

SP86-360 HEMMETER/VMS KAUAI CO.  
III



TRANSCRIPTS  
(SP86-360)



PLANNING DEPARTMENT, COUNTY OF KAUAI

STATE OF HAWAII

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

In the matter of )  
HEMMETER/VMS KAUAI COUNTY )  
ZONING AMENDMENT ZA-87-6, )  
 )  
 )  
 )

TRANSCRIPT OF HEARING

Hearing held on Wednesday, August 13th, 1986,  
commencing at 11:00 a.m., in the Council Chambers,  
County of Kauai, 4396 Rice Street, Lihue, Hawaii  
BEFORE:

THOMAS CONTRADES, Planning Commissioner Chairman  
AVERY YOUN, Planning Director  
H. MUNECHIKA, Commissioner  
REBECCA SAILANA, Commissioner  
RONALD HARKER, Commissioner  
BETTY MATSUMURA, Commssioner  
SUNSHYNNE COSTA, Commissioner  
MAX W. J. GRAHAM, JR., Deputy County Attorney

REPORTED BY:

Richard D. Jacobs, CSR No. 256  
Notary Public, State of Hawaii

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I N D E X

## PAGE

OPENING OF THE HEARING (By Chairman Contrades) 4

## PRESENTATIONS BY:

Mike Laureta, County Staff Member 4

Chris Hemmeter 26



1 THE CHAIRMAN: That now brings us on to  
2 item B.1.c., zoning amendment ZA-86-7, change from  
3 Agriculture District(A) to Resort-Residential  
4 (RR 20); special management area use permit  
5 SMA(U)-86-16, project development use permit  
6 U-86-60, special permit SP-86-18 and Class IV zoning  
7 permit Z-IV-86-70 Hemmeter/VMS Company III (Expansion  
8 of Resort Project Nawiliwili).

9 The staff report will be done by Mike.

10 MR. LAURETA: Background: To review the  
11 permits requested and projects involved, the  
12 following summary is provided:

13 A. Zoning amendment- for approximately 58  
14 plus or minus acres from agriculture district (A) to  
15 resort residential district (RR-20) for the following  
16 uses proposed in the urban district:

17 1. Future 750 unit resort hotel. Accessory  
18 permits will be applied at a later date.

19 2. 15,000 square feet restaurant (makai  
20 area).

21 3. Three commercial areas totaling 110,000  
22 square feet.

23 4. Miscellaneous golf holes, lagoons, boat  
24 docks, access, drives, pathways, et cetera.

25 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. A new driving range.
3. New golf clubhouse and starter's shed.
4. Golf and grounds maintenance areas.
5. Boat docks for one hundred charter boats and three ferries.
6. Approximately 30 acres of waterways and lake.
7. Parking area for six hundred plus cars.
8. Boat maintenance facility.
9. Irrigation lagoon of approximately nine acres.



1                   10. Airport, service and public access for  
2 driveways, and,

3                   11. Miscellaneous accessory uses.

4                   D. Project Development Use Permit - is to  
5 allow parking, golf course and maintenance shop in  
6 the Agriculture District, and parking and boat docks  
7 in the Open District.

8                   E. Class IV Zoning Permit - is a  
9 procedural requirement since a project development  
10 use permit is being requested and because the parcel  
11 qualifies for more than 25 units.

12                  F. Several concerns and recommendations  
13 were also explored by the public at the July 23, 1986  
14 public hearing and are summarized as follows:

15                  1. The applicant must consult with the  
16 appropriate Federal or State authorities regarding  
17 the pair of endangered Hawaiian Gallinule at the  
18 drainage pond, before proceeding with any plans to  
19 alter the habitat.

20                  2. Regarding exterior lighting in order to  
21 minimize the autumnal fallout of Newell's  
22 shearwaters:

23                  a) Install exterior light fixtures only of  
24 the following types: shielded lights, cut-off  
25 luminaries, or indirect lighting



1           b) Avoid unnecessary lighting during the  
2 critical shearwater fallout period.

3           3. Traffic, population, helicopter, noise  
4 and dust concerns.

