
TMKs: 3-5-02 and 3-5-01:Por. 6, 27, 82, 83 & 1
Nawiliwili, Kauai

The Planning Commission at its meeting held on August 13, 1986, voted 4 to 0 (2 abstained, 1 absent) to recommend approval of the above Special Permit with the condition that within one (1) year from Planning Commission approval, the applicant shall submit a Land Use Boundary Amendment application (from Agriculture to Urban) to the Land Use Commission for all lands within the Agriculture District subject to all phases of development.

In accordance with provisions under Section 205-6, HRS, we herewith transmit for your consideration the foregoing application, together with all pertinent information.

Tom H. Shigemoto
for AVERY H. YOUN
Planning Director

Enclosures

State of Hawaii
Land Use Commission
Page 2
August 14, 1986

cc: Applicant
Mayor
Pub. Works Dept.
Water Dept.
Health Dept.
Highways Div.
Real Property Div.

I hereby certify that this letter represents a true and correct record of the subject action.



Madeline T. Yamauchi, Secretary

Aug 18 11 53 AM '86
LAND USE COMMISSION
STATE OF HAWAII

RE: Zoning Amendment ZA-86-7
Special Management Area Use Permit SMA(U)-86-16
Project Development Use Permit PD(U)-86-60
Special Permit SP-86-18
Class IV Zoning Permit Z-IV-86-70

APPLICANT: Hemmeter/VMS Company III

BACKGROUND:

To review the permits requested and projects involved, the following summary is provided:

- A. Zoning Amendment - for approximately 58+ acres, from Agriculture District (A) to Resort Residential District (RR-20) for the following uses proposed in the Urban District:
1. Future 750 unit resort hotel. Accessory permits will be applied for at a later date.
 2. 15,000 sq. ft. restaurant (makai area)
 3. Three commercial areas totalling 110,000 sq. ft.
 4. Miscellaneous golf holes, lagoons, boat decks, access, drives, pathways, etc.
- B. Special Management Area Use Permit for:
1. Makai restaurant
 2. Three commercial areas
 3. Boat docks
 4. Lagoons
 5. Parking areas
 6. Portion of the golf course, pathway system, access drives and shoreline access.
- C. Special Permit - to establish certain uses within the State Land Use "Agriculture" District that are not agriculturally related, and which include:
1. Re-design of the existing 18-hole golf course
 2. New driving range
 3. New golf clubhouse and starter's shed

B-1c

4. Golf and grounds maintenance areas
 5. Boat docks for 100 charter boats and 3 ferries
 6. Approximately 30 acres of waterways and lake
 7. Parking area for 600+ cars
 8. Boat maintenance facility
 9. Irrigation lagoon of approximately 9 acres
 10. Airport, service and public access for driveways
 11. Miscellaneous accessory uses (carriage paths, horse stables, etc.)
- D. Project Development Use Permit - to allow parking, golf course and maintenance shop in the Agriculture District, and parking and boat docks in the Open District.
- E. Class IV Zoning Permit - is a procedural requirement since a project development use permit is being requested and because the parcel qualifies for more than 25 units.
- F. Several concerns and recommendations were also explored by the public at the July 23, 1986 public hearing and are summarized as follows:
1. The applicant must consult with the appropriate Federal or State authorities regarding the pair of endangered Hawaiian Gallinule at the drainage pond, before proceeding with any plans to alter the habitat.
 2. Regarding exterior lighting in order to minimize the autumnal fallout of Newell's shearwaters:
 - a) Install exterior light fixtures only of the following types: shielded lights, cut-off luminaries, or indirect lighting.
 - b) Avoid unnecessary lighting during the critical shearwater fallout period (October and November).
 3. Traffic, population, helicopter, noise and dust concerns.

EVALUATION:

Other than the requested zoning amendment to RR-20 to accompany a 750 room hotel in the future (1992), we are of the opinion that all the uses and improvements requested are resort related amenities that will serve to enhance the uses previously approved in Phase I.

- A. Relative to the Zoning Amendment Request - This RR-20 zoning amendment request is in order to provide a future 750 unit resort hotel with related commercial areas and restaurant, and other amenities interwoven with golf courses, horse carriage paths and lagoons and waterways. The

Lihue Development Plan recommends the establishment of a hotel in this area, provided development of new resort facilities include contiguous public access to the shoreline.

The applicant is committed to creating a high quality destination resort center. This process has already begun with the approved Westin Kauai Resort Hotel now undergoing renovation and expansion. The addition of the new development proposals will increase the level of amenity and recreational choices that the visitors will have at their disposal. This will also serve to enhance the self-contained aspects of the complete resort complex and allow for the development and maintenance of a high quality, world class resort area.

We are of the opinion that the requested rezoning will have a large impact in upgrading the quality of visitor services in Lihue, and which will occur in an area General Planned as an urban resort area, and planned for resort use by the Lihue Development Plan.

1. Traffic - However, the addition of 750 resort hotel units will aggravate the present traffic problems in the Lihue District. Traffic improvements must accompany this aspect of the project in order to mitigate traffic impacts since the hotel is not intended for construction until 1992, the planning for traffic improvements must begin now. By the time the SMA and zoning permits are sought for the hotel, specific traffic improvements should already be identified such that it could be implemented as part of the project. A major consideration that would lessen the traffic impact in the Lihue area would be the completion of the Ahukini bypass highway. Such completion would be necessary before the hotel could be allowed to open.

According to the applicant's traffic study, the following improvements could improve the potential traffic problems generated by the hotel:

- Construction of an additional eastbound lane on Kuhio Highway from Hardy Avenue to Ahukini Road. This would complement the Kapule Highway extension described above and speed vehicles out of downtown Lihue.
- Elimination of the traffic signal at the Ehiko Street entrance to the Isenberg tract.
- Prohibiting parking along the northern side of Rice Street between Kalena Street and the Kuhio/Kaumualii Highway intersection during the afternoon peak-hour; this would provide two outbound lanes instead of the current one.
- Prohibiting left turns from Kuhio Highway onto Rice Street. Other routes are available for the relatively few drivers

needing them, and elimination of this movement would allow additional time to be allocated to the two remaining cycles of the light.

- Prohibiting parking on the southern (post office) side of Rice Street.

2. Airport Noise - DOT's Airports Division does not anticipate completion of their Lihue airport noise study for approximately 3 months. Since Federal guidelines already exist relative to permitted uses within certain LDN sound contours, we are of the opinion that the siting of the Lagoon's commercial site should be based on the 1995 "Projected Fixed Wing Aircraft and Helicopter Noise Contours," utilizing the 60 LDN contour level as a setback line. Federal standards reflect that such a non-habitable commercial use can be established up to a 70 LDN contour, however, we would not consider that appropriate due to the location and type of environment the applicant wishes to create. Since the hotel site is projected for development in 1992, whatever guidelines/recommendations made by the DOT study can be reviewed and imposed during the SMA review process for the resort project.

To further mitigate noise impact to the Lagoon's commercial site we are of the opinion that the applicant should provide a berm, landscaped with mature landscaping on the airport side of the project. Technical aspects can be reviewed with the grading and landscaping plans prior to building permit approval

3. Ninini Point Recreational Use - To the applicant's credit, vehicular and pedestrian access is being provided to Ninini Point. Since "Running Waters" beach is located between Ninini and Kukii Points and is used by the public, lateral beach access should be provided in this phase of development, and between Phase I and this phase. As well, parking, restroom and shower facilities should also be provided by the applicant in the vicinity of the Lagoon's commercial project. This facility will enhance the coastal recreational opportunities accessible to the public. We further believe that these improvements are adequate to meet the condition imposed by the Land Use Commission for public access and a park in this area..
4. Lihue Mill and STP Wastewater Disposal - As commented by the Public Works Department, disposal of the Lihue mill wastewater and Lihue Sewage Treatment Plant effluent remain concerns until such time that agreements are reached between the applicant, the County and Lihue Plantation. These wastewater disposal problems must be resolved prior to any permits being issued for development of Phase II land areas. We are aware that negotiations are underway between the applicant and Lihue Plantation Company to develop a system to dispose of the mill wastewater into fields mauka of Lihue. Such a

system would eliminate the odor and mosquito problems and also solve the disposal problem now occurring on the lands proposed for development surrounding the airport.

- B. Relative to the Special Management Area Use Permit - This SMA Use Permit request is for all portions of the project within the SMA except for the hotel site, as this will be covered by a separate SMA application at a later date.

The proposed improvements will not encroach into the 40 ft. shoreline setback area, will not adversely affect ocean dependent resources, will improve beach access and public parking areas, will improve upland drainage and waterways which will help restoration of nearshore coastal waters, will not affect historical or archaeological resources or disrupt coastal ecosystems, makes provisions for solid and liquid waste treatment and/or disposal in order to minimize any potential for degradation of the coastal resources, and will not reduce existing public rights to beaches, shoreline, streams, or similar tidal areas over whay presently exists.

Specific areas of concern within the SMA include the following:

1. Prior to beginning any work on the pond where the pair of Hawaiian Gallinule are located, the applicant must consult with the appropriate Federal or State authorities regarding preservation or reservation of this wildlife habitat.
2. To minimize adverse impacts to the Newell's shearwaters, exterior lighting fixtures shall be only of the following types: shielded lights, cut-off luminaires or indirect lighting. Spotlighting of any structures or the ocean should be reviewed and approved by the Planning Director.
3. As reflected on the plans submitted, it appears that certain structures/uses proposed by the applicant may adversely affect the quality of the coastal scenic and open space resources and/or the existing recreational resources of the site. No structure on the coastal bluff shall be higher than that permitted by the Comprehensive Zoning Ordinance. The design and siting of these structures should be subject to review and approval by the Planning Director; design criteria should include non-reflective roof materials, no mirrored windows, landscaping, staggered and graduated building heights and building envelopes, and the establishment of a transition zone.

All improvements along the coastal bluff should be staked out for review and approval in order to assure that these improvements are architecturally compatible, unobtrusive and properly located. The Conservation District should also be staked out. The architectural

design review and approval, and the staking out should occur prior to building permit application. Setbacks along the bluff shall be established at this time, dependent upon the height, design and landscaping of the structure or improvement, subject to review and approval by the Planning Director.

4. The extensive landscaping proposed for the project will improve the quality of the coastal scenic and open spaces of the site. A landscaping master plan, subject to prior review and approval should also be required.

C. Relative to the 5 Point Special Permit Test:

1. The requested uses within the State's "Agriculture" Land Use District will not be contrast to the Land Use Law since the land in question is either vacant and uncultivated or were used as part of the Kauai Surf Golf course. Those portions used by Lihue Plantation are a minor portion of their land holdings and are not essential to their agricultural operations.
2. The proposed activities will not generate adverse noise, odors or emissions which could adversely impact surrounding properties. The activities proposed are low intensity in nature.
3. The requested uses will not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage and school improvements, or police and fire protection. All public service functions are available, and where they are not or they are substandard, appropriate upgrades and improvements will be made by the applicant, as required by the affected government agencies and/or the Planning Commission as conditions of approval.
4. Unusual conditions, trends, and needs have arisen since the district boundaries and regulations were established. The proposed uses and improvements are in response to trends and needs within the community and the visitor industry to provide visitors with experiences that are unique and make optimum use of existing and available resources. The passive use of the subject property for the uses requested (i.e., carriage trails, lagoons, golf course, etc.), is a unique approach as compared to the traditional development of resort areas which emphasize only the beach oriented activities. The requested uses are an extension of the primary hotel/resort function of the overall property, and functionally more a part of that than an agricultural activity.
5. Although the land upon which the proposed uses are sought is suited for the purposes permitted within the Agricultural District, it would be incompatible to the surrounding uses due to the expanded nature of the both the airport operations and the Westin Kauai resort operations.

Since the area involved with this Special Permit exceeds 15 acres, review and approval by the Land Use Commission will be necessary. At the time Phase I was reviewed and approved by the Planning Commission, a condition of approval was imposed that would require the applicant to submit a Land Use Boundary Amendment application (from Agriculture to Urban) to the Land Use Commission for all of the lands in the Agriculture District subject to the permits being requested at that time. The same requirement should also be applicable in this instance. However, in order to coordinate the expanded nature of this project, the time requirement for submittal to the LUC for Phase I should be consolidated with this phase, thereby requiring one submittal for both phases within one year from the date of approval by the Planning Commission.

- D. Relative to the Project Development Use Permit - The establishment of parking areas, maintenance shops and golf course in the Agriculture District, and parking and boat docks within the Open zone would not create adverse impacts to public health, safety, and welfare and are considered accessory uses to the resort function. The proposed improvements will also implement the resort designation goals for the General Plan and the Lihue Development Plan. They are a continuation of the already approved renovation and expansion of the old Kauai Surf Hotel. The proposed improvements will help integrate all the various uses into a well-designed destination resort complex, thereby stabilizing the resort operations. The entire project area will be landscaped and properly maintained, creating a desirable and elegant ambiance.
- E. Relative to the Class IV Zoning Permit - All of the projects discussed previously are subject to a Class IV Zoning Permit also; however, for those projects under the zoning amendment request (commercial areas, restaurant, miscellaneous docks, lagoons, carriage ways, etc.), a Class IV Permit cannot be issued unless the zoning amendment is approved first. Should a Class IV permit be granted for these items, it would have to be conditioned subject to approval of the zoning amendment first, and a subsequent review by the Planning Commission would be further required once more detailed plans are available and prior to building permit application.
- F. Future Applications - To realize completion of the entire project, a Special Permit is needed to accommodate the proposed additional 18-hole golf course. For the future hotel itself, an SMA and a Class IV Zoning permit will be needed.

CONCLUSION:

- 1. Relative to the Zoning Amendment requested, it is concluded that the proposal conforms to the recommendations of both the Lihue Development Plan and General Plan Update relative to the development of a resort at this location. Further, it is concluded

that traffic related improvements within the Lihue area and opening of the Ahukini bypass road will be necessary in order to lessen the impact caused by the additional traffic that would be generated from a 750 unit hotel, however, such improvements need not be provided now but should be implemented at time of Class IV and SMA permit review for the hotel.

2. Relative to the Special Management Area Use Permit, it is concluded the proposed project:
 - a. Will not have any substantial adverse environmental or ecological effect. Any adverse environmental or ecological effect that may result will be minimized to the extent practicable and is clearly outweighed by public health, safety and welfare, and other compelling public interests. The development of the property will not have adverse effects by itself or in conjunction with other individual developments, the potential cumulative impacts of which would result in a substantial adverse environmental or ecological effect and the elimination of planning options.
 - b. Is consistent with the objectives and policies contained in HRS, Chapter 205-A; the objectives, policies and guidelines of the SMA Rules.
 - c. Is consistent with the Kauai General Plan Update Ordinance and Comprehensive Zoning Ordinance.
3. Relative to the Special Permit it is concluded that the project conforms to the requirements of Part V of the State Land Use Commission's Rules of Practice and Procedure, and District Regulation relative to the 5-point test for the issuance of Special Permits.
4. Additionally, the project conforms to the requirements for the issuance of a Project Development Use permit in that those projects within the Agriculture and Open Districts will be part of a harmonious and integrated plan that will contribute positive benefits to this resort destination area.
5. It is finally concluded that the Class IV permit is appropriate, however for those projects being considered under the zoning amendment, such permits must be subject to zoning amendment approval and a subsequent review by the Planning Commission.

RECOMMENDATION:

- A. Based on the foregoing findings, evaluation and conclusion, it is hereby recommended that SPECIAL PERMIT SP-86-6 be approved subject to the condition that within one (1) year from Planning Commission approval, the applicant shall submit a Land Use Boundary Amendment

application (from Agriculture to Urban) to the Land Use Commission for all lands within the Agriculture District subject to all phases of development.

B. Based on the foregoing findings, evaluation and conclusion, it is hereby recommended that ZONING AMENDMENT ZA-86-7 from Agriculture District (A) to Resort Residential District (RR-20) be approved subject to the following conditions:

1. The number of hotel units shall not exceed 750 rooms unless authorized and deemed to be consistent with the zoning designation by the Planning Commission.
2. Prior to building permit approval for any improvements within Phase II, the applicant shall submit the necessary documentation and/or legal agreements reflecting the resolution of the following:
 - a. The disposal or use of the Lihue Sewage Treatment effluent for golf course irrigation and use within the lagoons.
 - b. Disposal of the Lihue mill wastewater and the L-20 reservoir.
 - c. Conditions upon which sewer service will be provided by the County since the proposed development is outside of the service area of the present 1.5 mgd STP capacity.
3. Applicant shall establish a landscaped buffer zone around the Lihue STP. Size of the buffer zone and type of landscaping shall be subject to Planning Department review and approval.
4. Applicable conditions imposed by the State Land Use Commission at time of district boundary amendment shall be completed by August 22, 1988.
5. In order to assure adequate time for the completion of the Ahukini by-pass highway, no occupancy permit for the hotel shall be issued prior to January 1, 1990.
6. Applicant shall provide and construct a minimum number of public parking stalls, to be determined by the Planning Commission, at the eastern end of the project in the vicinity of the Ninini Point access and public beach right-of-way as part of this project. Improvements shall further include restroom and shower facilities, and shall be so maintained by the applicant. Such improvements shall be credited to any park dedication requirement, if applicable.
7. No habitable structures shall be constructed within areas falling within the Projected 1995 Fixed Wing Aircraft and Helicopter Noise Contour Level of 60 LDN. For added mitigative measures, a berm, landscaped with mature trees shall be provided along the property line that parallels the runway and lagoon's commercial area, and shall be reflected on the landscape master plan.

8. Traffic improvements to intersections or roadways within the Lihue District that would be adversely impacted by the increase in traffic generated by the hotel project shall be considered and, as may be appropriate, required by the Planning Commission at time of consideration of the Special Management Area Use Permit for the proposed hotel.

C. Based on the foregoing findings, evaluation and conclusion, it is hereby recommended that SPECIAL MANAGEMENT AREA USE PERMIT SMA(U)-86-16, PROJECT DEVELOPMENT USE PERMIT PD(U)-86-60, and CLASS IV ZONING PERMIT Z-IV-86-70 be approved subject to the following conditions:

1. The Class IV Zoning permit approved at this time covers the following projects:

- a. those projects that are part of the Project Development approval within the Ag and Open zones; and
- b. those projects under the Special Permit approval.

The Class IV Zoning for those projects incorporated as part of the Zoning Amendment application are hereby approved subject to approval of the Zoning Amendment by the County Council.

All Class IV approvals are subject to further review and approval by the Planning Commission when more detailed plans become available.

2. Exterior lighting fixtures shall be only of the following types: shielded lights, cut-off luminaires or indirect lighting. Spotlighting of ocean or any structures during the evening hours shall be subject to review and approval by the Planning Director.

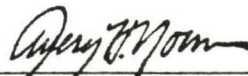
3. Prior to building permit application, applicant shall:

- a. Submit schematic design plans for review and approval by the Planning Department for all structures in this phase of development along the coastal bluffs. All structures proposed to be constructed along the coastal bluffs should be designed to meet the recommendations of the Kauai Urban Design Plan.
- b. Submit a landscaping master plan for review and approval by the Planning Department.
- c. Stake out for review and approval by the Planning Department, a) the seaward locations of all structures and improvements proposed on the coastal bluff, and b) the Conservation District. Greater setbacks can be required at this time in order to mitigate adverse visual impacts from occurring, and/or to mitigate impacts to the Conservation Districts.