5           Evaluation:

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

12           A. Relative to the zoning amendment  
13 request - This RR-20 zoning amendment request is in  
14 order to provide a future 750 unit resort hotel with  
15 related commercial areas and restaurant, and other  
16 amenities interwoven with golf courses, horse  
17 carriage paths and lagoons and waterways. The Lihue  
18 Development Plan recommends the establishment of a  
19 hotel in this area, provided developoment of new  
20 resort facilities include contiguous public access to  
21 the shoreline.

22           The applicant is committed to creating high  
23 quality destination resort center. This process has  
24 already begun with the approved Westin Kauai Resort  
25 Hotel now undergoing renovation and expansion. The

1 addition of the new development proposals will  
2 increase the level of amenity and recreational  
3 choices that the visitors will have at their disposal  
4 this will also serve to enhance the self-contained  
5 aspects of the complete resort complex and allow for  
6 the development and maintenance of a high quality,  
7 world class resort area.

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

14 1. Traffic - However, the addition of 750  
15 resort hotel units will aggravate the present traffic  
16 problems in the Lihue District. Traffic improvements  
17 must accompany this aspect of the project in order to  
18 mitigate traffic impacts since the hotel is not  
19 intended for construction until 1992, the planning  
20 for traffic improvements must begin now. By the time  
21 the SMA and zoning permits are sought for the hotel,  
22 specific traffic improvements should already be  
23 identified such that it could be implemented as part  
24 of the project. A major consideration that would  
25 lessen the traffic impact in the Lihue area would be



1 the completion of the Ahukini bypass highway. Such  
2 completion would be necessary before the hotel could  
3 be allowed to open.

4 According to the applicant's traffic study,  
5 the following improvements could improve the potential  
6 traffic problems generated by the hotel.

7 Construction of an additional eastbound  
8 lane on Kuhio Highway from Hardy Avenue to Ahukini  
9 Road. This would compliment the Kapule Highway  
10 extension described above and speed vehicles out of  
11 downtown Lihue.

12 Elimination of the traffic signal at the  
13 Ehiko Street entrance to the Isenberg tract.

14 Prohibiting parking along the northern side  
15 of Rice Street between Kalena Street and the  
16 Kuhio/Kaunaulii Highway intersection during the  
17 afternoon peak-hour; this would provide two outbound  
18 lanes instead of the current one.

19 Prohibiting left turns from Kuhio Highway  
20 onto Rice Street. Other routes are available for the  
21 relatively few drivers needing them, and elimination  
22 of this movement would allow additional time to be  
23 allocated to the two remaining cycles of the light.

24 Prohibiting parking on the southern side of  
25 Rice Street.

2. Airport Noise - DOT's Airports Division

does not anticipate completion of their Lihue airport noise study for approximately three 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 or 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 mataure landscaping on the airport side of the project. Technical aspects can be reviewed with the grading and landscaping plans prior to building permit approval.



1                   3. Ninini Point Recreational Use - To the  
2 applicant's credit, vehicular and pedestrian access  
3 is being provided to Ninini Point. Since "Running  
4 Waters" Beach is located between Ninini and Kukii  
5 Points and is used by the public, lateral beach  
6 access should be provided in this phase of  
7 development and between Phase I and this phase. As  
8 well, parking, restroom and shower facilities should  
9 also be provided by the applicant in the vicinity of  
10 the Lagoon's commercial project. This facility will  
11 enhance the coastal recreational opportunities  
12 accessible to the public. We further believe that  
13 these improvements are adequate to meet the condition  
14 imposed by the Land Use Commission for public access  
15 and in a park in this area.

16                   4. Lihue Mill and STP Wastewater Disposal-  
17 As commented by the Public Works Department, disposal  
18 of the Lihue mill wastewater and Lihue Sewage  
19 Treatment Plant effluent remain concerns until such  
20 time that agreements are reached between the  
21 applicant, the County and Lihue Plantation. These  
22 wastewater disposal problems must be resolved prior  
23 to any permits being issued for development of Phase  
24 II land areas. We are aware that negotiations are  
25 under way between the applicant and Lihue Plantation

1 Company to develop a system to dispose of the mill  
2 wastewater into fields mauka of the Lihue. Such a  
3 system would eliminate the odor and mosquito problems  
4 and also solve the disposal problem now occurring on  
5 the lands proposed for development surrounding the  
6 airport.

7 B. Relative To Special Management Area Use  
8 Permit - This SMA Use Permit request is for all  
9 portions of the project within the SMA except for the  
10 hotel site, as this will be covered by a separate SMA  
11 application at a later date.

12 The proposed improvements will not encroach  
13 into the 40 foot shoreline setback area, will not  
14 adversely affect ocean dependent resources, will  
15 improve beach access and public parking areas, will  
16 improve upland drainage and waterways which will help  
17 restoration of nearshore coastal waters, will not  
18 affect historical or archaeological resources or  
19 disrupt coastal ecosystems, makes provisions for  
20 solid and liquid waste treatment and/or disposal in  
21 order to minimize any potential for degradation of  
22 the coastal resources, and will not reduce existing  
23 public rights to beaches shoreline streams or similar  
24 tidal areas over what presently excess exists.

25 Specific areas of concern within the SMA

1 include the following:

2 1. Prior to beginning any work on the pond  
3 with a pair of Hawaiian Gallinule are located, the  
4 applicant must consult with the appropriate federal  
5 or state authorities regarding preservation or  
6 reservation of this wildlife habitat.

7 2. To minimize adverse impacts of Newell's  
8 shearwaters, exterior lighting fixtures shall be only  
9 of the following types: Shielded lights, cut-off  
10 luminaires or indirect lighting. Spotlighting of any  
11 structures or the ocean should be reviewed and  
12 approved by the Planning Director.

13 3. As reflected on the plans submitted, it  
14 appears that certain structures/used proposed by the  
15 applicant may adversely affect the quality of the  
16 coastal scenic and open space resources and/or the  
17 existing recreational resources of the site. No  
18 structure on the coastal bluff shall be higher than  
19 that permitted by the Comprehensive Zoning  
20 Ordinance. The design and siting of these structures  
21 should be subject to review and approval by the  
22 Planning Director; design criteria should include  
23 non-reflective roof materials, no mirrored windows,  
24 landscaping, staggered and graduated building heights  
25 and building envelopes, and the establishment of a



1 transition zone.

2 All improvements along the coastal bluff  
3 should be staked out for review and approval in order  
4 to assure these improvements are architecturally  
5 compatible, unobtrusive and properly located the  
6 Conservation District should also be staked out. The  
7 architectural design review and approval and staking  
8 out should occur prior to building permit application  
9 setbacks along the bluff shall be established at this  
10 time dependent upon the height, design and  
11 landscaping of the structure or improvement, subject  
12 to review and approval by the Planning Director.

13 4. Extensive landscaping proposed for the  
14 project will improve the quality of the coastal  
15 scenic and open spaces of the site. A landscaping  
16 master plan, subject to prior review and approval  
17 should also be required.

18 C. Relative to the 5 Point Special Permit  
19 Test:

20 1. The requested uses within the state's  
21 "Agriculture" Land Use District will not be contrast  
22 to the Land Use Law since the land in question is  
23 either vacant or uncultivated or used as part of the  
24 Kauai Surf Golf Course. Those portions used by the  
25 Lihue Plantation are a minor portion of their land

1 holdings and are not essential to their agricultural  
2 operations.

3 2. The proposed activities will not  
4 generate adverse noise, odors or emissions which  
5 could adversely impact surrounding properties. The  
6 activities proposed are low intensity in nature.

7 3. The requested uses will not unreasonably  
8 burden public agencies to provide roads and streets,  
9 sewers, water, drainage and school improvements or  
10 police and fire protection. All public service  
11 functions are available, and where they are not or  
12 they are substandard, appropriate upgrades and  
13 improvements will be made by the applicant as required  
14 by the affected government agencies and/or the  
15 Planning Commission as conditions of approval.

16 4. Unusual conditions, trends, and needs  
17 have arisen since districts boundaries and  
18 regulations were established. The proposed uses and  
19 improvements are in response to trends and needs  
20 within the community and the visitor industry to  
21 provide visitors with experiences that are unique and  
22 make optimum use of existing and available  
23 resources. The passive use of the subject property  
24 for the uses requested is a unique approach as  
25 compared to the traditional development of resource

1 areas which emphasize only the beach oriented  
2 activities. The requested uses are an extension of  
3 the primary hotel/resort function of the overall  
4 property and, functionally more a part of that than  
5 an agricultural activity.