- d. Applicant shall submit for review and approval by the Planning Director a shoreline access plan which reflects public access to the shoreline, particularly Ninini Point and Running Waters Beach; lateral access along the coast between the subject property and Kukii Point; vehicular parking; and a restroom/shower facility.
 - e. Consult with the appropriate Federal or State authorities regarding preservation and/or relocation of the Hawaiian Gallinule wildlife habitat. Applicant shall comply with any requirements imposed by these authorities.
4. Requirements and concerns of the State Health Department, County Public Works, Water and Fire Departments shall be met and resolved with the respective agencies.
 5. The Planning Commission may impose additional conditions, restrictions or requirements on the permits approved herein should unanticipated or unforeseen circumstances arise which require such additional conditions to insure compliance with the standards contained in the Comprehensive Zoning Ordinance, the Special Management Area Rules and Regulations, or the State Land Use District Rules and Regulations.
 6. As required by Ordinance No. 396, an Environmental Impact Assessment fee is applicable, and will be assessed at time of building permit review for the commercial and hotel portions of the project.

By 
Michael Laureta
Planner

Approved & Recommended to Commission:


Avery H. Youn
Planning Director

KAUAI PLANNING DEPARTMENT
LIHUE, KAUAI

STAFF REPORT

PROJECT: Zoning Amendment ZA-86-3
Special Management Area Use Permit SMA(U)-86-16
Project Development Use Permit PD(U)-86-60
Special Permit SP-86-18
Class IV Zoning Permit Z-IV-86-70

APPLICANT: Hemmeter-VMS Kauai Company III

FINDINGS

LOCATION: Nawiliwili, Kauai, on land located between the Westin
Kauai Resort and Ninini Point.

TAX MAP KEYS: 3-5-02 and 3-5-01: por. 6, 27, 82, 83 and 1

TOTAL ACREAGE OF OVERALL WESTIN RESORT: Approximately 454+ acres
TOTAL ACREAGE OF FIRST WESTIN PERMIT REQUEST: 214 acres

LAND USE CLASSIFICATION: Conservation, Urban, Agriculture
EXISTING USES: Agriculture, resort hotel and related uses,
golf course
GENERAL PLAN DESIGNATION: Resort, Urban Mixed Use, Open and Agriculture
ZONING: Agriculture and Open

ACTIONS REQUIRED, PROJECT DESCRIPTION AND USE:

SPECIAL PERMIT is required since the applicant proposes to establish certain uses within the State Land Use Agriculture District that are not agriculturally related. The requested uses and improvements include:

1. Re-design of the existing 18-hole golf course by Jack Nicklaus.
2. New driving range.
3. New golf clubhouse and starter's shed, approx. 26,000 sq. ft.
4. Golf and grounds maintenance areas.
5. Approximately 30 acres of waterways and lake.
6. Boat docks for 100 charter boats and 3 ferries.
7. Parking area for 600+ cars.
8. Irrigation lagoon of approx. 9 acres.
9. Boat maintenance facility.
10. Airport, service and public access roadways.
11. Miscellaneous accessory uses (carriage paths, horse stables, etc.)

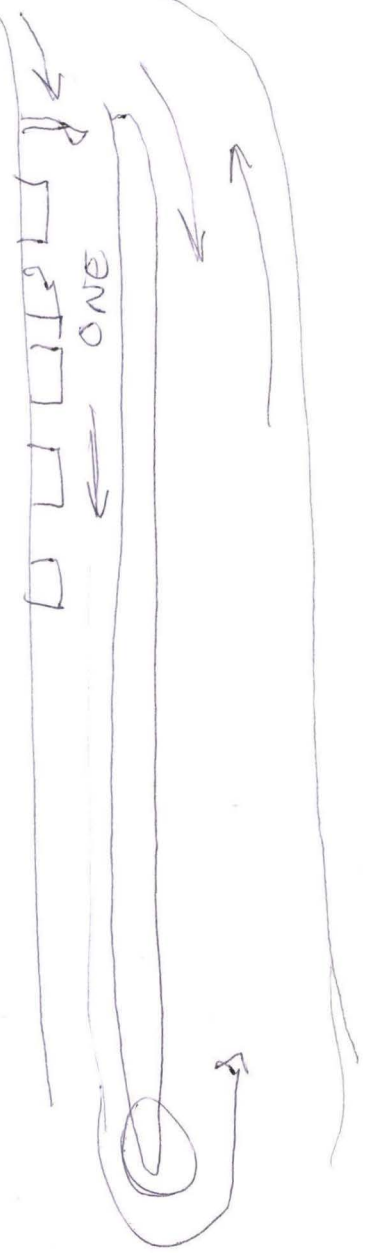
ZONING AMENDMENT for approximately 56 acres, from Agriculture District (A) to Resort Residential District (RR-20) to accommodate the following:

1. Future 750 unit resort hotel of approximately 30 acres. Necessary permits (i.e., SMA, Class IV, etc.) will be applied for at a later date.

LAND USE COMMISSION
STATE OF HAWAII
AUG 18 11 52 AM '86

B-7

APR 18 11 25 AM '92
RECEIVED BY MAIL
UNITED STATES DEPARTMENT OF JUSTICE



2. 15,000 sq. ft. restaurant (makai area).
3. Three commercial areas totalling 110,000 sq. ft. net leasable area: The Cliffs commercial area of 25,000 sq. ft.; The Islands commercial area of 25,000 sq. ft.; and the Lagoons commercial area of 60,000 sq. ft.
4. Miscellaneous golf holes, lagoons, boat docks, access, drives, pathways, etc.

SPECIAL MANAGEMENT AREA USE PERMIT is required because 1) a portion of the project is within the Special Management Area as established by the County of Kauai; and 2) the total cost of proposed improvements will exceed \$65,000. The following improvements will be located within the SMA:

1. Makai restaurant
2. Three commercial areas
3. Boat docks
4. Lagoons
5. Parking areas
6. Portions of the golf course, pathway system, access drives and shoreline access.

PROJECT DEVELOPMENT USE PERMIT is necessary since the applicant proposes a project that requires diversification from the normal CZO standards. This process allows deviations from the requirements of the CZO provided the resultant design product yields optimum adaptation to the land and surroundings while maintaining the intent of the CZO. Specific deviations include parking, maintenance, golf course in the Agriculture District, and parking and boat docks in the Open District.

CLASS IV ZONING PERMIT is a procedural requirement since a Project Development Use Permit is simultaneously being requested. Additionally, a Class IV Zoning Permit is required as the proposed development is to be constructed on a parcel of land that is large enough to qualify for more than 25 dwelling units.

LEGAL REQUIREMENTS:

Notification requirements of Ordinance No. 402 have been met. Applicant is master-planning the project site as required for the Project Development Use Permit. Project shall conform to SMA shoreline setback requirements, and shall conform to Conservation District use requirements should the Conservation District be utilized or impacted. Conditions of approval by the Land Use Commission must be complied with. Environmental Impact Assessment fee will be applicable.

APPLICANT'S OBJECTIVES AND JUSTIFICATION:

"Applicant's proposal is to acquire the necessary permits to allow the expansion of the Westin Kauai Resort. The resulting complex will be a large

scale, self-contained resort area with multiple attractions interwoven with a golf course, horse-drawn carriage paths and lagoons. It includes the Westin Kauai Hotel, now undergoing renovation, and other projects to allow this center to become a world class resort destination area."

FINDINGS (Cont'd.):

1. On August 22, 1983, the Land Use Commission approved Amfac Property Development's redistricting request for "Agriculture" to "Urban" for approximately 58 acres. The following are the conditions of approval. In parenthesis is the applicant's response, as provided in their submitted document, "Planning and Engineering Report for the Amended Proposed Rezoning at Ninini Point, Lihue, Kauai" prepared by Belt, Collins and Associates.

- a. The Petitioner shall be required to enter into an agreement with the County to offer for sale to the County at "cost," as employee housing, a portion of the lots in Petitioner's Hanamaulu subdivision presently classified Urban by the Land Use Commission. The number of lots to be offered shall be equivalent to 10% of the total number of units to be constructed on the subject property herein. The term "cost" shall be defined by the cost policy used by the County at the time of transaction. In the alternative, the County may require a cash payment in lieu of the transfer of lots, provided that any such payment shall be used exclusively as part of the County's public housing program. (APPLICANT'S RESPONSE: The applicant is working with Amfac to meet this condition on employee housing or make an in-lieu cash payment according to fees required by Kauai County.)
- b. The Petitioner shall enter into an agreement with the County containing the following conditions:
 - 1) The Petitioner shall make available to the County the lands described in "Existing Waste Water Disposal Areas" (Petitioner's Exhibit 14, Figure 14, Figure 2) and, if necessary, other suitable lands, for the disposal of up to 4.5 mgd of wastewater from the Lihue STP.
 - 2) The lands made available to the County shall be in an amount necessary to maintain a saturation factor of no more than 1.0 on the disposal areas.
 - 3) This agreement shall be incorporated into the deeds to the affected lands as easements running with the land in favor of the County of Kauai.
 - 4) The term of these easements shall be for twenty years from the date of approval of this boundary change. (APPLICANT'S

RESPONSE: The applicant is working with Amfac to meet this condition. Amfac has installed a new water recycling operation at Lihue Mill to reduce the volume of water which needs disposal. This is expected to reduce the saturation level of the disposal area. Because the recycling operation is new, however, Amfac is presently assessing the amount, location and availability of lands needed for effluent disposal by the County's wastewater treatment plant. The petitioner intends to meet with County Public Works to discuss the matter once Amfac's reassessment and plan are completed.)

- c. The Petitioner shall construct and implement a system for the disposal of the Lihue Mill wastewater which will ensure that neither the lower Lihue fields, nor any other areas subject to the mill wastewater disposal, shall have a saturation factor in excess of 1.0. This condition shall be implemented within five years from the date of approval of this boundary change. (APPLICANT'S RESPONSE: Amfac has installed a new wastewater recycling system at Lihue Mill that is designed to reduce the amount of water used by mill operations. This new system is still being tested for its effectiveness. The applicant and Amfac are working on a plan to ensure that the mill wastewater is properly disposed of.)
- d. All deeds or instruments transferring interests in the subject property, or in the structures or improvements thereon, easements running in favor of the State of Hawaii and the Land Use Commission, the County of Kauai, and the Lihue Plantation Company, Limited shall indemnify and hold the State of Hawaii and Land Use Commission, the County of Kauai, and the Lihue Plantation Company, Limited harmless from any complaints or claims due to noise, odor, dust, mosquitoes, and other nuisances and problems emanating from the operation of the Lihue airport, the use of the lower Lihue fields for agricultural and wastewater disposal purposes, and the operation of the Lihue STP. (APPLICANT'S RESPONSE: The applicant is working with Amfac to comply with the above condition.)
- e. The Petitioner shall not permit any resort or residential condominium unit to be placed on the subject property within any noise exposure forecast (NEF) contour in excess of 25 NEF. However, construction of not more than 20% of the total number of residential or resort condominiums for a particular site may be allowed in NEF contours that do not exceed 30 NEF if the County finds that such placement is compatible with the proposed residential or resort use, and subject to such mitigative measures, including sound attenuating construction requirements, that the County shall impose. The NEF contours for the subject property shall be established by actual testing once the new Lihue runway is completed and in use. (APPLICANT'S RESPONSE: The applicant expects to comply with this condition. Darby and Associates, an acoustical consulting firm, has conducted two studies which measure

actual noise levels from the Lihue Airport runways and estimates future noise conditions. A brief summary of the studies and a noise contour map are presented in Chapter IV of the Engineering Report.)

- f. The Petitioner shall comply with any height restriction to be set by the State of Hawaii pursuant to specifications established in FAA regulations for navigational easement purposes along the perimeter of the Lihue airport runways. (APPLICANT'S RESPONSE: The applicant's proposed project complies with the height restrictions presently delineated by the State for the area around the airport.)
 - g. The Petitioner shall set aside a portion of Site 4 at the eastern end for a park and for parking, and shall provide public access to and along shoreline. (APPLICANT'S RESPONSE: The applicant intends to provide public access by way of a roadway along the new airport boundary to the shoreline. The applicant will work with the County in developing a parking facility, shoreline access pathway, and shower facilities.)
 - h. The Petitioner shall complete all of the conditions contained in subparagraphs a., b., c., and g., above, within 5 years from the date of the boundary change. (APPLICANT'S RESPONSE: The Petitioner expects to fulfill the above conditions within the 5 years [1988]).
2. Additional information provided on the Planning and Engineering Report submitted by the applicant include the following:

Visual Impact - The proposed project will attempt to minimize the intrusion of building on the visual environment through design and landscaping. Low-rise resort units will be designed to provide maximum amounts of open space. The proposed resort development will conform to Kauai zoning, bulk, size and land use criteria for visual integration.

Coastal Waters - An environmental assessment of near shore marine life at Ninini Point was prepared by Steven Dollar, a marine research consultant, in August 1980. The report notes no anticipated significant adverse change in water quality or relevant biological communities from the proposed development. There will be no significant changes in recreational use of the area in terms of fishing, diving, swimming or surfing.

Storm Drainage - The storm drainage improvements planned for the project will consist of ponding areas, inlets, culverts, pipes and swales to collect the water and pass run-off through the site and dispose of it downstream of the project. Golf course irrigation ponds containing treated sewage effluent will be isolated from drainage ways.

Airport Height Limits - This project will have no impact upon the Lihue Airport's Approach and Clear zones. All proposed buildings will be below the Horizontal and Transitional Surfaces.

Airport Noise Impacts - A noise study was conducted in 1985 for the subject property. This was updated in response to comments from the State Department of Transportation, Airports Division. The updated 1985 noise contours provided by Darby and Associates, indicate that existing noise conditions will have only a marginal impact upon the proposed project. The affected areas are mostly areas proposed for golf course and horse stables. The project satisfies the State Land Use condition that no resort units be located within the noise exposure forecast contour in excess of 25 NEF or LDN 60. No resort units are proposed in areas in excess of LDN 60. However, commercial areas do exist within these areas.

(STAFF NOTE: Comments are forthcoming from the State DOT relative to the updated noise study conducted by Darby & Associates).

The noise study does not thoroughly consider the frequency of noise events being generated at the airport, and which impact the subject sites. In a two-hour frequency evaluation at the site on February 19, 1986, staff notes that the sound level may not be as much a major concern as compared to the frequency of takeoffs and landings of inter-island passenger and cargo carriers, light propeller aircraft, helicopters, oversea and military aircraft. Helicopters averaged one every 3 to 4 minutes; total noise frequency originating from the airport and which was very audible reflected some type of aircraft noise every 2 minutes; each noise occurrence can last for approximately 1 minute or longer. An air traffic controller stated that there are approximately 400 to 500 flights in a 24-hour period at Lihue Airport involving all types of aircraft.

The report does not reflect the efforts and complaints of residents and visitors alike in controlling or routing helicopter traffic due to helicopter noise and frequency of flights. Since helicopter flights have been impacting residential and recreational areas of Kauai, we are of the opinion that permitting resort, commercial and recreational expansion below or within close proximity of existing flight patterns of the Lihue Airport must be closely balanced with the health, safety, and welfare of those residents and visitors alike who will be impacted.

Golf Course Irrigation - The estimated irrigation requirements for the golf course are 1.0 million gallons per day. Treated sewage effluent from the County STP is available for golf course irrigation, however, preliminary assessments indicate that the effluent available is not enough to meet the golf course irrigation requirements. To make up the shortage, the developer plans to drill deep wells.

Water Feature (lake) - A water feature of about 38 acres is planned for the development to provide a recreational amenity. This lagoon will provide water for the use of small boats which will transport shoppers to 3 main retail shopping areas and will be utilized for cocktail cruises. The water feature will have an average depth of 5 feet. Water supply to support the water feature will come from deep wells. It is estimated that evaporation losses will be about 0.3 MGD.

Sewerage - Preliminary discussions with the Public Works indicate that the existing County sewage facilities can accommodate the sewage to be generated by the proposed development. Due to the wide-spread locations of the various proposed facilities, individual sewage systems will not be constructed to support the project.

The Island's commercial area, due to its low sewage generation and its remote location relative to other facilities, will be serviced by cesspools. A new sewage system will be constructed to service the Lagoon commercial area, the makai restaurant, the golf clubhouse, and the future 750-room hotel site. This system will consist of gravity pipelines, and pump station and force main to convey the sewage to the County STP. The construction of this system may be phased.

Due to their low sewage generation and their remote location relative to other facilities, the Cliffs commercial area and golf course comfort station will be serviced by cesspools. Sewage from the Japanese Inn, the horse stables, and the golf and ground maintenance building will be conveyed to the County STP.

Traffic - A traffic impact study was conducted to forecast the traffic generated from the proposed development. The impact of the additional development on traffic volumes on the resort entrance road and other nearby streets and highways were analyzed. The 750 additional visitor units and supporting facilities for which Hemmeter/VMS Kauai Properties is currently seeking approval will generate approximately 3,900 trips per day on the resort entrance road. This would increase entrance road traffic by roughly 50% over the level expected without it, and bring the total number of vehicle trips on the entrance road (i.e., trips from existing, already approved, and proposed development) close to 8,400 per day.

Compilation of Tables IV-3, IV-4 and IV-5
Relative to Traffic Impacts

<u>Location</u>	<u>Additional Traffic Generated Vehicular Trips</u>	<u>Percentage Increase in Traffic Resulting from Proposed and Approved Projects</u>	<u>Projected Traffic Volumes, Existing, Approved and Projected</u>
*Resort Entrance @ Rice Street	3,900	87.4	8,362
Rice St. Makai of Entrance	819	--	---
Rice St. Mauka of Entrance	3,081	27.4	14,310
Kapule Hwy. East of Rice St.	975	16.1	7,024
Ahukini Road Approach to Kuhio Hwy.	683	6.8	10,732
*Rice Street Mauka of Kapule Hwy.	2,106	20.8	12,209
Rice Street Approach to Kuhio Hwy.	1,170	8.9	14,286
Kaumualii Hwy. West of Rice Street	605	3.1	20,024
Kaumualii Hwy. East of Rice Street	1,424	7.3	20,960
Kuhio Highway East of Rice Street	566	2.5	23,389
*Nawiliwili Road Near Kaumualii Hwy.	819	17.0	5,638

*denotes Major Intersections

(Staff Note: No information is provided relative to existing conditions at these intersections, nor are Level of Service indications provided with existing and projected calculations. This information should be provided.)

Other excerpts include the following:

- There are two effective means of limiting a resort's effect on traffic volumes. The first is to provide a wide variety of on-site recreational and commercial attractions, thereby limiting its guests' desire to make off-site trips. The second is to provide direct access between the resort and the airport, thereby diverting arrival and departure trips from the public road system. The current plans incorporate both of these methods.
- Numerous other means of improving traffic flow have been suggested, and are now under study:
 - Construction of an additional eastbound lane on Kuhio Highway from Hardy Avenue to Ahukini Road.
 - Elimination of the traffic signal at the Ehiko Street entrance to the Isenberg Tract.
 - Prohibiting parking along the northern side of Rice Street between Kalena Street and the Kuhio/Kaumualii Highway intersection during the afternoon peak hour. This would provide two outbound lanes instead of the current one.
 - Prohibiting left turns from Kuhio Highway onto Rice Street. Other routes are available for the relatively few drivers needing them, and elimination of this movement would allow additional time to be allocated to the two remaining cycles of the light.
 - Prohibit parking on the southern (post office) side of Rice Street.
- 3. The applicant's original zoning amendment request was for 81 acres. However, the LUC had only approved "approximately 56 acres." Accordingly, the area has been revised. (See Attachment A)
- 4. The applicant has included the document entitled, "Marketing Study for Westin Kauai Expansion, Phase III" by Hemmeter Investment Company. (See Attachment B)

AGENCY COMMENTS:

WATER DEPARTMENT: We have no objections to the requests provided any actual subdivision or development of this area will be dependent on the adequacy of the source, storage and transmission facilities existing at that time.