6 5. Although the land upon which the  
7 proposed uses are sought is suited for the purposes  
8 permitted within the Agricultural Districts, it would  
9 be incompatible to the surrounding uses due to the  
10 expanded nature of both the airport operations and  
11 the Westin Kauai resort operations.

12 Since the area involved with this Special  
13 Permit exceeds 15 acres, review and approval by the  
14 Land Use Commission will be necessary. At the time  
15 Phase I was reviewed and approved by the Planning  
16 Commission, a condition of approval was imposed that  
17 would require the applicant to submit a Land Use  
18 Boundary Amendment application to the Land Use  
19 Commission for all of the lands in the Agriculture  
20 District subject to the permits being requested at  
21 that time. The same requirement should also be  
22 applicable in this instance. However, in order to  
23 coordinate the expanded nature of this project, the  
24 time requirement for submittal to the LUC for Phase I  
25 should be consolidated with this phrase, thereby



1 requiring one submittal for both phases within one  
2 year from the date of approval by the Planning  
3 Commission.

4 D. Relative to the Product Development Use  
5 Permit - The establishment of parking areas,  
6 maintenance shops and golf course in the Agriculture  
7 District, and parking and boat docks within the Open  
8 zone would not create adverse impacts to public  
9 health, safety, and welfare and are considered  
10 accessory uses to the resort function. The proposed  
11 improvements will also implement the resort  
12 designation goals for the General Plan and the Lihue  
13 Development Plan. They are a continuation of the  
14 already approved renovation and expansion of the old  
15 Kauai Surf Hotel. The proposed improvements will help  
16 integrate all the various uses into a well-designed  
17 destination resort complex, thereby stabilizing the  
18 resort operations. The entire project area will be  
19 landscaped and properly maintained, creating a  
20 desirable and elegant ambiance.

21 E. Relative to the Class IV Zoning Permit -  
22 All of the projects discussed previously are subject  
23 to a Class IV Zoning Permit also; however, for those  
24 projects under the zoning amendment request a Class  
25 IV zoning permit cannot be issued unless the zoning

1 amendment is approved first. Should a Class IV  
2 zoning permit be granted for these items, it would  
3 have to be conditioned subject to approval of the  
4 zoning amendment first, and a subsequent review by  
5 the Planning Commission would be further required  
6 ones more detailed plans are available and prior to  
7 building permit application.

8 F. Future Applications - To realize  
9 completion of the entire project, a Special Permit is  
10 needed to accomodate the proposed additional 18-hole  
11 golf course. For the future hotel itself, an SMA and  
12 a Class IV Zoning permit will be needed.

13 CONCLUSION:

14 1. Relative to the Zoning Amendment  
15 requested, it is concluded that the proposed conforms  
16 to the recommendations of both the Lihue Development  
17 Plan and General Plan Update relative to the  
18 development of a resort at this location. Further,  
19 it is concluded that the traffic related improvments  
20 within the Lihue area and opening of the Ahukini  
21 bypass road will be necessary in order to lessen the  
22 impact caused by the additional traffic that would be  
23 generated from a 750 unit hotel, however, such  
24 improvments need not be provided now, but should be  
25 implemented at the time of the Class IV and SMA

1 permit review for the hotel.

2 2. Relative to the Special Management Area  
3 Use Permit, it is concluded that the proposed  
4 project:

5 a) Will not have any substantial adverse  
6 environmental or ecological effect. Any adverse  
7 environmental or ecological effect that may result  
8 will be minimized to the extend practicable and is  
9 clearly outweighed by public health, safety and  
10 welfare, and other compelling interests. The  
11 development of the property will not have adverse  
12 effects by itself or in conjunction with other  
13 individual developments, the potential cumulative  
14 impacts of which would result in a substantial  
15 adverse environmental ecological effect and the  
16 elimination of planning options.

17 b) Is consistent with the objectives and  
18 policies contained in HRS Chapter 205-A; the  
19 objectives, policies and guidelines of the SMA Rules.

20 c) Is consistent with the Kauai General  
21 Plan Update Ordinance and Comprehensive Zoning  
22 Ordinance.

23 3. Relative to the Special Permit it is  
24 concluded that the project conforms to the  
25 requirements of Part V of the State Land Use

1 Commission's Rules of Practice and Procedure, and  
2 District Regulation relative to the 5-point test for  
3 the issuance of Special Permits.

4 4. Additionally, the project conforms to  
5 the requirements for the issuance of a Project  
6 Development Use Permit in that those projects within  
7 the Agriculture and Open Districts will be part of  
8 the harmonious and integrated plan that will  
9 contribute positive benefits to this resort  
10 destination area.

11 5. It is finally concluded that the Class  
12 IV zoning permits is appropriate, however for those  
13 projects being considered under the zoning amendment,  
14 such permits must be subject to the zoning amendment  
15 approval and a subsequent review by the Planning  
16 Commission.

17 RECOMMENDATION:

18 A. Based on the foregoing findings,  
19 evaluation and conclusion, it is hereby recommended  
20 SPECIAL PERMIT SP-86-6 be approved subject to the  
21 condition that within one year from Planning  
22 Commission approval, the applicant shall submit a  
23 Land Use Boundary Amendment application to the Land  
24 Use Commission for all lands within the Agriculture  
25 District subject to all phases of development.



1           B. Based on the foregoing findings,  
2 evaluation and conclusion, it is hereby recommended  
3 that ZONING AMENDMENT ZA-86-7 from Agriculture  
4 Districts (A) to Resort Residential District (RR-20)  
5 be approved subject to the following conditions.

6           Number one has been amended to read the  
7 number of hotel units shall not exceed 750 rooms  
8 unless authorized and deemed to be consistent with  
9 the zoning designation by the Planning Commission.

10           2. Prior to building permit approval for  
11 any improvements within Phase II, the applicant shall  
12 submit the necessary documentation and/or legal  
13 agreements reflecting the resolution of the  
14 following:

15           a) The disposal or use of the Lihue Sewage  
16 Treatment effluent for golf course irrigation and use  
17 within the lagoons.

18           b) Disposal of the Lihue mill wastewater  
19 and the L-20 reservoir.

20           c) Conditions upon which sewer service will  
21 be provided by the County since the proposed  
22 development is outside of the service area of the  
23 present 1.5 mgd STP capacity.

24           3. Applicant shall establish a landscape  
25 buffer zone around the Lihue STP. Size of the buffer

1 zone and type of landscaping shall be subject to  
2 Planning Department review and approval.

3 4. Applicable conditions imposed by the  
4 State Land Use Commission at time of district  
5 boundary amendment shall be completed by August 22,  
6 1988.

7 Number five has been amended to read  
8 opening of the hotel shall occur no earlier than the  
9 completion of the Ahukini bypass road which is  
10 anticipated to be in service by January 1988. This  
11 condition is subject to further review.

12 6. Applicants shall provide and construct a  
13 minimum number of public parking stalls, to be  
14 determined by the Planning Commission, at the eastern  
15 end of the project in the vicinity of the Ninini  
16 Point access and public beach right-of-way as part of  
17 this project. Improvements shall further include  
18 restroom and shower facilities, and shall be so  
19 maintained by the applicant. Such improvements shall  
20 be credited to any park dedication requirement, if  
21 applicable.

22 7. No habitable structures shall be  
23 constructed within areas falling within the Projected  
24 1995 Fixed Wing Aircraft and Helicopter noise contour  
25 level of 60 LDN. For added mitigative measures, a

1 berm, landscaped with mature trees shall be provided  
2 along the property line that parallels the runway and  
3 lagoon's commercial area, and shall be reflected on  
4 the landscape master plan.

5 8. Traffic improvements to intersections or  
6 roadways within the Lihue District that would be  
7 adversely impacted by the increase in traffic  
8 generated by the hotel project shall be considered  
9 and, as may be appropriate, required by the Planning  
10 Commission at time of consideration of the Special  
11 Management Area Use Permit for the proposed hotel.