At the present time, the source and transmission facilities are adequate along the Kapule Highway right-of-way. However, the storage facilities for the Lihue-Hanamaulu area are at capacity. The water meter size and location requested will determine the adequacy of these facilities.

STATE HIGHWAYS DIVISIONS: No objections.

PUBLIC WORKS DEPARTMENT & STATE HEALTH DEPARTMENT: (See attachments)

By 
Michael Laureta
Planner

7/18/86

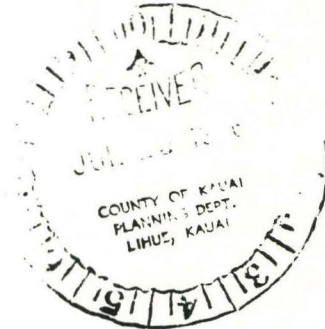
COUNTY OF KAUAI
PLANNING DEPARTMENT

FROM: Avery H. Youn, Planning Director (ML)

DATE: June 23, 1986

SUBJECT: Zoning Amendment ZA-86-7, HEMMETER/VMS KAUAI COMPANY III

TO: (x) Public Works Dept.
(x) Water Dept.
(x) State Health Dept.
(x) State Highways Div.
() Fire Dept.
() Sam Lee (DLNR)
() State Dept. of Agriculture
() Police Dept.
()
()



FOR YOUR COMMENTS (pertaining to your department): July 9, 1986

SEE ATTACHED COMMENTS

Signature

A handwritten signature in dark ink, appearing to read 'Steven Kyono', written over a horizontal line.

STEVEN KYONO, County Engineer
Thank you.

Please return one (1) copy by July 8, 1986

KK/HF/sb

ZA-86-7
Z-IV-86-70
U-86-60
SMA(U)-86-16
HEMMETER/VMS COMPANY KAUAI III

July 9, 1986

Page 1

1. The Planning and Engineering Report for the Kiele Lake Golf Course proposes an airport access road which links the resort development directly to the airport. The connection provides an internal road network which will allow visitor traffic to circulate to various destination areas in the Westin Kauai Development without using the government roadways. This minimizes traffic congestion along the perimeter government roadways, Kapule Highway and Rice Street. We concur with the plans to develop this road and believe that this road is a prerequisite for development.

We are also recommending a roadway connection between Halau Road in Lihue Industrial Subdivision and the internal Westin Kauai Roadway. This provides an access point to Kapule Highway. Westin Kauai development traffic will not be required to concentrate and use only Rice Street as an entrance roadway.

2. As mentioned in our report on the golf course expansion and lagoon, floor levels of structures along the lagoon must be elevated above flood overflow elevations. Structures should also not be located at overflow areas.
3. The internal roadways in the development are considered driveways. The developer and his engineer can use their discretion and ideas for the design and construction of the driveway. We wish to point out that as a private facility the developer and his engineer will be responsible for any problems or consequences of the facility.
4. Disposal of effluent from our Lihue Sewage Treatment Plant is a serious concern. Similar to conditions imposed by the State Land Use Commission on the reclassifying of the subject lands, the County should impose conditions to the permits to resolve the problem of effluent disposal satisfactorily.

Also similar to the State Land Use Commission, the County should also impose conditions for the developer to hold the County harmless from any complaints or claims due to noise, odor, visual impacts, and other nuisances and problems emanating from the operation of the Lihue STP.

5. Page IV - 19 Golf Course Irrigation. The report indicates that sewage effluent from the STP is available for golf course irrigation. Previously, we had an agreement with InterIsland Resorts (Kauai Surf) for the use of effluent from our Lihue STP for golf course irrigation. However, at the time of transfer of ownership of Kauai Surf Hotel to Hemmeter - VMS the assumption of that agreement was to have been prepared by the new owner. To date, no assumption of the agreement has been made. The original agreement with InterIsland Resorts expires in June 1989. In light of what is being proposed relative to use of the effluent, (see comment 6 below) a new agreement for use of the effluent should be entered into.
6. Page IV - 20 Water Feature. The lagoon where recreational activities are planned is to be filled with a mixture of STP effluent and well water. We are concerned with the quality of effluent required for such use. Additional treatment of the effluent may be required. The developer should be required to obtain all approvals from appropriate agencies for such use of effluent. An agreement for the use of STP effluent will need to be entered into.
7. Page IV - 21 Sewerage. The report indicates that the existing County sewage facilities can accommodate the sewage to be generated by the proposed development. However, the report fails to indicate that accommodation is conditional.

The proposed development is outside of the service area of the present 1.5 mgd capacity. An agreement must be reached on the conditions upon which sewer service will be provided by the County.

COUNTY OF KAUAI
PLANNING DEPARTMENT

FROM: Avery H. Youn, Planning Director (ML)

DATE: June 23, 1986

SUBJECT: Zoning Permit Application Z-IV-86-70, Project Development Use Permit U-86-60,
SMA Use Permit Application SMA(U)-86-16, HEMMETER/VMS COMPANY/KAUAI III

TO: (X) Public Works Dept.
(X) Water Dept.
(X) State Health Dept.
(X) State Highways Div.
() Fire Dept.
() Sam Lee (DLNR)
() State Dept. of Agriculture
() Police Dept.
()
()



FOR YOUR COMMENTS (pertaining to your department): July 10, 1986

See ZA-86-7 Comments dated 7/9/86.

Signature

A handwritten signature in black ink, appearing to read 'Steven Kyono', written over a horizontal line.

STEVEN KYONO, County Engineer

Please return one (1) copy by July 8, 1986. Thank you.

KK/sb

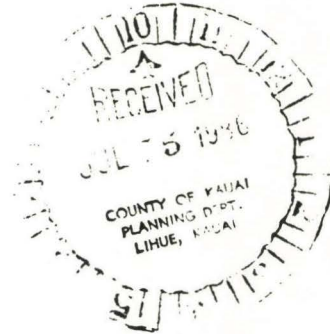
COUNTY OF KAUAI
PLANNING DEPARTMENT

FROM: Avery H. Youn, Planning Director (ML)

DATE: June 23, 1986

SUBJECT: Special Permit Applciation SP-86-18, HEMMETER/VMS COMPANY KAUAI III

TO: (X) Public Works Dept.
(X) Water Dept.
(X) State Health Dept.
(X) State Highways Div.
() Fire Dept.
() Sam Lee (DLNR)
() State Dept. of Agriculture
() Police Dept.
()
()



FOR YOUR COMMENTS (pertaining to your department): July 9, 1986

SEE ATTACHED COMMENTS

Signature

A handwritten signature in dark ink, appearing to read 'Steven Kyono', written over a horizontal line.

STEVEN KYONO, County Engineer
Thank you.

Please return one (1) copy by July 8, 1986

KK/HF/sb

1. The construction of the lagoon and golf course expansion as well as the carriage path, airport access, service roads and public access road and easement will involve grading of a large land area. The applicant will need to comply with Ordinance No. 262, Grading Ordinance and obtain a permit before commencing any work. Applicant should be advised that the Grading Ordinance allows a maximum area of 20 acres to be opened for grading or grubbing.
2. Storm waters will sheet flow and naturally drain into the lagoon based upon the elevations of the ground. The lagoon will also span natural gullies or watercourses whose storm flows could be collected by the lagoon. There should be overflow provisions for drainage into the ocean. Structures along the overflow channel must be protected from flooding. Structures along the lagoon must have floor levels above flood overflow elevations.
3. The parking area should be constructed to County parking lot standards or larger.
4. The report proposes an airport access which appears to be a new connecting roadway directly to the Airport Terminal. We believe that this roadway will remove visitor traffic between the Airport and Westin Kauai. The connection will provide an internal road network which will allow visitor traffic to circulate to various destination areas in the Westin Kauai Development without accessing onto the Government Roads. This will minimize traffic congestion along the State Highway (Kapule Highway and Rice Street). We concur with the report for the development of this airport access.
5. We have considered the internal roadways in the Westin Kauai Development as driveways. Since we do not regulate the design and construction of driveways, the developer and his engineer have used their own discretion and ideas on the driveway. We wish to point out that as a private driveway the developer and his engineer will be responsible for any problem or consequences of the facility.

Sewers:

Comments are made relative to the Planning and Engineering Report for the Proposed Kiele Lake Golf Course at Ninini Point, Lihue, Kauai.

1. The proposed project includes developments adjacent to and surrounding our Lihue Sewage Treatment Plant (STP). While the plant's capacity is presently 1.5 mgd (million gallons per day), expansions to the plant are projected for an ultimate capacity of 4.5 mgd.

The report indicates that the project would not affect surrounding properties. However, due consideration must be made for the reverse, adverse affect of the pre-existing STP on the new development. Invariably, the late comer will complain about a pre-existing condition.

If possible, conditions should be established whereby the County would not need to expend monies to abate nuisances (beyond the normal) if complaints occur. For example, the Lihue STP utilizes sludge drying beds to dewater sludges. The beds, open to the atmosphere, at times emit odors.

Consideration should also be made for adequate buffer zones and landscaping to screen the STP. The pre-existing STP may be considered an eye sore to the clientele of the development.

2. Page IV - 14 Sewerage. The report indicates that the existing County sewage facilities can accommodate the sewage to be generated by the proposed development. However, the report fails to indicate that accommodation is conditional.

The proposed development is outside of the service area of the present 1.5 mgd capacity. An agreement must be reached on the conditions upon which sewer service will be provided by the County.

3. Page IV - 14 Golf Course Irrigation. The report indicates that sewage effluent from the STP is available for golf course irrigation. Previously we had an agreement with InterIsland Resorts (Kauai Surf) for the use of effluent from our Lihue STP for golf course irrigation. However, at the time of transfer of ownership of Kauai Surf Hotel to Hemmeter - VMS the assumption of that agreement was to have been prepared by the new owner. To date, no assumption of the agreement has been made. The original agreement with InterIsland Resorts expires in June 1989. In light of what is being proposed relative to use of the effluent, (see comment 4 below) a new agreement for use of the effluent should be entered into.
4. Page IV - 16 Water Feature. The lagoon where recreational activities are planned is to be filled with a mixture of STP effluent and well water. We are concerned with the quality of effluent required for such use. Additional treatment of the effluent may be required. The developer should be required to obtain all approvals from appropriate agencies for such use of effluent. An agreement for the use of STP effluent will need to be entered into.
5. Page V-4 indicates that some land (no acreage given) currently in cane cultivation will be converted to Golf Course and that the change is not expected to be detrimental to Lihue Plantation's agricultural operations. However, it impacts upon the disposal of effluent from our STP. As we all are aware, disposal of effluent from the Lihue STP is a serious problem. Any land taken out of cane cultivation reduces the area for cane irrigation and disposal of effluent. The concurrent application for the Amended Proposed Rezoning at Ninini Point addresses the requirement of the State Land Use Commission to provide lands for disposal up to 4.5 mgd of wastewater from the Lihue STP. The question of effluent disposal should be resolved for both related projects simultaneously and not be separated.

COUNTY OF KAUAI
PLANNING DEPARTMENT

JUN 23 1986

FROM: Avery H. Youn, Planning Director (ML)

DATE: June 23, 1986

SUBJECT: Special Permit Application SP-86-18, HEMMETER/VMS COMPANY KAUAI III

TO: (X) Public Works Dept.
(X) Water Dept.
(X) State Health Dept.
(X) State Highways Div.
() Fire Dept.
() Sam Lee (DLNR)
() State Dept. of Agriculture
() Police Dept.
()
()



FOR YOUR COMMENTS (pertaining to your department):

8 July 86

Our environmental health concerns are as follows:

1. The proposed project will remove more sugar cane fields than shown on map provided by AMFAC Properties Development Corporation (GPA-86-3 & ZA-86-3). This will reduce the size of the mill wastewater disposal area in the lower Lihue fields and may affect the condition imposed by the State Land Use Commission Decision and Order dated August 10, 1983 that 'neither the lower Lihue fields, nor any other areas subject to the mill wastewater disposal shall have a saturation factor in excess of 1.0.'
2. The potential for mosquito problems in the project site will exist as long as wastewater from the sugar cane operation is discharged into the lower Lihue cane-fields. The mosquito problem resulting from the Lihue Plantation operations must be abated by both short term and long term measures before inhabitation of the proposed development.
3. The developer states that effluent from the County Sewage Treatment Plant will be used for golf course irrigation. The irrigation system shall comply with the requirements of Act 282, Session Laws of Hawaii, 1985, Section 4.4.B., Effluent irrigation systems, in that the developer shall submit an irrigation management plan addressing the public health factors and showing that the system will comply with the requirements of section 4.4.B. (2) to (6).


continued on back

Signature _____

Please return one (1) copy by July 8, 1986. Thank you.

4. The use of cesspools to serve the Cliffs commercial area and golf course comfort stations will be dependent upon the amount of wastewater to be discharged into the cesspool per day. The cesspools shall meet the minimum applicable requirements of Act 282, Session Laws of Hawaii, 1985.
5. The proposed 750-room hotel shall meet the minimum requirements of Chapter 14, Housing, Title 11, Administrative Rules, State of Hawaii.
6. The restaurant and other food service and food establishments shall meet the minimum requirements of Chapter 1-A, Food Service and Food Establishment Sanitation Code, Public Health Regulations, State of Hawaii and Chapter 11, Sanitation, Title 11, Administrative Rules, State of Hawaii.
7. Odor nuisance from the existing county sewage treatment plant is a strong possibility for the down wind developments.
8. The developer is required to provide effective dust and soil erosion control measures during all phases of the project.
9. Grubbing material resulting from grading and/or land clearing operations shall be disposed of at an approved site. Open burning of the material is prohibited.

Due to the general nature of the information provided, we reserve the right to impose further environmental health restrictions on this project when more detailed plans are submitted.


Theodore Inouye
Chief Sanitarian, Kauai

TI:CT:HFE/plo

JUN 23 1986

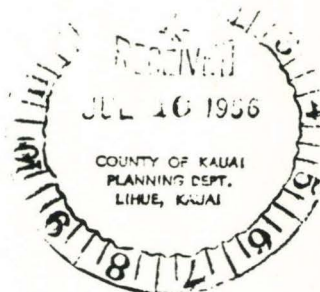
COUNTY OF KAUAI
PLANNING DEPARTMENT

FROM: Avery H. Youn, Planning Director (ML)

DATE: June 23, 1986

SUBJECT: Zoning Amendment ZA-86-7, HEMMETER/VMS KAUAI COMPANY III

TO: (x) Public Works Dept.
(x) Water Dept.
(x) State Health Dept.
(x) State Highways Div.
() Fire Dept.
() Sam Lee (DLNR)
() State Dept. of Agriculture
() Police Dept.
()
()



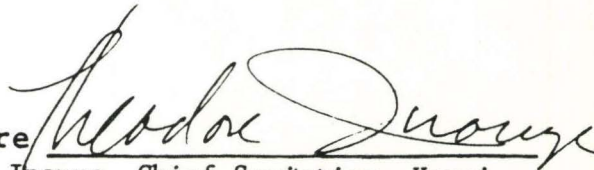
FOR YOUR COMMENTS (pertaining to your department):

8 July 86

Our comments remain the same as those submitted on SP-86-18 dated July 8, 1986.

TI:CT/plo

Signature


Theodore Inouye, Chief Sanitarian, Kauai

July 8, 1986

Please return one (1) copy by _____ . Thank you.

JUN 23 1986

COUNTY OF KAUAI
PLANNING DEPARTMENT

FROM: Avery H. Youn, Planning Director (ML)

DATE: June 23, 1986

SUBJECT: Zoning Permit Application Z-IV-86-70, Project Development Use Permit U-86-60,
SMA Use Permit Application SMA(U)-86-16, HEMMETER/VMS COMPANY KAUAI III

TO: (X) Public Works Dept.
(X) Water Dept.
(X) State Health Dept.
(X) State Highways Div.
() Fire Dept.
() Sam Lee (DLNR)
() State Dept. of Agriculture
() Police Dept.
()
()



FOR YOUR COMMENTS (pertaining to your department):

8 July 86

Our comments remain the same as those submitted on SP-86-18 dated July 8, 1986.

TI:CT/plo

Signature

Theodore Inouye
Theodore Inouye, Chief Sanitarian, Kauai

Please return one (1) copy by July 8, 1986. Thank you.

BELT, COLLINS
& ASSOCIATES

Engineering • Planning
Landscape Architecture

July 3, 1986
86-1317/533.2404

Mr. Avery H. Youn
Director
Planning Department
County of Kauai
4280 Rice Street
Lihue, Kauai, Hawaii 96766

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Dear Avery,

We have had discussions with Esther Ueda, Executive Officer of the State Land Use Commission (SLUC), regarding the amount of acreage at the Ninini Point site that was redistricted in the 1983 SLUC decision. This is the same site that Hemmeter/VMS Kauai Properties are now requesting for an amended zone change to RR-20 Resort.

It is Esther's interpretation that the acreage should be more or less consistent with the amount referred to in the 1983 Decision and Order. More precisely, she said that the redistricted area should be "approximately 56 acres" as stated in the decision. How strictly this needs to be followed is subject to interpretation. However, we agreed that to expedite matters we would follow the language as closely as possible and propose a rezoning site as close to 56 acres as we can determine, given the fact that established borders do not exist on all sides of the subject area.

We have modified the area being requested for rezoning to reflect these decisions and reached an informal agreement with Esther on the general configuration of the Urban District area proposed for rezoning. This may have some repercussions on our other permit approval requests. We would like to update our previously submitted permit application requests to reflect the following:

1. Rezoning application: Request for approximately 56 acres as generally shown on attached Figure 1-A.

ATTACHMENT "A"

2. SMA application: Request for all new projects within the SMA area with the exception of the future hotel site. See attached Figure 1-B.

3. Project Development Use Permit/Class IV Zoning Permit: Request for all new projects proposed.

We also have a separate application for a Special Use Permit for the Kiele Lake Golf Course. This will change only to the degree that additional areas of the Golf Course and Lagoon will now fall in the State Agriculture District. We would like these additional areas to be included in the application. See attached Figure 2-A.