12 C. Based on the foregoing findings,  
13 evaluation and conclusion, it is hereby recommended  
14 that SPECIAL MANAGEMENT AREA USE PERMIT SMA  
15 (U)-86-16, PROJECT DEVELOPMENT USE PERMIT PDU-86-60  
16 and Class IV ZONING PERMIT Z-IV-86-70 be approved  
17 subject to the following conditions:

18 1. The Class IV Zoning permit approved at  
19 this time covers the following projects:

20 a. those projects that are part of the  
21 Project Development approval within Ag and Open  
22 zones; and

23 b. those projects under the Special Permit  
24 approval.

25 The Class IV zoning for those projects

1 incorporated as part of the zoning amendment  
2 application are hereby approved subject to approval  
3 of the Zoning Amendment by the County Council.

4 All Class IV approvals are subject to  
5 further review and approval by the Planning  
6 Commission when more detailed plans become  
7 available.

8 Exterior lighting fixtures shall be only of  
9 the following types: shielded lights, cut-off  
10 luminaires or indirect lighting. Spotlighting of  
11 ocean or any structures during the evening hours  
12 shall be subject to review and approval by the  
13 Planning Director.

14 3. Prior to building permit application the  
15 applicant shall:

16 a. Submit schematic design plans for  
17 review and approval by the Planning Department for  
18 all structures in this phase of development along the  
19 coastal bluffs. All structures proposed to be  
20 constructed along the coastal bluffs should be  
21 designed to meet the recommendations of the Kauai  
22 Urban Design Plan.

23 b. Submit a landscaping master plan for  
24 review and approval by the Planning Department.

25 c. Stake out for review and approval by

1 the Planning Department, a) seaward locations of all  
2 structures and improvements proposed on the coastal  
3 bluff, and b) the Conservation District. Greater  
4 setbacks can be required at this time in order to  
5 mitigate adverse visual impacts from occurring and/or  
6 to mitigate impacts to the Conservation District.

7 d. The applicant shall submit for review  
8 and approval by the Planning Director a shoreline  
9 access plan which reflects public access to the  
10 shoreline, particularly in the Ninini Point and  
11 Running Waters Beach; lateral access along the coast  
12 between the subject properties and Kukii Point;  
13 vehicular parking; and a restroom/shower facility.

14 e. Consult with the appropriate Federal or  
15 State authorities regarding preservation and/or  
16 relocation of the Hawaiian Gallinule wildlife  
17 habitat. Applicant shall comply with any  
18 requirements imposed by these authorities.

19 4. Requirements and concerns of the State  
20 Health Department, County Public Works, Water and  
21 Fire Departments shall be met and resolved with the  
22 respective agencies.

23 5. The Planning Commission may impose  
24 additional conditions, restrictions or requirements  
25 on the permits approved herein should unanticipated



1 or unforeseen circumstances arise which require such  
2 additional conditions to insure compliance with the  
3 standardss contained in the Comprehensive Zoning  
4 Ordinance, Special Management Area Rules and  
5 Regulations, or the State Land Use District Rules and  
6 Regulations.

7 6. As required by Ordinance No. 396, an  
8 Environmental Impace Assessment fee is applicable,  
9 and will be assessed at time of building permit  
10 review for the commercial and hotel portions of the  
11 project.

12 This concludes staff's report.

13 THE CHAIRMAN: Any questions?

14 COMMISSIONER HARKER: We have two number  
15 threes, maybe we should do some renumbering.

16 COMMISSIONER SAILANA: Page eleven.

17 THE CHAIRMAN: Four, five and six. Thank  
18 you. Questions?

19 Mr. Hemmeter.

20 MR. HEMMETER: Thank you Mr. Chairman. I  
21 certainly think the staff report is comprehensive.  
22 It's as comprehensive as I've ever seen. I know  
23 we've spent a great deal of time working with the  
24 planning department on so many these matters, because  
25 they're quite technical, and they will certainly

1     affect our ability to develop the project.

2             A project of this nature is very complex at  
3     best. So much so that we brought 32 members from our  
4     banking group, from around the world, to Kauai last  
5     week to visit the project and to make a presentation  
6     to them as to this phase, what we designate as the  
7     Phase III improvments.

8             Subsequent to that trip to Kauai, we've had  
9     extensive meetings; we will continue those today with  
10    the various legal counsels of the banking groups to  
11    see how in the world we're going to put together  
12    something this complex within a very short period of  
13    time that we have; and time is so critical at this  
14    point.

15            It's critical because if we don't follow in  
16    a development sequence that will allow us to open the  
17    hotel next September, with golf, at least a golf  
18    course playable, then we will not be able to take  
19    advantage of all of the aspects of this Phase III  
20    development program, the extended golf, which would  
21    incorporate the lands of Amfac, because we're bound  
22    by our 350 million dollar mortgage to provide these  
23    facilities within that particular period of time.

24            We've demonstrated to the banking  
25    community's satisfaction that it is possible to do

1 this. I didn't indicate it was probable, but it is  
2 possible. And it will take a great deal of effort by  
3 a lot people who have the belief, hopefully they do  
4 believe this is important for the island of Kauai and  
5 our people.

6 These extraordinary efforts will be  
7 rewarded in time. So, I am greatly appreciative  
8 of your efforts in this light.

9 You can see also, we were fortunate enough  
10 to make arrangements for a court reporter, who will  
11 be able to get the transcripts out as quickly as  
12 possible, due to again these timing issues. If we  
13 don't get this transcript to the County Council by  
14 tomorrow, we'll be delayed another significant period  
15 of time, that had been demonstrated to me that it  
16 exceeds a month, puts us past our critical go or no  
17 go date, and we would have to forego the opportunity  
18 of this development. That's how critical timing is.

19 I would like to make a comment on a few of  
20 the items in your recommendations, and have you  
21 refocus on these, at least help me understand some of  
22 the implications.

23 The first one is on page nine, item number  
24 five, and it's really the substance of what we're  
25 discussing.

1           When we indicate that a building permit for  
2 the hotel shall not be processed until such a time  
3 that the bypass highway is completed, what we're  
4 really saying there is that -- excuse me, let me even  
5 back up and read the revised language which said  
6 opening of the proposed hotel shall occur no earlier  
7 than the completion of the bypass road, Ahukini  
8 bypass road which is anticipated to be in service by  
9 January of 1988.

10           From a lending standpoint there is no  
11 banking institution, that I'm aware of, that will  
12 provide a development loan, or a construction loan to  
13 any organization, wherein the opening of the asset,  
14 of the facilities is subject to a third party, or a  
15 condition that is out of the control of the  
16 developer.

17           So, essentially what that recommendation is  
18 stating is that until the bypass road is complete,  
19 there will not be any financing provided for the  
20 hotel, and thus there will not even be a building  
21 permit issued.

22           So, you're talking about a situation, with  
23 this language, that puts you way way down the line.

24           Let us assume for a moment that the January  
25 1988 date is accurate, and that that bypass road is

1 completed at that time. Maybe I'm a little cynical,  
2 but when I look at government project of that nature  
3 and I see dates of this nature that are reflective of  
4 past experiences, I would suggest that that might be  
5 an optimistic date, and one that I would hope for.

6 But let us assume for a moment that the  
7 January 1988 date was in fact achieved. At that  
8 particular point in time we would then have to go to  
9 our lenders and say that this condition has been  
10 removed, and we would go through the normal legal  
11 checks and the like, that might take two, three  
12 months, and then we would be given a go ahead from  
13 our lenders to proceed with the development process.  
14 We, at that point in time, would wrap up the plans,  
15 submit them to the building department, go through  
16 the normal inspection period, hopefully have the  
17 hotel under construction sometime in late 1988 and be  
18 involved in development sometime in 1990, or in the  
19 opening sometime in 1990.

20 So, I think it's a little bit of a misnomer  
21 to say that the opening of the proposed hotel shall  
22 occur no earlier than that 1988 date, because what  
23 you're really saying is in the 1990's as a practical  
24 matter.

25 I would like to suggest that rather than



1 saying the opening of the hotel, we really clarify  
2 that and suggest that a building permit for the  
3 proposed hotel shall not be issued earlier than the  
4 completion of the Ahukini bypass road, which is  
5 anticipated to be in service by January 1988, or, no  
6 later than March 1988, whichever comes first.