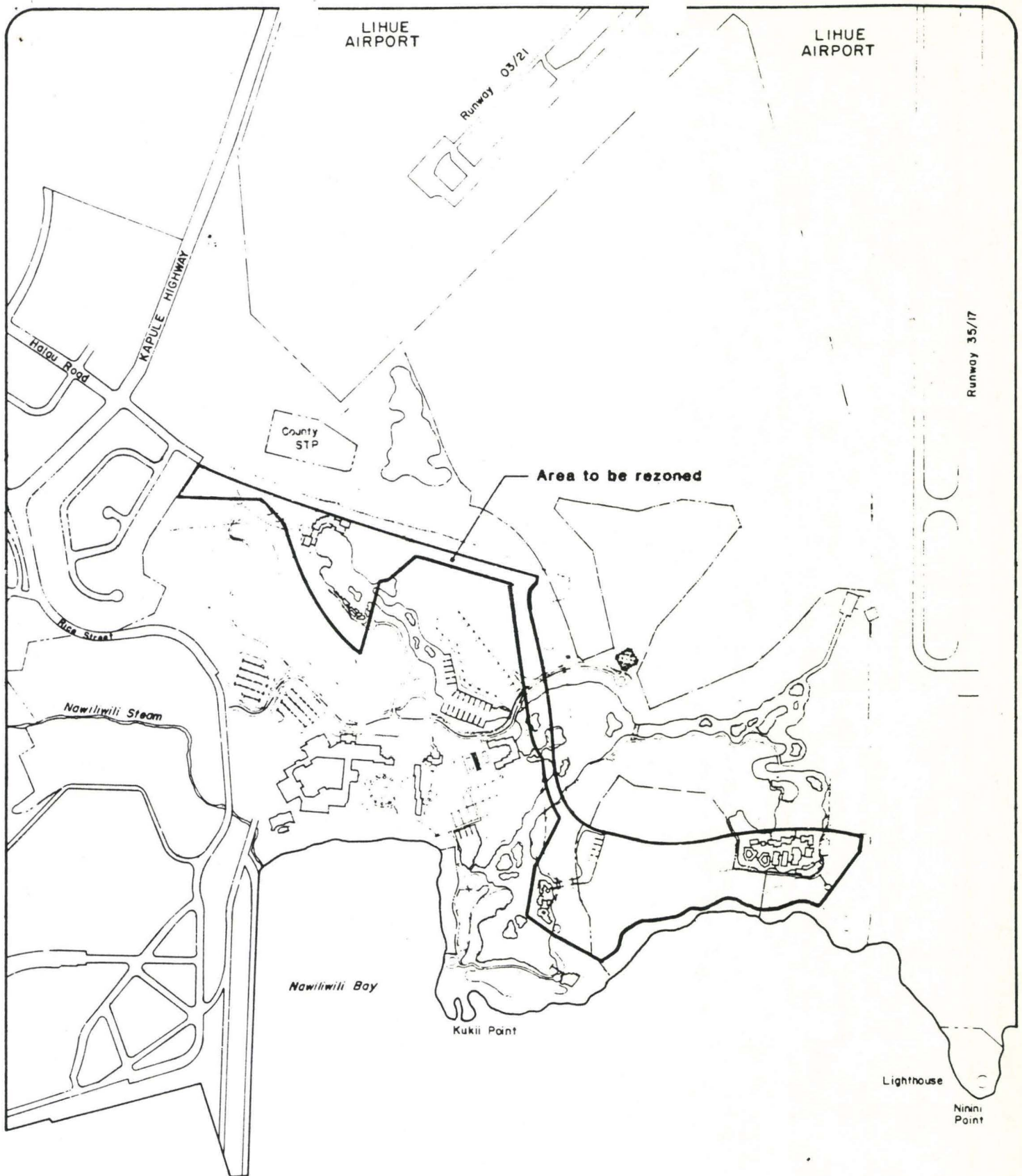
We hope this letter has answered your questions regarding our amendment to the Ninini Point rezoning. Please call me, Sidney Fuke or Michael Teruya if you have any further questions.

Sincerely yours,


James R. Bell

cc: Christopher B. Hemmeter
Roy Yamamoto
Sidney Fuke
Esther Ueda
Brian Tsujimura
Mike Brennan

attachments



0 1000
FEET



Figure 1-A
REZONING REQUEST

JULY, 1986

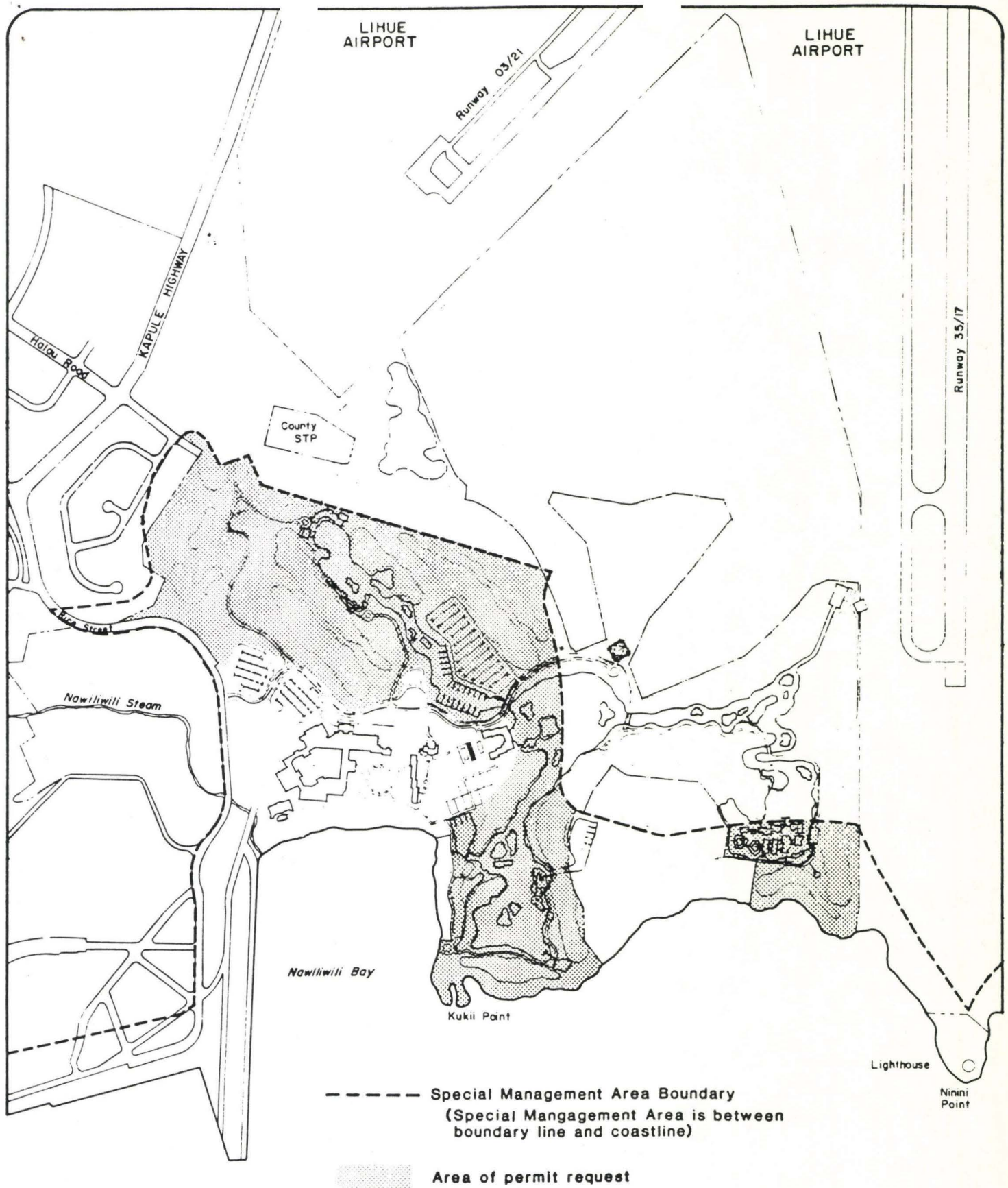


Figure 1-B
SPECIAL MANAGEMENT
AREA PERMIT REQUEST

JULY, 1986

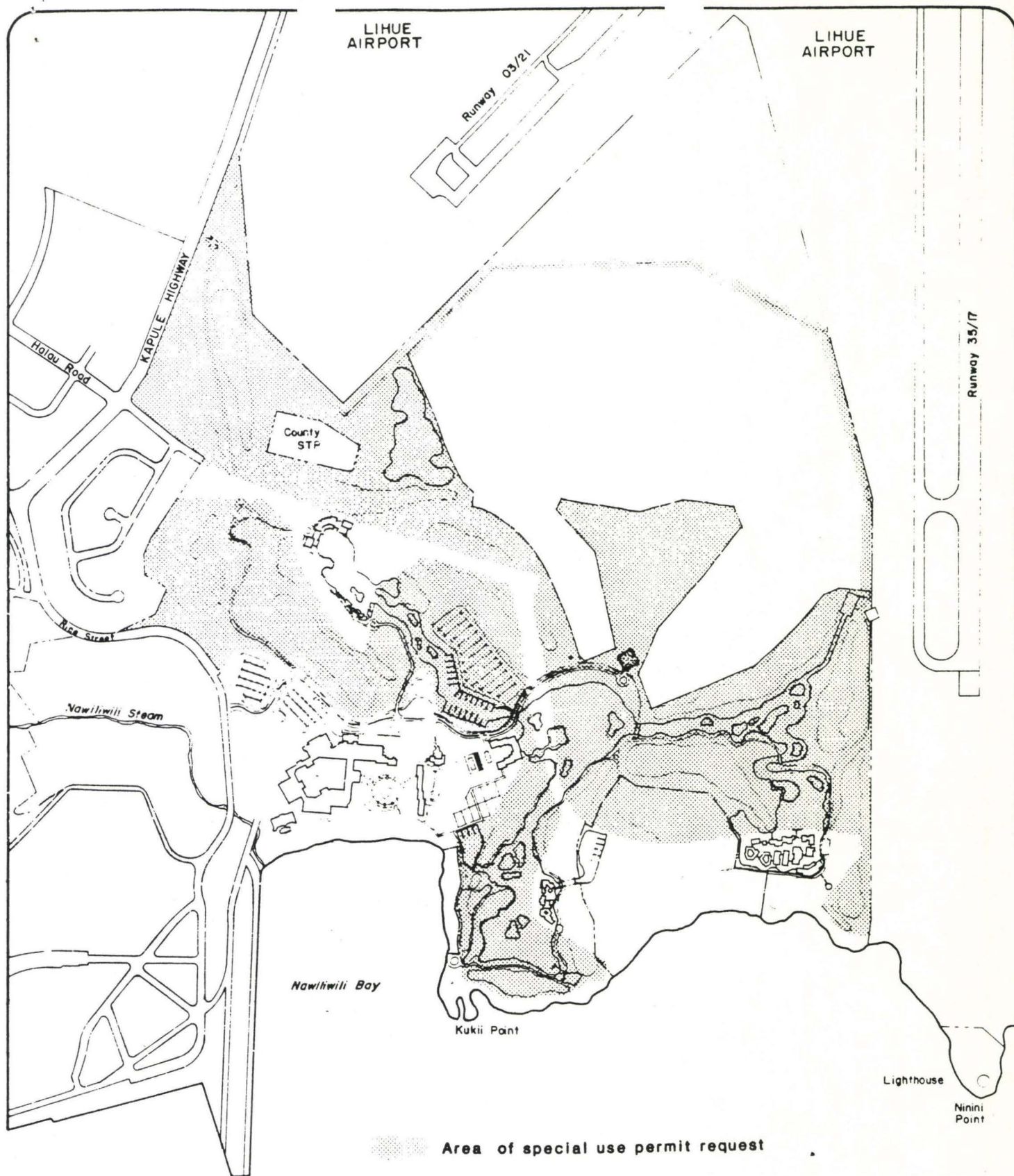


Figure 2-A
SPECIAL USE PERMIT
REQUEST

JULY, 1986



Mr. Avery H. Youn
Director
Planning Department
County of Kauai
4280 Rice Street
Lihue, Kauai, Hawaii 96766

[illegible]

There have been some minor changes in the proposed development plan for the Westin Kauai Expansion Phase III. The changes occur in two areas as follows:

1. The Japanese Inn is no longer a part of the project and we request its removal from our rezoning, SMA and Project Development Use Permit applications. There will be some minor design changes in the areas closest to the former proposed site of the Japanese Inn. These changes will slightly affect the location of the adjacent lagoon and the "Cliffs" commercial area.
2. The "Lagoons" commercial area will no longer be surrounded by a lagoon. The lagoon areas will be reduced and the commercial area placed on land. The location of the boat maintenance area will also be shifted slightly. We believe these are fairly small design changes that do not substantially change our application requests.

Page two

We request that you incorporate these changes into our applications now pending before you. We will have enlarged development plans, per your staff's request, delivered to you in a few days. We have also enclosed 16 copies of a marketing study for the Westin Kauai Phase III. Please call me or Sidney Fuke if you have any further questions.

Sincerely,



James R. Bell

Enclosure

cc: Christopher B. Hemmeter
Roy Yamamoto
Sidney Fuke

MARKETING STUDY
FOR THE
WESTIN KAUAI EXPANSION, PHASE III

By
HEMMETER INVESTMENT COMPANY
July 1986

ATTACHMENT B

MARKETING STUDY

Travel industry market research is often based on demographics, attitudes, behavioral profiles, and historic response to a tourist destination. Rarely is the free market system response taken into account. Some of the most sophisticated analysis work is performed by the lending institutions who commit to provide hundreds of millions of dollars in non-recourse financing to successful, well experienced developers to construct a destination resort of the anticipated calibre necessary to penetrate the tourist market. It is this free-functioning free market system, America's free enterprise system known as capitalism, that is the ultimate test of supply versus demand, or what is frequently referred to as "need".

Demographics need only go to the fact that there has been a growth in visitors to Hawaii each year for the past 26 years since statehood, with nearly six million visitors anticipated to visit Hawaii in 1986. For the past four years the total increase in visitor count has grown numerically at a record rate, with each subsequent year exceeding the numerical increase of the previous year. With the growth rate in tourism exceeding 500,000 visitors a year, we can reasonably expect 8,000,000 visitors to Hawaii by 1990-91.

Hawaii is America's only major off-shore resort destination. With the fluctuations in the value of foreign currencies, expansion of trade in the Pacific, tax incentives for business-related travel, world tourism, tension and continued wars in the Middle East, and the historically low cost of air travel to Hawaii, one can only reasonably conclude that tourism to Hawaii will continue to flourish.

Japan's continued, unbroken growth in their economy and the ever-increasing numbers of travellers from Japan, coupled with airline deregulation in Japan providing anticipated lower air fares between Japan and Hawaii, certainly suggests continued growth in the Japanese travel market to Hawaii. Multi-national Japanese companies are currently investing hundreds of millions of dollars in the Hawaii visitor industry, demonstrating Japan's business commitment to Hawaii's travel industry. Again, it is Japan's free market system reflecting their positive attitude toward the Hawaii tourist industry.

Airlines help create tourist markets so they can fulfill the subsequent demand factor. According to American Express, commencing January 1, 1986, there were 6,000 additional airline seats daily servicing the Hawaiian Islands over and above the airline seat inventory of a year previous. United Airlines, owners of Westin Hotels, continues to carry over 50 percent of all visitors to Hawaii. United has direct service to Kauai from the Continental U.S., and will increase such direct flights as hotel accommodations on Kauai increase. TWA has returned to the Hawaiian market after a few years of non-service to the islands. American Airlines and Delta Airlines have increased their schedules to Hawaii, further opening up the southern portion of the U.S. travel market for travel to Hawaii.

Attitudes toward Hawaii by visitors to Hawaii continue to be positive. This is reflected by the high number of repeat visitors to the Islands. The Hawaii Visitors Bureau reports that 45 percent of all visitors to Hawaii during 1985 were repeat visitors. A recent U.S.A. Today survey indicated 82 percent of those surveyed selected Hawaii as their first choice for a vacation location. But the real test of attitudes of the travelling public is reflected in Hawaii's 26 years of continuous growth in tourism. Results are more impressive than projections. Hemmeter Investment Company's recent private survey indicated a large pent-up demand for travel to Kauai, with lack of first-class hotel facilities being the number one deterrent for travel to Kauai.

Behavioral profiles of visitors to Hawaii reflect a 10.3-day average length of stay. This ten-day average length of stay has held constant for the past eight years. Today, there exists a trend toward fewer moves by visitors during their stay in Hawaii. This attitude has been induced in some part by the development of destination resorts as opposed to the older resort hotels. Spending profiles continue to reflect one third of each dollar being spent on lodging, one third on food and beverage, and one third on retail gifts.

Hawaii's historical trends in tourism continue to be optimistic for the industry. Growth in hotel room inventory is primarily on the neighbor islands. Hemmeter Investment Company is developing the vast majority of all new world-class destination resorts, with three currently under development on Maui, one on Hawaii, and one on Kauai. The five destination resorts represent an investment in excess of one billion

dollars; more than has been spent on all hotel development in Hawaii over the past ten years inclusive.

COUNTY OF KAUAI
PLANNING DEPARTMENT
LIHUE, KAUAI

LAND USE COMMISSION
STATE OF HAWAII

AUG 18 11 53 AM '86

ZONING PERMIT APPLICATION ()
USE PERMIT APPLICATION ()
VARIANCE PERMIT APPLICATION ()
SPECIAL PERMIT APPLICATION (X)
SMA PERMIT APPLICATION ()

For Planning Department Use Only

Zoning Permit No. _____
Use Permit No. _____
Variance Permit No. _____
Special Permit No. SP-86-18
SMA Permit No. _____
Zoning Permit Class _____
Date Received June 23, 1986
Date Approved _____
Plans By _____

APPLICANT Hemmeter/VMS Kauai Company III

ADDRESS 2424 Kalakaua Avenue

Honolulu, Hawaii 96815

PHONE NO. (808)922-5522 TAX MAP KEY 3-5-1:por.of 1,6, LOT NO. _____ LOT SIZE 300± Acres

27, 82, and 83

APPLICANT IS: (check one) ZONING DISTRICT _____ EXISTING LAND USE _____

- A. Owner of Property X As defined by Ordinance No. 317.
B. Lessee of Property _____ *Number of Years Leased _____ From _____ to _____
C. Authorized Agent _____ Attach Letter of Authorization.

NOTE: *Lessee must have an unexpired and recorded lease of five (5) years or more from date of filing this application.

DESCRIPTION OF PROPOSED USE, IMPROVEMENT, ALTERATION, AND/OR CONSTRUCTION: (specify exact use, number of units, etc.) 18-hole golf course, driving range, club-house, lagoons,

boat docks and other related improvement (see attached report for details).

FOR VARIANCE OR USE PERMITS ONLY

CONDITIONS JUSTIFYING VARIANCE OR USE PERMIT APPLICATION: (use additional sheets as required)

See Attached Report.

The construction, work, use, or activity approved in this permit shall be subject to inspection by the Planning Inspector or authorized personnel of the Planning Department, County of Kauai. The applicant is advised that inspection will occur prior to or during construction and use to ascertain compliance with the provisions of Ordinance No. 164, as amended, (Comprehensive Zoning Ordinance, County of Kauai) and/or other laws which are enforced by the Planning Department.

Signature _____

Owner/Applicant

Henry Shigekane
Hemmeter/VMS Kauai Co. II

B-7

Permit Fee \$ 50.00

Received By laf

Date Rec'd. 6/23/86

June 16, 1986

Mr. Avery H. Youn, Director
Planning Department
County of Kauai
4280 Rice Street
Lihue, Kauai, HI 96766

Dear Mr. Youn:

Transmitted herewith are the following matters relative to the proposed rezoning at Ninini Point:

1. An amended application and supporting report for the "Proposed Rezoning of Amfac Property at Ninini Point, Lihue, Kauai", which was previously submitted in November, 1985.

2. A \$150 filing fee for the SMA permit associated with the rezoning.

3. A new application and supporting report for a special use permit for the proposed Kiele Lake Golf Course and accessory uses.

4. A \$50 filing fee for the special use permit application.

5. One copy of the Conservation District Boundary Interpretation.

6. A letter of authorization from Amfac, Inc.

We would appreciate your quick review of the newly submitted and amended previous application, and at the earliest moment, their submission to the Planning Commission and County Council.

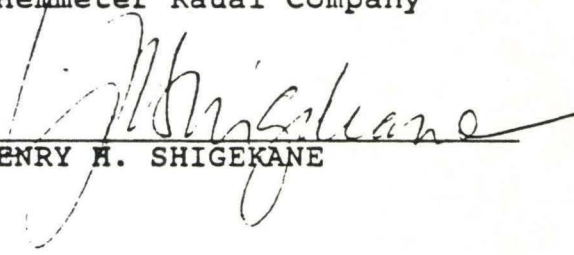
Mr. Avery H. Youn, Director
Planning Department
County of Kauai
June 16, 1986
Page 2

Thank you very much for your cooperation and
attention.

Very truly yours,

HEMMETER-VMS KAUAI COMPANY III
By Hemmeter Kauai Company

By


HENRY H. SHIGEKANE

HHS:tyn
Enc.

cc Christopher Hemmeter
Diane J. Plotts
C. Jepson Garland
Roy Yamamoto

THE LIHUE PLANTATION CO., LTD.

AN **Amfac** COMPANY

P.O. BOX 751
LIHUE, HAWAII 96766

June 17, 1986

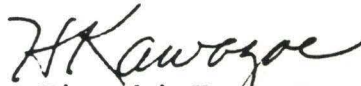
Mr. Avery Youn
Planning Director
County of Kauai
4280 Rice Street
Lihue, Hawaii 96766

Dear Mr. Youn:

RE: TMK: 4-3-5-01: 06

This letter is to authorize Hemmeter/VMS Kauai Co. III to submit permit applications for Rezoning, Special Management Area, Plan, Development, Special Use, and other required permits for the expansion of the Hemmeter/VMS Kauai Co. III resort on subject parcel owned by Lihue Plantation Co., Ltd.

Very truly yours,



Hiroshi Kawazoe
President and Manager

HK:mj

cc: T. Takahashi
R. Tsujimura
C. Sumida
H. Shigekane, Esq.
M. Teruya

PLANNING & ENGINEERING REPORT FOR THE PROPOSED KIELE
LAKE GOLF COURSE AT NININI POINT, LIAUE, KAUAI

**PLANNING & ENGINEERING REPORT
FOR THE PROPOSED KIELE LAKE
GOLF COURSE
AT NININI POINT, LIHUE, KAUAI**

**LAND USE COMMISSION
STATE OF HAWAII
AUG 18 11 53 AM '86**

**Tax Map Key 3-5-01:por. 1, por. 6, por. 82, por. 83
Fourth Taxation Division**

**Prepared for:
Hemmeter/VMS Kauai Properties**

**Prepared by:
Belt, Collins & Associates
Honolulu, Hawaii**

June 1986

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CHAPTER I

INTRODUCTION

PURPOSE

This report is intended to provide information on planning and engineering concerns pertaining to the redesign of the existing Kauai Surf Resort Golf Course. The existing golf course will be replaced with a world class, championship style golf course to be designed by Jack Nicklaus. This will substantially improve on the quality of the existing course and improve the level of amenity available to guests of the Westin Kauai Resort Hotel. The applicant is requesting a Special Use Permit. Approval of this permit would allow the redesign of an existing golf course and add lagoons to the resort area. The redesigned golf course will be called Kiele Lake.

PROPERTY DESCRIPTION

The total development property is over 350 acres in size and is located near Ninini Point in Lihue, Kauai. The property is controlled by Hemmeter/VMS Kauai Properties and is identified by Tax Map Key No. 3-5-01:por. of 1, por. of 6, por. of 27, por. of 82, and por. of 83. See Figure I-1. The predominant existing use in the Urban District areas is cattle grazing. The predominant existing uses in the Agricultural District areas are golf course and sugarcane cultivation. After subdivision and consolidation, the redesigned Kiele Lake golf course and driving range will be owned in fee by Hemmeter/VMS Kauai and will cover approximately 285 \pm acres. It will be part of a larger resort center of over 300 acres.

ADJACENT LAND USES AND AREA CONTEXT

The predominant land uses adjacent to the project areas are resort, industrial, airport, and agricultural uses. Resort uses include the 550-room Kauai Surf Hotel and its 18-hole golf course which are now undergoing major upgrading to become the Westin Kauai Resort Hotel.

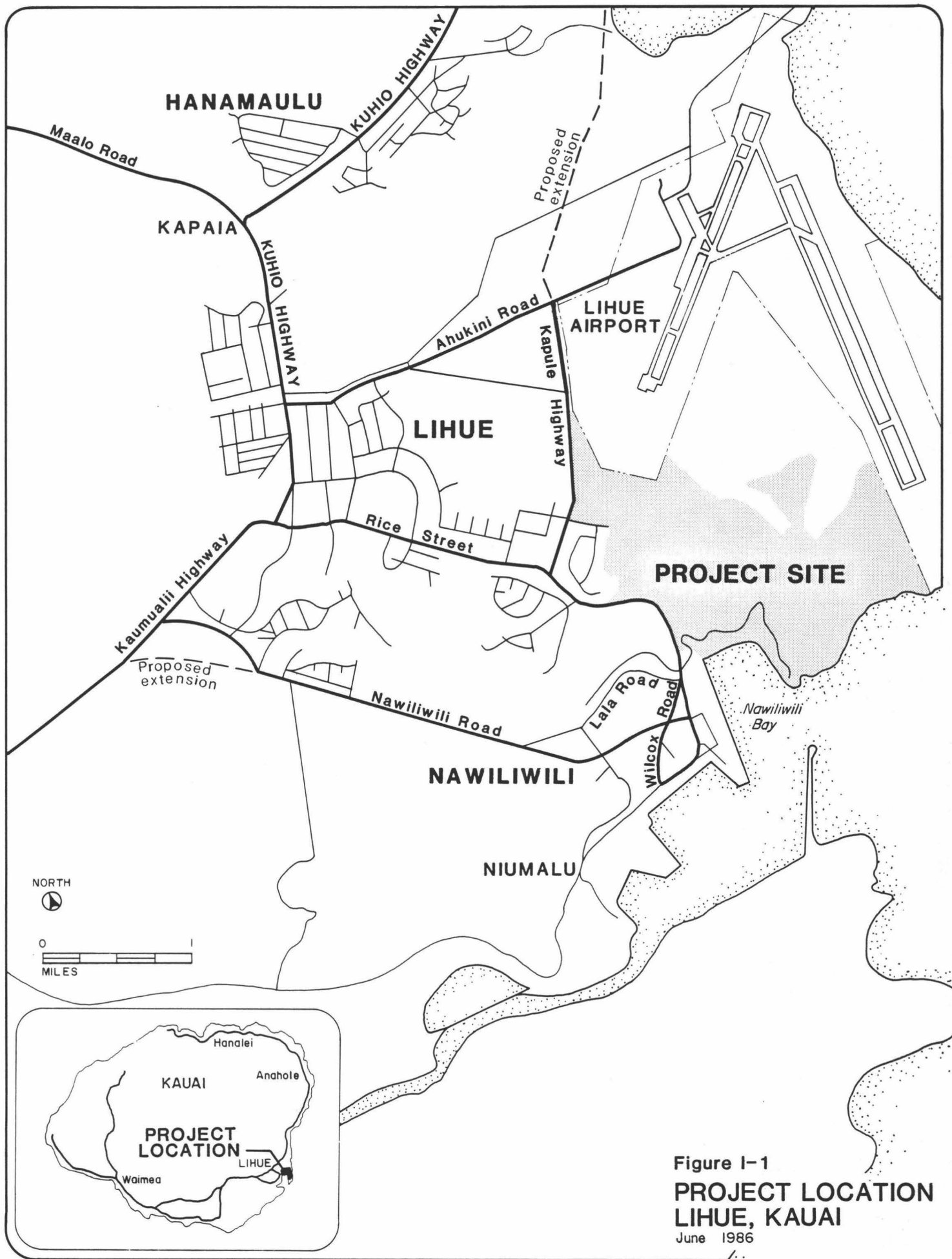


Figure I-1
**PROJECT LOCATION
LIHUE, KAUAI**
June 1986

Adjacent uses include a 26-acre industrial subdivision, Lihue Industrial Park at the southeast corner of Rice Street and Kupule Highway; the Lihue Airport; and cane fields belonging to the Lihue Plantation Company, Limited. The cane fields are located between the resort uses and Lihue Airport to the north. The center of Lihue is about one mile to the northwest along Rice Street, while Nawiliwili Harbor is located one-half mile to the southwest.

CHAPTER II
DESCRIPTION OF THE PROPOSED
DEVELOPMENT ACTION AND LAND CHANGES

PROJECT DESCRIPTION

The applicant seeks to acquire the necessary permits to allow the redesign of an existing golf course, and the construction of a new clubhouse, a new driving range, about 40 acres of lagoons, new boat docks, and such accessory uses such as pathways, service roads and maintenance areas.

The redesigned golf course will sit on roughly level land, utilizing most of the existing course and some mauka agricultural lands. The new golf course will use portions of the eastern side of the existing golf course and mauka agricultural lands. Winding through the golf courses and lagoons will be an extensive system of paths for golf carts and horse-drawn carriages. A horse stable area and golf maintenance area will also be located mauka of the golf courses and adjacent to the existing County sewage treatment plant site. New parking areas will be developed along with an irrigation lagoon, waterways, boat docks and boat maintenance areas. See Figure II-1.

GOLF COURSE DESCRIPTION

Jack Nicklaus is redesigning the existing 18-hole golf course at the Westin Kauai Resort. The 18-hole golf course will be known as the Kiele Lake Golf Course and is planned to open for play in late 1987. The design of this course will emphasize tournament play with substantial gallery area.

The Kiele Lake Golf Course will be built on a 309 \pm -acre site, of which approximately 40 acres are William Hyde Rice Leasehold lands currently held by Hemmeter/VMS Kauai Company I, approximately 105 acres are subordinated fee lands currently owned by Hemmeter/VMS Kauai Company I, and approximately 164 acres are to be acquired from Amfac. The golf course and driving range will require approximately 285 \pm acres.

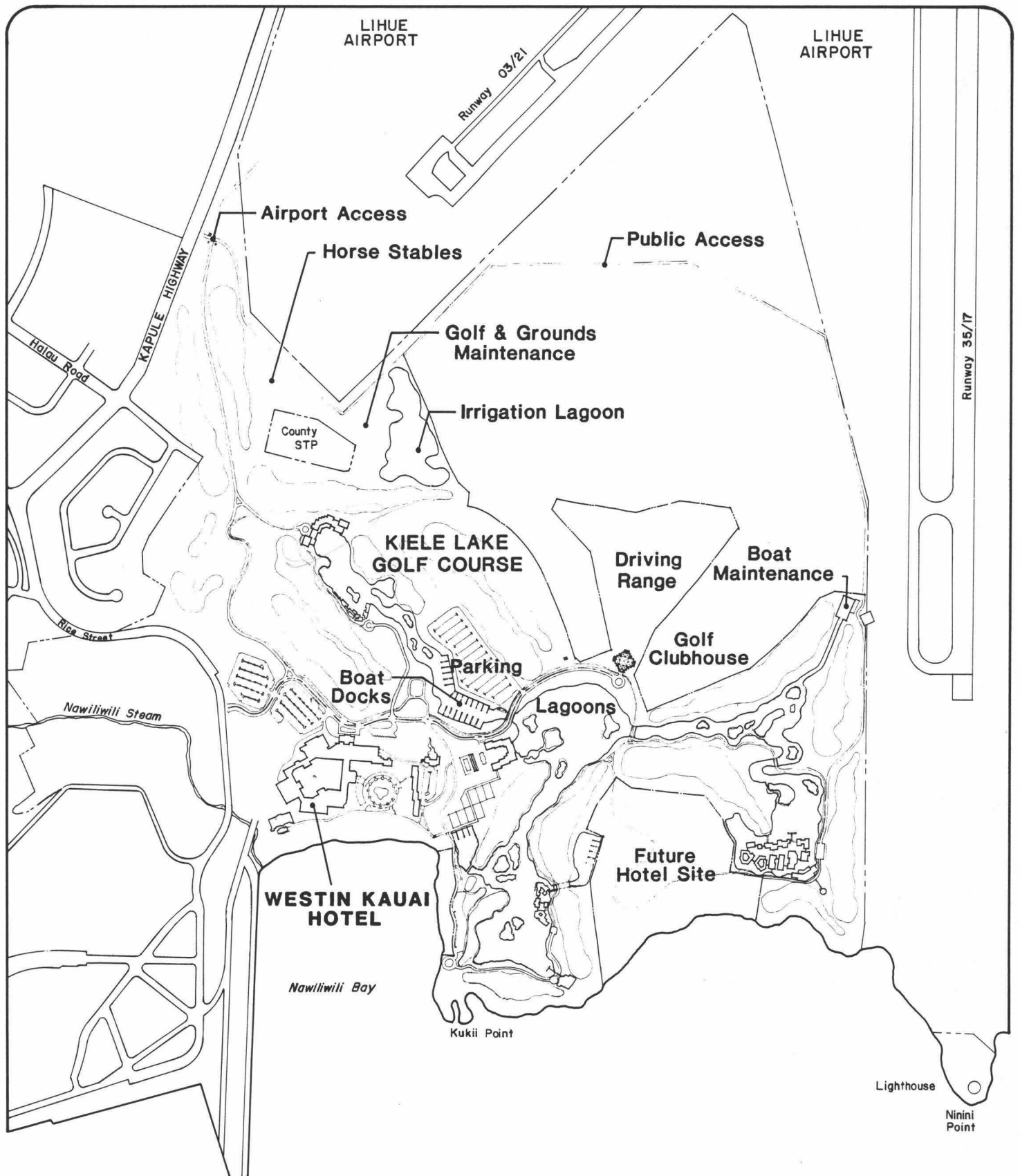
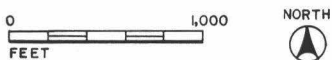


Figure II-1
**PROPOSED
 DEVELOPMENT CONCEPT**

JUNE 1986



The Kiele Lake Golf Clubhouse will consist of a 15,360-square-foot main floor, 8,910-square-foot basement, and 1,392-square-foot mezzanine. Of the 15,360-square-foot main floor area, 4,498 square feet will be non-air conditioned open space covered by a trellis roof.

The enclosed area of the main level will accommodate a clubhouse lobby, grille for the Westin Kauai guests and golfers, a private men's grille for the Commerce Club members, central kitchen and related storage, golf pro shop, and administrative offices. The open-air trellised areas will be utilized for outside dining and beverage service, gardens, and as transition structures. The mezzanine level will accommodate employee locker facilities and a mechanical room. The basement area will be constructed to provide storage area for 100 golf carts to be used for the Kiele Lake Golf Course.

ACCESS

The Westin Kauai and the Kiele Lake golf course will share common access from Rice Street which extends from Kapule Highway. The access will lead first to the Westin Kauai Hotel, then through the project site past the golf clubhouse and finally to a future resort hotel.

LAND USE APPROVALS

Golf courses and accessory uses are generally allowed in the Agricultural areas. However, the subject property is located on land partially designated "B" or "Good" as to overall agricultural potential by the Land Study Bureau. The land so designated requires the approval of a Special Use Permit by the County Planning Commission and the State Land Use Commission.

The makai portions of the subject property are within the Special Management Area (SMA). An SMA use permit is therefore needed before development of the golf courses, docks and other projects. The SMA permit for development of the subject property is being requested in a separate application.

Table II-1

MAJOR ELEMENTS OF THE WESTIN KAUAI RESORT CENTER

I. FUTURE RESORT HOTEL:

- A. 750 units

II. COMMERCIAL AREAS:

- A. The Cliffs Commercial Area, 25,000 sq. ft. leasable
- B. The Islands Commercial Area, 25,000 sq. ft. leasable
- C. The Lagoons Commercial Area, 60,000 sq. ft. leasable

III. MAIN LAGOON:

- *A. 36 acres of lagoon
- *B. 10 boat docks for 100 charter boats and 3 ferries

IV. GOLF COURSES:

- *A. Kiele Lake (redesigned existing 18-hole golf course and driving range, 286+ acres)
- *B. 26,000 sq. ft. golf clubhouse
- *C. Irrigation lagoon (9+ acres)
- *D. Golf and grounds maintenance area
- *E. Starter's shed
- *F. Parking for 600+ cars (also used for other activities)

V. OTHER ITEMS:

- A. 15,000 sq. ft. restaurant & 30-unit Japanese inn (mauka area)
- B. Access road for restaurant/inn
- C. 15,000 sq. ft. restaurant (makai area)
- *D. Horse stables, carriage storage
- *E. 20,000 linear feet internal carriage path network
- *F. Entry drive, airport access, and other service roadways
- *G. Public access road and shoreline access easement

*Projects that are part of this application.

CHAPTER III

RELATIONSHIP TO PUBLIC LAND USE POLICIES AND CONTROLS

This section briefly identifies existing public land use policies and controls for the subject property.

STATE LAND USE DISTRICT

The proposed Kiele Lake Golf Course, accessory uses, lagoon and service roads are primarily located in the Agriculture District. These are allowed uses. However, portions of the area are in lands rated "B-Good" in the Detailed Land Classification system published by the University of Hawaii Land Study Bureau. A Special Permit will be required to allow those portions of the proposed project that are in the Agriculture District and rated "B". See Figure III-1.

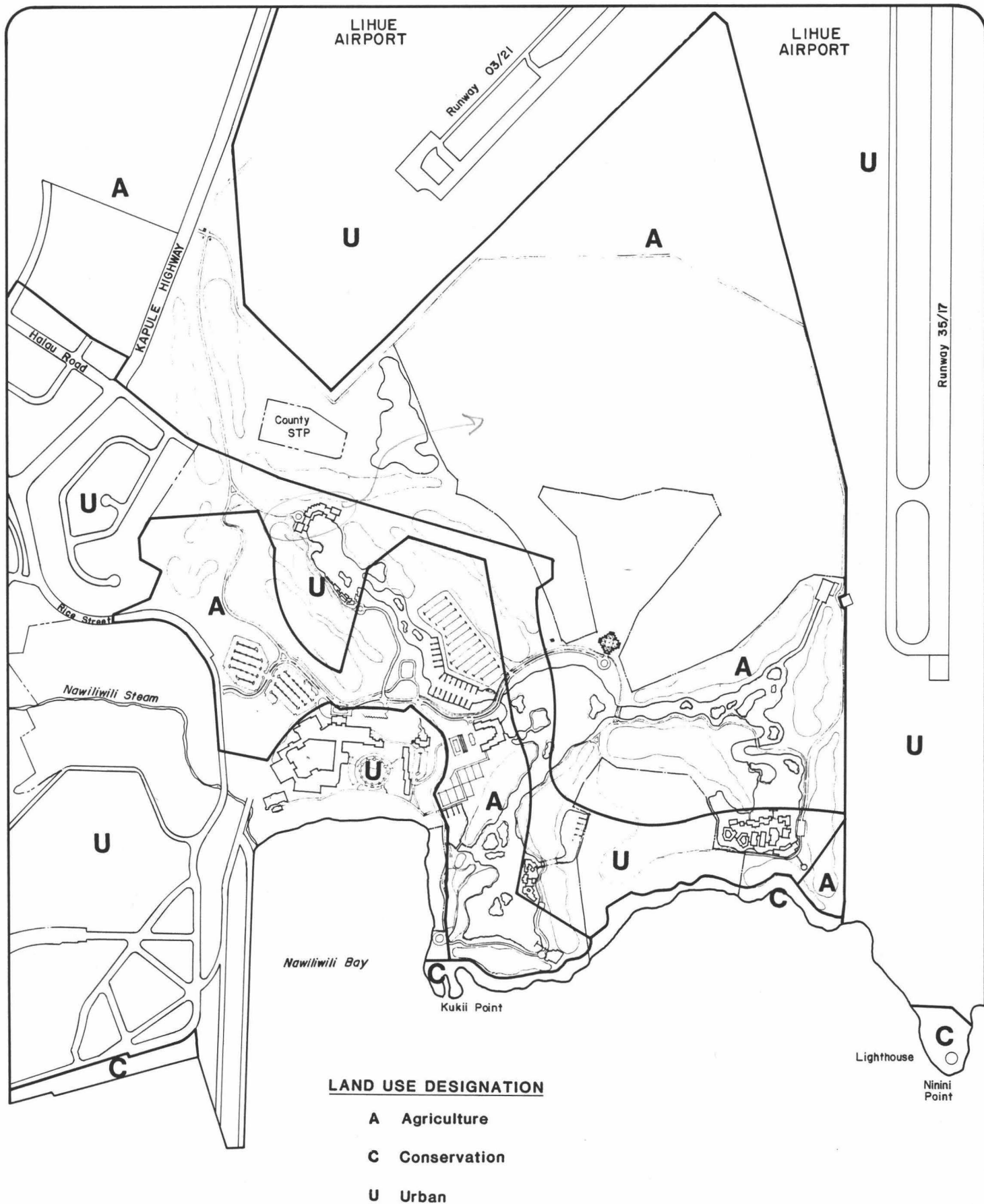
COUNTY GENERAL PLAN

Use of the subject property for such resort related use as a golf course is in general accordance with the provisions of the newly updated Kauai County General Plan, which designates much of the property as Resort, with other portions in Urban Mixed Use, Open and Agriculture. See Figure III-2. The General Plan defines the Resort classification as follows:

Lands included within the Resort classification shall be used predominantly for visitor and transient-related facilities including hotel, apartment, employee housing and vacation homes. Commercial and public facilities necessary to support and complement such primary functions may also be included within this classification.

LIHUE DEVELOPMENT PLAN

The section of the subject property which contains the golf course site is generally designated for resort use and agriculture in the Lihue Development Plan. See Figure III-3. The proposed project is generally consistent with Development Plan statements, including the following:

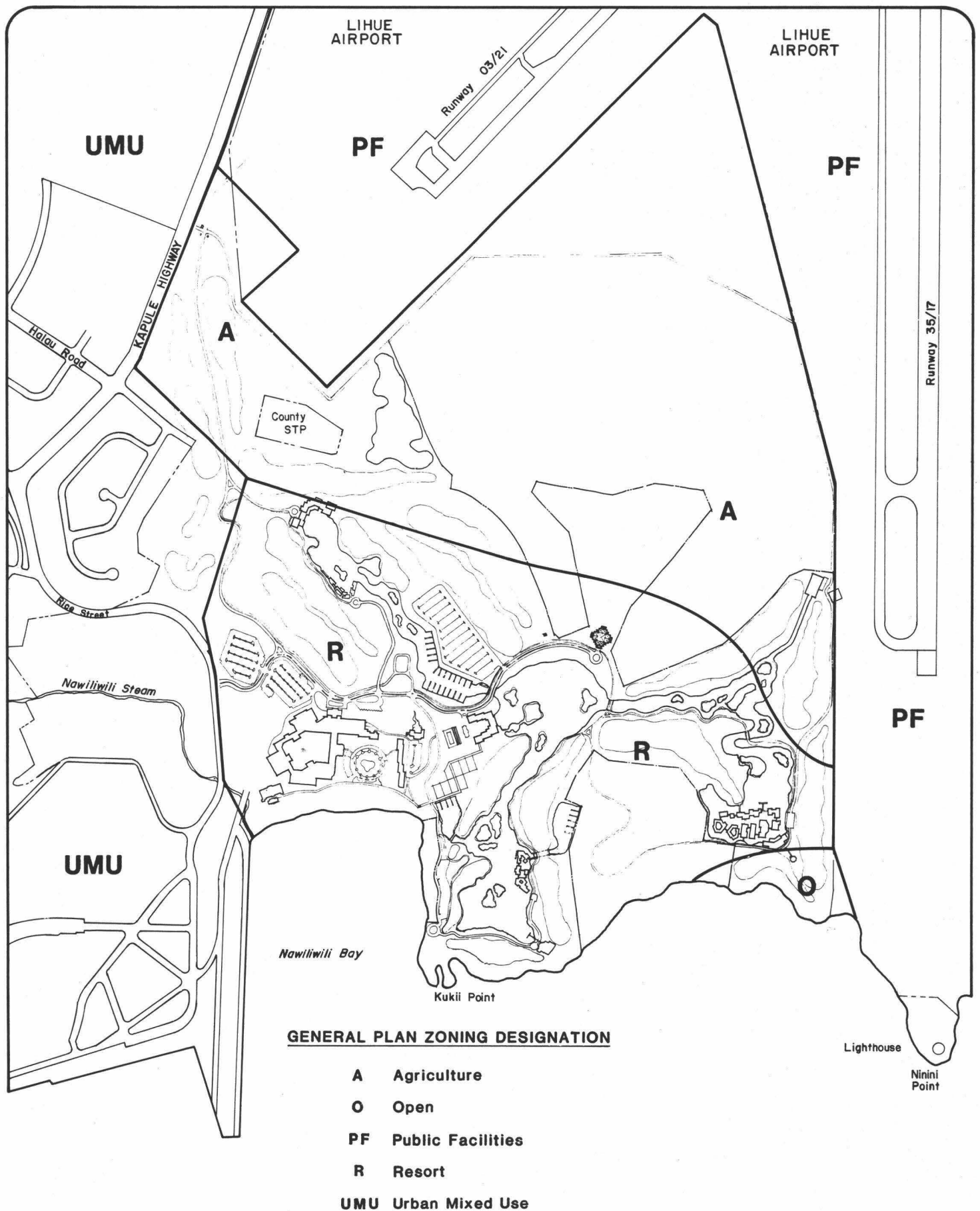


LAND USE DESIGNATION

- A** Agriculture
- C** Conservation
- U** Urban

Figure III-1
STATE LAND USE
DISTRICTS

JUNE 1986

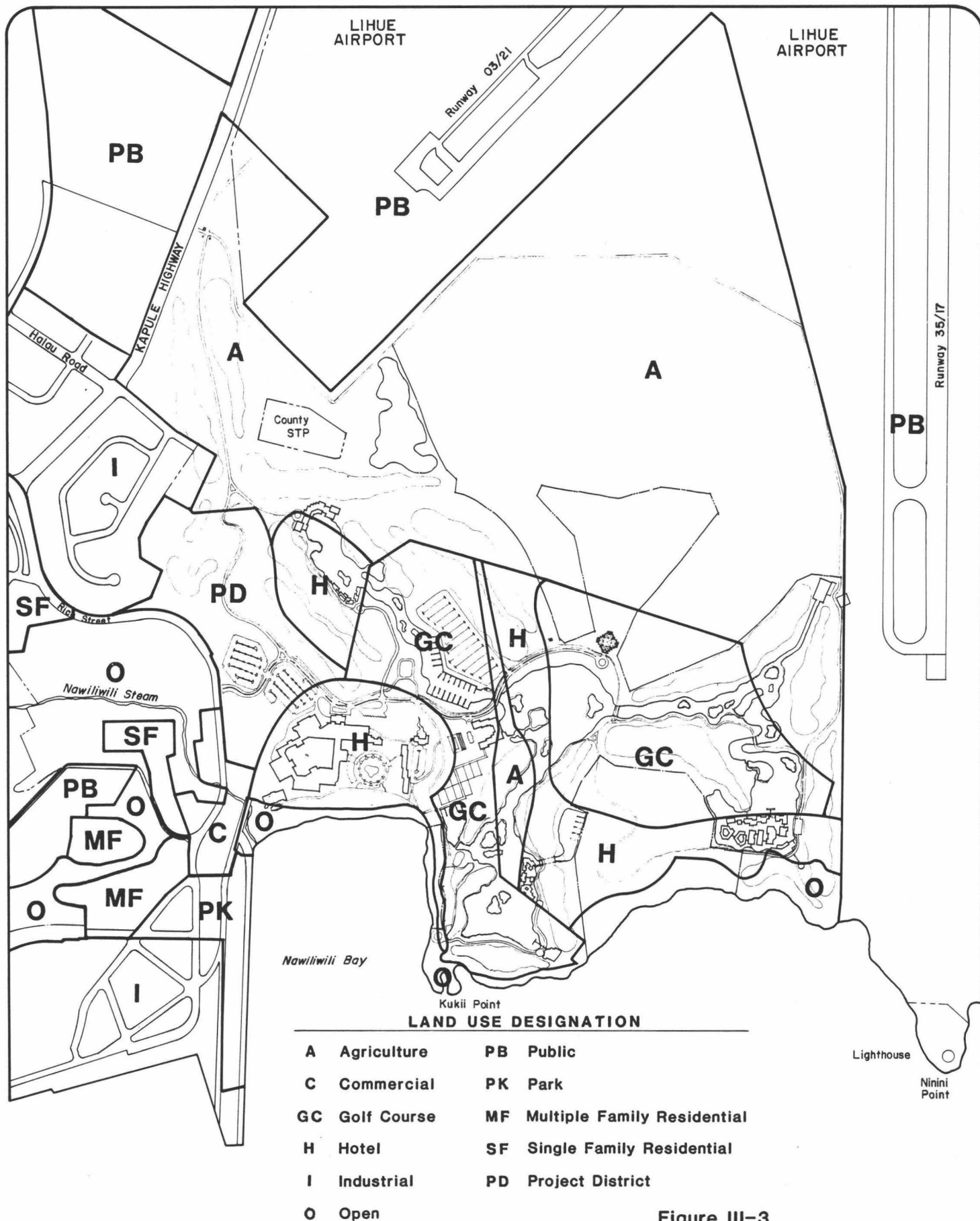


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Figure III-2
COUNTY GENERAL PLAN

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Figure III-3
LIHUE DEVELOPMENT
PLAN

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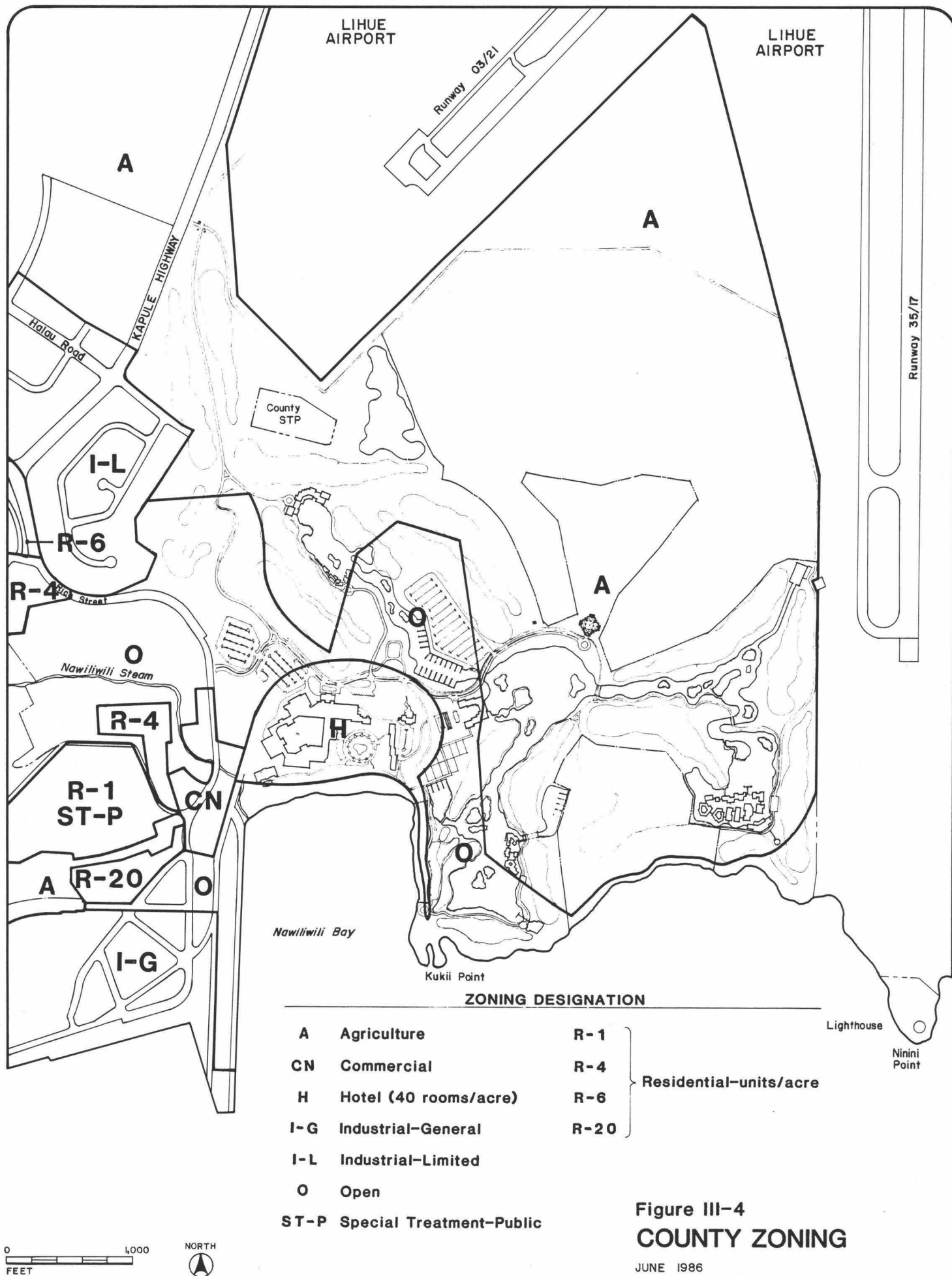
- o "The major assets of this area which should be preserved and enhanced include . . . the resort areas, . . ."
- o "Landowners have expressed a desire for more resort development here. The overall Development Plan is based on more visitor activity as one ingredient for growth. The areas shown for new resort use appear both feasible and desirable additions to the existing resort areas. Because of the public interest in the shoreline, development of new resort facilities should include contiguous public access to those areas."

COUNTY ZONING

The subject property is presently zoned Agricultural District and Open District. Golf course and other open recreational uses are permissible uses within the Open District and within the Agriculture District with a Use Permit. The Use Permit is being applied for under a separate application in conjunction with a Project Development Use Permit. See Figure III-4.

COUNTY SPECIAL MANAGEMENT AREA

The makai portions of the Kiele Lake golf course are within the County's Coastal Zone Management Area. Development of the subject property will conform to the Special Management Area (SMA) guidelines for development. The SMA use permit is being requested under a separate application.



CHAPTER IV

DESCRIPTION AND DISCUSSION OF POTENTIALLY SIGNIFICANT EFFECTS

INTRODUCTION

This section analyzes the potential effects that may be expected from the proposed development of the subject property. The analysis addresses both long-range and short-range effects. Long-range effects are the far-reaching result of the projects on the environment. Short-range effects are primarily those expected during the actual construction phases. Proposed mitigation measures are identified where appropriate.

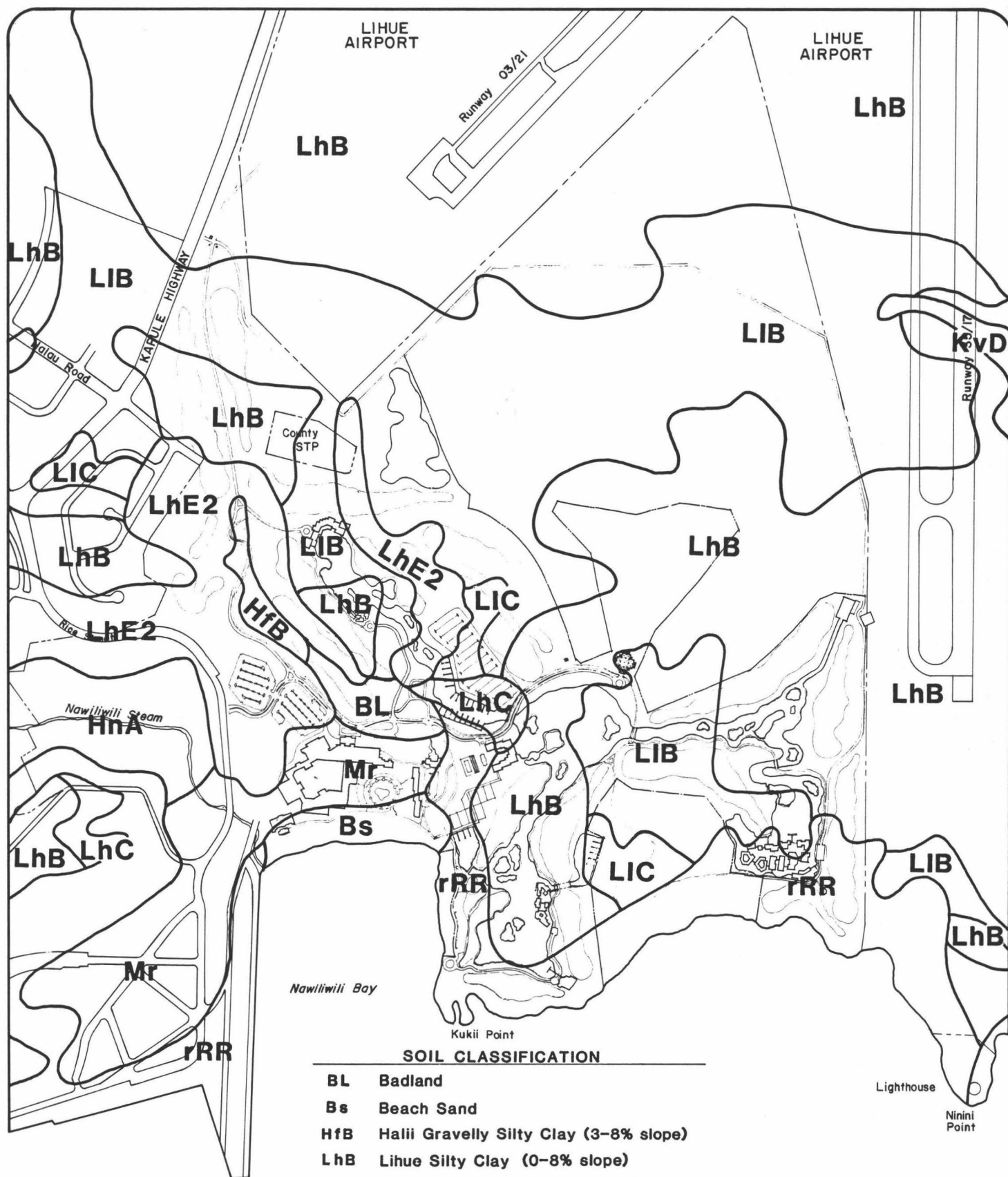
SOILS

Soils in the project areas are generally of the Lihue Series. These are deep, nearly level to steep well-drained soils that have a fine or moderately fine textured subsoil and are located on higher plateaus. These soils are used in the production of sugarcane, pineapple, and truck crops, as well as for pasture, orchards, wildlife habitat, woodland and homesites. The soils on the proposed site has been classified by the U.S. Department of Agriculture Soil Conservation Survey of Islands of Kauai, Oahu, Maui, Molokai, and Lanai, State of Hawaii, 1972. See Figure IV-1.

Major portions of the proposed project site are identified as prime agricultural land on the Agricultural Lands of Importance to the State of Hawaii (ALISH) maps produced by the State Department of Agriculture. The mauka area is currently in cane cultivation. Major portions of the proposed site has a "B" rating according to the Detailed Land Classification System. See Figures IV-2 and IV-3.

AIR QUALITY IMPACTS

Air pollution emissions generated by the proposed development will basically result from vehicular traffic to and from the project sites. During construction, air quality at and immediately around the project sites will be adversely impacted by pollution generated by construction activities. Such activities would include emissions from construction vehicles and particulate matter (mainly dust) generated during



SOIL CLASSIFICATION

BL	Badland
Bs	Beach Sand
HfB	Halii Gravelly Silty Clay (3-8% slope)
LhB	Lihue Silty Clay (0-8% slope)
LhC	Lihue Silty Clay (8-15% slope)
LhE2	Lihue Silty Clay (25-40% slope)
LIB	Lihue Gravelly Silty Clay (0-8% slope)
LIC	Lihue Gravelly Silty Clay (8-15% slope)
Mr	Mokuieia Fine Sandy Loam
rRR	Rough Broken Land

Source:
Soil Conservation Service

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Figure IV-1
SOILS

JUNE 1986

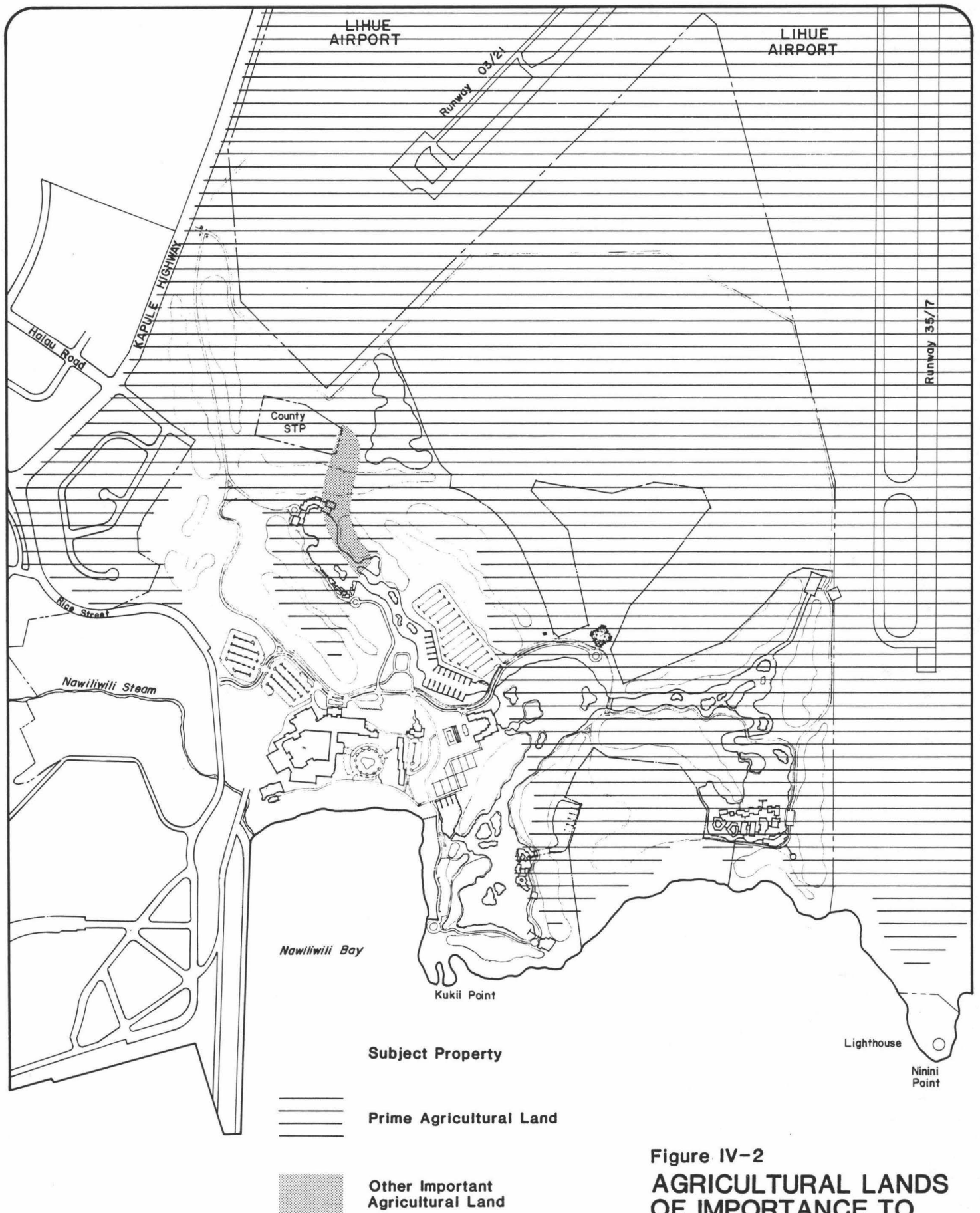
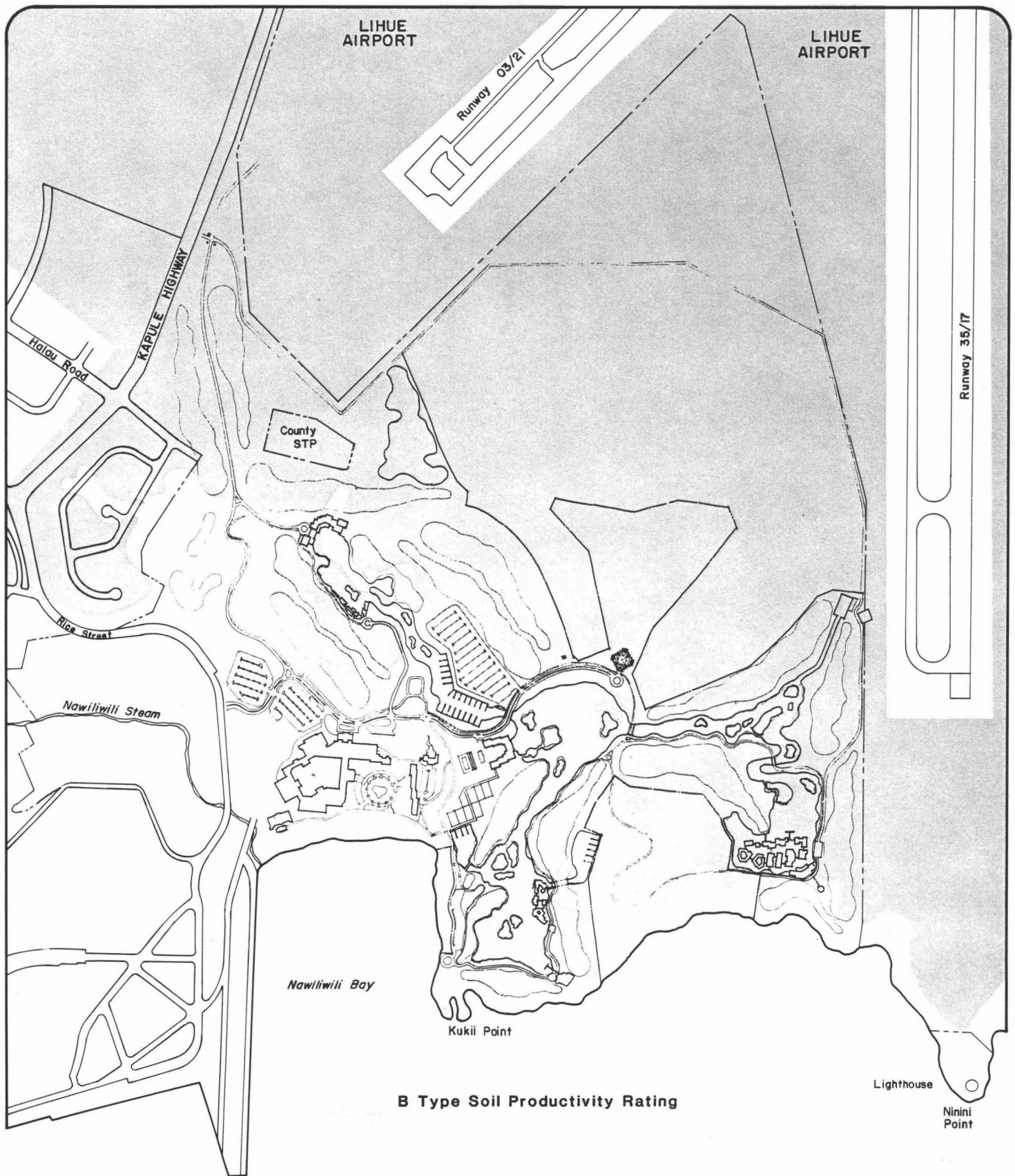


Figure IV-2
**AGRICULTURAL LANDS
OF IMPORTANCE TO
THE STATE OF HAWAII
(ALISH)**

JUNE 1986



Source: Land Study Bureau

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Figure IV-3
SOIL CLASSIFICATION

JUNE 1986

grading and site preparation activities. Wind directions for the area indicates that land uses in the immediate area most affected by air pollution emissions will be those to the southwest.

Portions of the golf course may, during certain weather conditions, be impacted by emissions from the Kauai County Sewage Treatment Plant. The plant, located to the north-northwest of the resort, treats sewage effluent through open air "sludge beds" following primary wastewater treatment. Air pollution emissions include certain noxious gas by-products from biochemical processes. Emissions from the County sewage treatment plant would most affect a few selected golf course holes during normal wind conditions.

Dust will be raised by necessary grading operations and by the movement of construction vehicles. All activities will be conducted in compliance with the Air Pollution Control Regulations of the State Department of Health and other applicable County ordinances relating to grading, excavation and dirt stockpiling procedures. Solid waste materials resulting from construction activities will not be burned but transported off-site to be disposed of in an appropriate manner (sanitary landfill).

NOISE IMPACTS

Background

The primary noise impact on the proposed development will be from aircraft operating out of Lihue Airport. Located north and east of the proposed development, the airport accommodates air carrier aircraft, a variety of small aircraft and helicopters from two runways, the old runway (Runway 3-21) and a newly constructed runway (Runway 17-35).

Currently, aircraft arrive from the south over Nawiliwili Harbor and Ninini Point to land on the new Runway 17-35, and depart during tradewind conditions in a northeasterly direction over the ocean. This pattern is reversed during Kona wind conditions.

Darby and Associates, an acoustical consulting firm, conducted two studies locating noise contours on the project area based upon actual ground measurements.

The study utilized L_{dn} (Day-Night Sound Level) noise descriptors which the U.S. Department of Transportation adopted in 1980 in replacement of the NEF (noise exposure forecast) noise descriptor method.

Table IV-1 shows L_{dn} contour value guidelines for various uses. The table indicates that all land uses are compatible in areas exposed to L_{dn} values of 65 or less. Hotel development in an area with L_{dn} values above 65 would require special sound attenuating construction measures. Golf courses in an area with L_{dn} values above 70 would require sound mitigation measures.

Noise Impacts on Proposed Development

An updated noise study for 1985 conditions by Darby and Associates indicated that on a day with 92% tradewind aircraft flight patterns and 8% Kona wind patterns, the following noise condition is expected:

- (a) Much of the project site has an L_{dn} of 55 or less except for the eastern portion closest to the new Runway 35/17 and portions near the sewage treatment plant.
- (b) No portion of the project is exposed to L_{dn} 60 or greater except for very small portions of the eastern and northern areas of the subject property.

The estimated L_{dn} noise contours are shown in Figure IV-4.

Helicopters from Lihue Airport presently fly corridors between the Runway 35/17 and the old Kauai Surf Hotel. Helicopters departing from the airport at 500 feet altitude should not cause L_{dn} 55 to be exceeded in the project area if the number of departures is less than 100 per day.

Conclusion

The 1985 noise contours produced by Darby and Associates indicate that existing noise conditions will have no significant impact upon the golf course. No mitigation measures appear necessary. Small portions of the eastern and northern part of the project lie within the L_{dn} 60 and greater contours. The affected areas are mostly

Table IV-1
Land Use Compatibility Guidelines for
Day-Night Sound Levels (L_{dn}) Measurements

Land Use Category	Optimum ^a Compatible Ldn Contour Value	Optimum ^b Compatible Ldn Contour Value with Special Sound Attenuating Construction
Residential--Single-Family, Duplex	65	75
Mobile Homes	65	65
Residential--Multiple-Family, Dormitories, etc.	65	75
Transient Lodging	65	75
Schools, Classrooms, Libraries, Churches, Day Care Center, Museums	65	65
Hospitals, Nursing Homes	65	65
Auditoriums, Concert Halls, Music Shells	65	65 ^c
Resorts and Group Camps	65	65
Sports Arenas, Outdoor Spectator Sports	65	75 ^c
Playgrounds, Neighborhood Parks	65	-- ^c
Golf Courses, Riding Stables, Water Recreation	70	-- ^c
Cemeteries	70	-- ^c
Office Buildings, Personal Business, and Professional	65	75
Commercial--Retail, Movie Theaters, Restaurants	70	75
Commercial--Wholesale, Some Retail, Industrial, Manufacturing, Utilities	75	80
Manufacturing, Communications (noise sensitive)	65	75
Livestock Farming, Animal Breeding	70	-- ^c
Agricultural (except Livestock), Mining, Fishing	75+	-- ^c
Public Right-of-Way	75+	-- ^c
Extensive Natural Recreation Area	70	-- ^c

^a Adapted by PMM&Co. from Wilsey & Ham and Bolt, Beranek & Newman, "Airport Noise Impact--Planning Guidelines for Local Agencies," U.S. Department of Housing and Urban Development, November 1972.

^b PMM&Co. recommendations for existing land uses with acoustical treatment. The amount of sound insulation required in a structure should be sufficient to reduce average interior noise levels to a 45 Ldn maximum. Although interior levels may be satisfactory, the exterior noise level may be disturbing to some associated outdoor activities.

^c Outdoor land uses, not dependent on structures, are governed by the Optimum Compatible Ldn Contour Value in the column to the left.

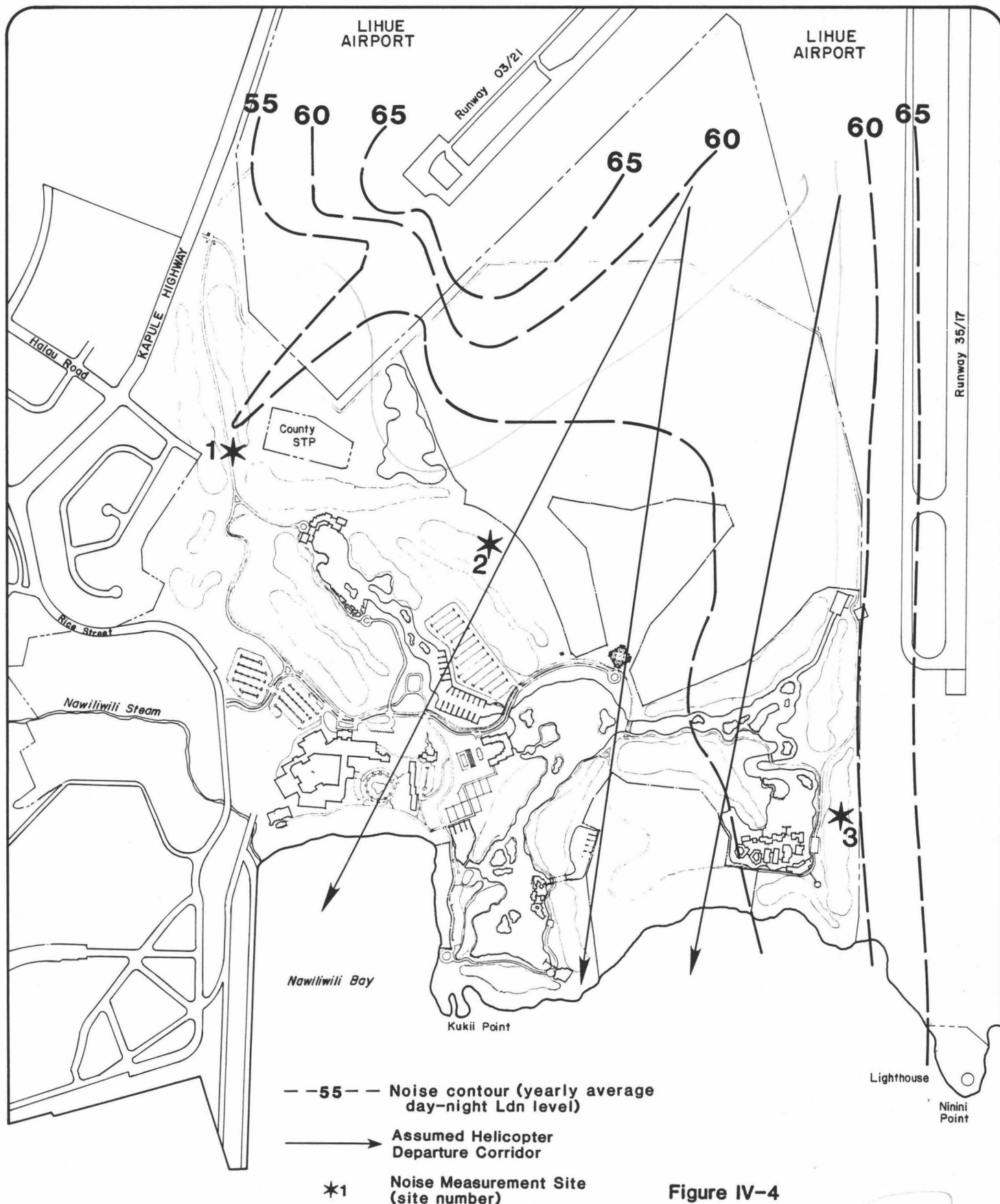
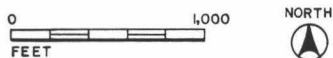


Figure IV-4
Lihue Airport 1985
FIXED-WING AIRCRAFT
AND HELICOPTOR
NOISE CONTOURS

JUNE 1986

Source: Darby and Associates



areas proposed for golf course, horse stables and maintenance areas. This is an acceptable noise level for those uses. See Table IV-1.

STORM DRAINAGE

Storm drain systems for the project will be designed to intercept water upstream of each site, collect on-site water, pass water through the site and dispose water downstream of the site. The systems will consist of inlets, culverts, pipes and swales to pick up, convey, intercept and dispose of water using design criteria and storm drainage standards of the Department of Public Works, County of Kauai.

The drainage systems within the proposed project areas will be designed to County of Kauai, Department of Public Works standards. With increased urbanization, it is anticipated that storm runoff will increase; however, no adverse impact is anticipated.

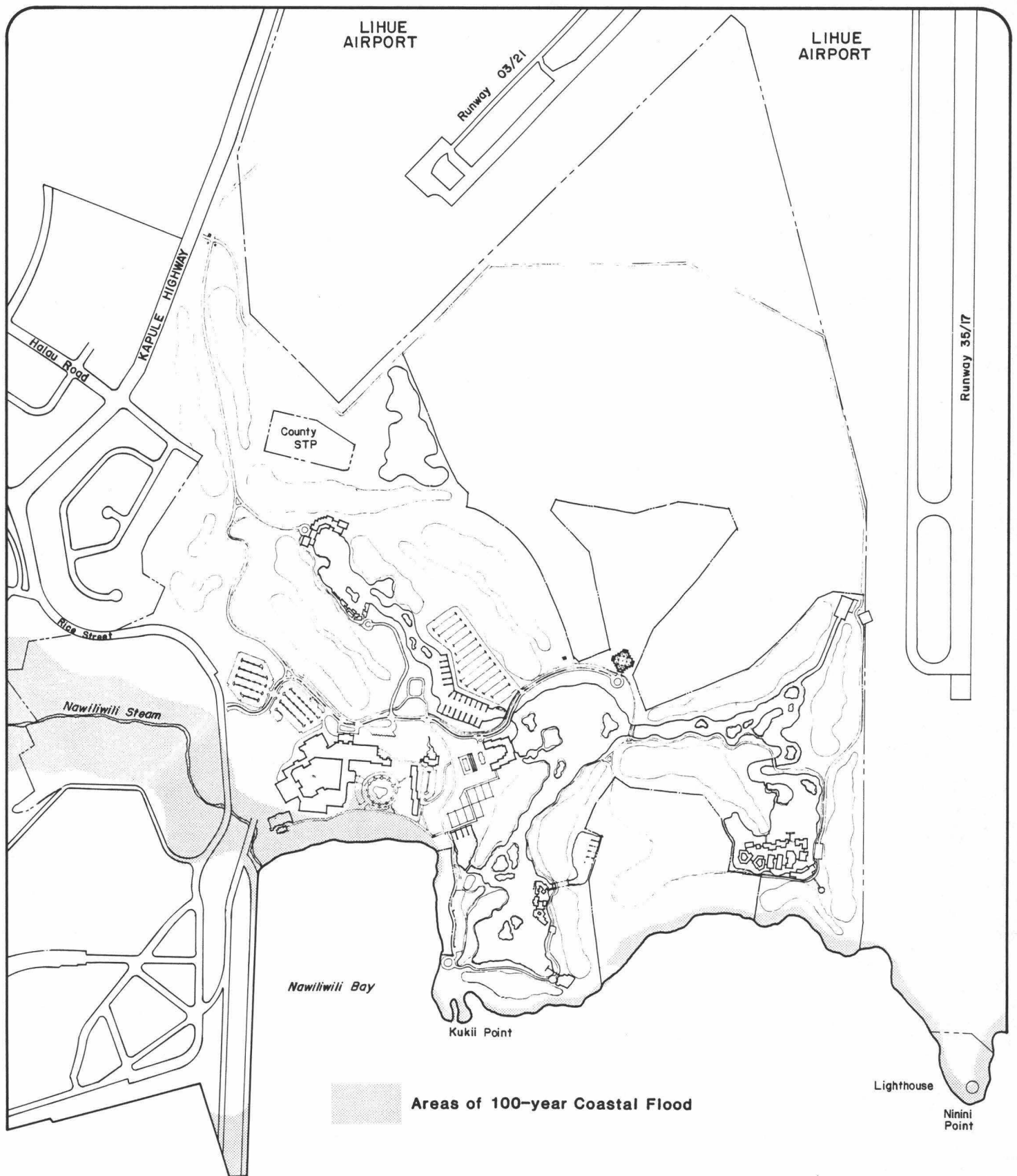
TSUNAMI INUNDATION

The flood insurance rate map (FIRM) prepared by the Corps of Engineers for the Lihue area shows a tsunami inundation elevation of 13 feet for the resort site. This elevation will be well below the lowest probable elevation of 40 feet for the proposed golf course. See Figure IV-5.

PLANT AND ANIMAL LIFE

Plant Life

A baseline survey of the vegetation of the project areas and vicinity within the Urban District was made by EARTHWATCH Environmental Resource Investigators during April 1980. The report concludes that,, overall the vegetation of the project areas appear botanically uninteresting and unremarkable. There is poor representation of native Hawaiian plant species except near the coast and a predominance of weedy exotics adapted to seasonally dry, climatic periods. No endangered plant species were found. Areas outside the Urban District have been under cane cultivation or golf course use for a number of years and are unlikely to have any significant native or endangered plant life.



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Figure IV-5
**FLOOD INSURANCE
RATE MAP**

JUNE 1986

Initiating the proposed resort development will entail some mass grading. Revegetation and landscaping will change the nature of the existing plant life to include palms and ornamentals such as bougainvillea and plumerias, all of which will improve and enhance the visual appearance of the area.

Animal Life

The following is a summary of the March 1980 report, "An Avifaunal and Feral Mammal Survey of Ninini Point, Kauai," by Phillip L. Bruner, M.S., Brigham Young University. The study objectives were to survey the avifaunal composition and usage of the project areas to determine whether any endangered species occupy the site and to investigate the feral mammals using the area. The study concentrated on the lands within the Urban district. Other lands in the Agriculture district have been used for sugarcane cultivation and for golf course use. It is not expected that any significant species lives in these areas.

The western portion of the site adjacent to the Sewage Treatment Plant is presently used for sugarcane cultivation and, therefore, its primary value is only as a temporary refuge for animal life. Landscaping of these areas will provide a more diversified environment, thus opening the sites to a greater variety of birds. At the present time, only spotted dove, and barred dove make regular use of these sites. Of particular interest is a small drainage reservoir in the Kauai Surf golf course that supported a pair of Gallinule in 1980. This is an endangered species. An updated survey conducted in 1986 indicated that a pair of Gallinule still inhabit the area. The drainage reservoir will be left undisturbed if possible. If grading and dredging of the reservoir are necessary, the birds will be relocated to a new reservoir on the project site or may be released in the nearby Huleia National Wildlife Refuge as appropriate.

Landscaping of these sites will remove much of the underbrush with a subsequent change in the avifaunal composition of the area. Species that may become less common as a result of clearing may be Shama, melodious laughing thrush, and northern cardinal. Conversely, slight increases in the number of common mynah, house sparrow, and house finch might be expected.

The only feral mammals seen during the March 1980 survey were housecats. However, it can be expected that rodents and other small field animals exist

throughout the project area. Such animals will migrate to the adjoining undisturbed lands during construction.

VISUAL IMPACT

The proposed project will attempt to minimize the intrusion of buildings on the visual environment through design and landscaping. The proposed resort development will conform to Kauai zoning bulk, scale, and land use criteria for visual integration.

The bulk of the project is in the golf course areas and consists of relatively level terrain. Such accessory projects as the lagoons, clubhouse and others will offer views of the golf course.

COASTAL WATERS

An environmental assessment of nearshore marine life at Ninini Point, Kauai was prepared by Steven J. Dollar, a marine research consultant, in August 1980. The purpose of that study was to determine whether or not a proposed Amfac resort/residential development would cause significant adverse effects to the marine environment.

Dollar's assessment incorporated extensive surveys of the physical and biological marine community structure and the evaluation of their tolerance to stress. Based on the analysis, his report concluded that there "is no reason to expect significant adverse impacts to the area." There are not expected to be significant changes in recreational use of the area in terms of fishing, diving, swimming, or surfing.

The proposed development appears to satisfy State Water Quality regulations (DOH Chapter 37-A, Chapter 342, Hawaii Revised Statutes). There will be no direct discharge of wastewater in the coastal area by the proposed development.

ARCHAEOLOGICAL SITES

Due to the area's history of cane cultivation and golf course use, no significant historical or archaeological remains are expected to exist on the site. If remains are discovered on any of the sites during construction, work will be discontinued until

appropriate governmental authorities have an opportunity to survey the find and determine when work may resume.

PUBLIC SERVICES AND FACILITIES

Electricity

Electrical services to the area would be provided by the Kauai Electric Company. The electric company has sufficient excess capacity to service the new project. Access to the proposed site may require that underground lines go through the Westin Kauai Hotel site.

Water Service

The proposed development is within the service area of the County of Kauai, Department of Water Supply (DWS) Lihue Water System (Lihue-Kapaia) which stems from two one-million gallon reservoirs at elevation 393 feet. The well systems supplying the system have a total available yield of 2,055 GPM.

From preliminary discussions with the DWS, indications are that the Department's water source and distribution system are adequate to accommodate the water demand of the proposed development. The following are estimates for the proposed development.

Estimated Water Demand for Various Projects

<u>F a c i l i t i e s</u>	<u>Average Daily (MGD)</u>	<u>Maximum Daily (MGD)</u>	<u>Peak Hour (MGD)</u>	<u>Fire Flow</u>
Golf Clubhouse	0.01800	0.0270	0.0630	2,000 GPM
Stables and Ground Maintenance Complex	0.00850	0.0128	0.0300	2,000 GPM

Water service and fire flow for the proposed development will come from a connection to the 12-inch water main within the State Kapule Highway. The water distribution system within the development will remain private.

Waste Collection and Disposal

Sewerage: The existing County sewage pump station (located within the former Kauai Surf site) and the existing Lihue sewage treatment plant are located within the proposed development. The activated sludge treatment plant has a present capacity of 1.5 million gallons per day (MGD) and has an ultimate capacity of 4.5 MGD. Preliminary discussions with the County Department of Public Works indicate that the existing County sewage facilities can accommodate the sewage to be generated by the proposed development.

Estimated Sewer Load for Total Project Area

<u>Facilities</u>	<u>Average Daily (GPD)</u>
Golf Clubhouse	14,400
Stables and Ground Maintenance Complex	5,600

Sewage from the horse stables, the maintenance areas and the golf clubhouse will be conveyed to the County STP by planned sewerage improvements.

Currently, the sewage effluent from the County treatment plant is being disposed of within the Lihue plantation sugar fields and the existing golf course. The County STP has an injection well with a theoretical capacity of 0.6 MGD. With the completion of the proposed golf course, it is estimated that 1.0 MGD will be required to meet the golf course irrigation requirements. It is planned that the golf course will be irrigated with a mixture of treated effluent and well water.

Non-Potable Water Requirements: Two features of the proposed development will require water supplies in excess of the County Water Supply capacity. Non-potable water will be used to meet the requirements.

Golf Course Irrigation: The estimated irrigation requirement for the golf course is 1.0 million gallons per day (MGD). Treated sewage effluent from the County sewage treatment plant is available for golf course irrigation. To make up any shortage, the developer plans to drill deep wells.

Water Feature: A lagoon of about 36 acres is planned for the development to provide a recreational amenity. The water feature will have an average depth of five feet. Water supply to support the water feature (to fill and maintain water level) will come from the deep wells noted above. It is estimated that evaporation losses will be about 0.4 MGD. Excess water will be discharged at the makai ends of the water feature.

	Million Gallons Per Day (MGD)				
	<u>1986</u>	<u>1987</u>	<u>1988</u>	<u>1989</u>	<u>1990</u>
Projected Cumulative Water Demand					
18 Holes Golf Course	0.9	0.9	0.9	0.9	0.9
39 Acres Water Feature		0.4	0.4	0.4	0.4
Cumulative Total*	<u>0.9</u>	<u>1.3</u>	<u>1.3</u>	<u>1.3</u>	<u>1.3</u>
Cumulative Effluent Available**	0.3	0.5	0.8	1.1	1.1
Cumulative Well Water Requirement	0.6	0.8	0.5	0.2	0.2

* Water Requirement at the beginning of each year.

** Estimate of current sewage effluent (without Westin Kauai)	. . . . .	0.30 MGD
Airport Terminal (Sept. 86)	. . . . .	0.20 MGD
Westin Kauai (July 87)	. . . . .	0.30 MGD
Remainder of the Project (88 & 89)	. . . . .	<u>0.30 MGD</u>
Cumulative Total by 1990	. . . . .	1.10 MGD

Information compiled on all wells in the region, with particular focus on wells 5821-01 (near the Kauai Inn reservoir) and well 5821-01 (Lihue Treatment Plant), indicate the development of deep wells are a viable course of action to pursue. Formations to at least 150 feet below sea level have limited permeability but contain relatively fresh water (i.e. chloride contents of less than 50 milligram per liter). Wells finished to this depth are likely to have low yield (100 to 200 gallons per minute) and exhibit continuous drawdown during pumping. A schedule of about 16 hours maximum pumping time each day may be required to allow a daily period of recovery. If wells are drilled deeper, such as was done with well 5821-01 at the treatment plant, yield can be increased but salinity is also likely to be higher. Well 5821-01 can produce up to 900 gallons per minute but the chloride concentration is about 1,000 milligram per liter at that rate.

Effluent from the treatment plant and well water will be piped to a golf course irrigation pond where mixing will occur. At least one of the wells drilled will be designed for a dual purpose: as source well during dry periods and as an injection well during periods when the effluent production exceeds the pond holding capacity.

Solid Waste Disposal: Solid waste will be hauled by private contractor to County disposal areas. Construction waste will be hauled to the Kekaha Sanitary Landfill. No unusual or dangerous substances are expected to be generated.

Telephone Service

Hawaiian Telephone Company has indicated that service can be provided to the project sites. Service will be provided to the site through the northwest corner near the existing sewage treatment plant or through underground electrical ducts through the Westin Kauai Hotel entrance. The telephone company will be kept informed on the progress and service dates of each project site to facilitate scheduling of service.

Police Protection

The proposed development will be serviced by the existing Lihue station. Additional manpower may be required to service the project.

Fire Protection

The existing firefighting facilities and manpower requirements are at present considered sufficient to address the additional requirements created by the proposed development. In the future, the continued growth of the entire Lihue area from this and other developments will necessitate additional equipment and manpower expenditures.

Educational Services

The proposed development will have only minimal impact on educational facilities in the Lihue area. The proposed development is visitor oriented, therefore, existing educational facilities are estimated to be sufficient.

TRAFFIC

Traffic generated by the golf course is expected to be relatively light. Much of the use of the golf course and boat docks are expected to come from adjacent on-site hotels. Use by the public should generate less than 100 trips per day through the hotel access drive.

POPULATION AND SOCIAL EFFECTS

Employment

The proposed development will create a number of short-term and long-term employment opportunities. The short-term employment opportunities will consist primarily of construction related jobs generated by the proposed development.

Long-term employment opportunities for the proposed development will result from:

1. Professional, skilled and unskilled workers required to manage and maintain the golf courses.
2. Indirect employment required to service the direct employment generated by the project.

It is expected that an estimated 30 direct employment opportunities will be generated by the golf course on the Island of Kauai.

CHAPTER V
PROJECT RATIONALE AND PERMIT REQUESTS

CONSISTENCY WITH THE GOALS IN THE KAUAI COUNTY GENERAL PLAN

The proposed resort development of the subject property is generally consistent with the goals of the Kauai County General Plan. Specifically:

1. The proposed resort related golf course is generally consistent with the General Plan map for the Lihue Planning Area.
2. The proposed project is part of a proposed resort complex and is located within one of several designated resort areas on Kauai. This allows development of integrated resort projects that do not infringe on existing residential areas or on fragile natural environments. The proposed project is therefore consistent with the General Plan goals, "To guide and control development to take full advantage of the island's form, beauty and climate and preserve the opportunity for an improved quality of life," and "To guide physical growth so that island and visitor communities will develop in social and economic concert with each other."
3. The proposed project is an asset to the Kauai economy in providing employment opportunities and an inflow of capital to the island. The project is consistent with the General Plan Goals, "To create opportunities for a greater diversity and stability of employment for residents of Kauai" and "To promote the improvement and expansion of the island's economy, by recognizing and carefully utilizing land and water resources."
4. The proposed project, by providing open space and shoreline access, is consistent with the General Plan goals, "To provide for a maximum variety of outdoor recreational activities," and "To recognize those aspects of the island and its people which are historically and culturally significant, and to maintain and enhance such aspects as a continuing expression of the island's physical and social structure."

SPECIAL USE PERMIT REQUEST

The applicant intends to establish certain uses and construct appropriate improvements within the State Land Use Agricultural district that require Special Use Permits. The areas are mauka and to the east of the existing Kauai Surf Hotel facility. See Figure V-2.

The requested uses and improvements are as follows:

1. Redesign existing 18-hole golf course
2. New driving range
3. New golf clubhouse and starter's shed
4. Golf and grounds maintenance areas
5. Approximately 30 acres of waterways
6. Boat docks
7. Parking area
8. Irrigation lagoon (9± acres)
9. Boat maintenance facility
10. Airport, service and public access roadway
11. Miscellaneous accessory uses (carriage paths, horse stables, etc.)

In considering the guidelines for determining unusual and reasonable uses to be permitted within the Agricultural district, the applicant has determined that the proposed improvements and uses are permissible for the following reasons:

1. Such use will not be contrary to the objectives sought to be accomplished by the Land Use Law and Regulations.

The subject request will not be contrary to the Land Use Law, which purpose is to preserve, protect and encourage the development of lands in the State for their best uses in the interest of the public welfare. Lands in question are primarily vacant and uncultivated or were used as part of the Kauai Surf golf course. Those portions used by the Lihue Plantation are a minor portion of their land holdings and are not essential to their agricultural operations.

2. That the desired use would not adversely affect surrounding properties.

Surrounding the subject areas are canelands to the north, the ocean to the south, and the airport to the east. In the upper northwest corner, there is a new industrial subdivision. The project will be an expansion of an already approved resort hotel complex.

The proposed activities would not generate excessive noise, odors, or emissions which could adversely impact upon those surrounding properties.

3. Such uses would not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage and school improvements, and police and fire protection.

All public service functions are available, and where they are not, appropriate upgrades and/or improvements will be made.

4. Unusual conditions, trends, and needs have arisen since the district boundaries and regulations were established.

At the time of the enactment of the Land Use Law, specific permissible uses needed to be defined with an implied understanding that all foreseeable uses could not be covered. Such is the purpose for the special permit process.

In concept, the proposed uses and improvements are in response to trends and needs within the tourism industry to provide visitors with experiences that are unique and make optimum use of existing and available resources. The passive use of the subject property for golf courses is a traditional approach to the development of resort areas.

It should be noted that these facilities are essentially an extension of the primary hotel/resort function at Nawiliwili Bay, and functionally more a part of this than any agricultural activity.

5. That the land upon which the proposed use is sought is unsuited for the purposes permitted within the district.

Much of the land is vacant or used as part of an existing golf course. Some land currently in cane cultivation will be converted to Golf Course, but this change is not expected to be detrimental to Lihue Plantation's agricultural operations.

CHAPTER VI

REFERENCES

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