7 So we're saying fine, if it happens in  
8 January 1988, or even before that, and I understand  
9 that there are people in high government levels that  
10 believe it will be completed about before January of  
11 1988, fine, then we can look to the issuance of the  
12 permit. But if it doesn't happen by that time, and  
13 it happens let's say in 1995, or some extended period  
14 of time down the line, we at least have a date there  
15 that we can grab hold of and say fine, we misguessed  
16 when that bypass road would be completed but we  
17 certainly feel that we haven't misguessed by over a  
18 hundred percent; which means that this January 1988  
19 date is only 18 months from now.

20 So, if you were to add 18 months on to  
21 January 1988, you are in theory saying even at a  
22 hundred percent fail-safe that the hotel would not  
23 open before June of 1989. And I'm suggesting to you  
24 that that would be a rather safe date, being a  
25 hundred percent wrong on that guesstimate.

1           Thus, if we had an issuance of the building  
2 permit no later than March of 1988, at least we have  
3 a financeable package here. Something that tracks.

4           That, I would like you to at least to  
5 consider, and as a practical issue put you way down  
6 line on the opening.

7           COMMISSIONER MATSUMURA: Can I interrupt.  
8 I think we're talking about the proposed hotel that  
9 is to come on this, and not the one that is being  
10 renovated and refurbished now.

11          MR. LAURETA: That's correct. The second  
12 hotel being proposed, 750 rooms.

13          COMMISSIONER MATSUMURA: The 750 unit. All  
14 right, excuse me.

15          MR. HEMMETER: Yes, that is correct.

16          The way your staff recommendations read  
17 right now, it would suggest that we could in fact  
18 open the hotel, that hotel, that second hotel, as  
19 early as January of 1988, if in fact we achieve the  
20 goals that we anticipate will come about. And I'm  
21 suggesting that we would even be willing to live with  
22 something that would give you a hundred percent  
23 fail-safe on the timing, if that was a great  
24 consideration, and say we can't even draw a building  
25 permit until such a time. Because I'm telling you,

1 as a practical issue, that's what it really is  
2 saying.

3 MR. YOUN: I've got a question. Originally  
4 when we first reviewed this proposal it was projected  
5 to be opened in 1992. And did you move up the  
6 opening date for the new hotel?

7 MR. HEMMETER: I noticed that in the  
8 report, and that was going to be my next comment. I  
9 think if you review the transcript, we would say  
10 early 1990 is what we had indicated, and the 1992  
11 date was a date that I don't recall being that  
12 specific.

13 But the answer is that we would anticipate  
14 opening that hotel in the early 1990's.

15 MR. YOUN: Can I read your proposed  
16 condition again, and correct me if I'm wrong. A  
17 building permit for the hotel shall not be issued  
18 earlier than the completion of the Ahukini bypass  
19 road which is anticipated to be in service by January  
20 1988, or no later than March '88, March 1988,  
21 whichever comes first.

22 Is that special management area use use how  
23 you stated your condition?

24 MR. HEMMETER: Yes, sir. Our first  
25 preference would be to strike the entire issue.

1           MR. YOUN: In my interpretation of your  
2 proposal, that means if the bypass road is not under  
3 construction or completed by March 1988, that we have  
4 to give you a building permit anyway.

5           MR. HEMMETER: We can apply for a building  
6 permit. You wouldn't have to issue it, but we can  
7 apply for it at that particular time, and subject to  
8 meeting all the normal conditions, it could be issued  
9 at that particular point in time.

10           And what I'm further suggesting is that  
11 construction of the hotel of that nature will take  
12 between 21 months and 24 months, essentially two  
13 years to open. And so rather than an opening in  
14 1988, which is the condition you've provided in here,  
15 we're really talking an opening in the early 1990's,  
16 which is what we had represented at the last public  
17 hearing. Just as a practical issue of timing again,  
18 issuance of the permit and the construction process  
19 thereafter.

20           MR. YOUN: Can I ask you another question.  
21 I'm somewhat like you, I think it's highly optimistic  
22 that the road will be open in January '88. But if we  
23 added a clause to your condition, say after the  
24 wording, "or no later than March 1988", "provided the  
25 bypass road is under construction". Would that pose

1 a problem also?

2 MR. HEMMETER: Yes it would.

3 MR. YOUN: Rather than completed.

4 MR. HEMMETER: Yes it would. I don't know,  
5 if it's under construction right now it wouldn't add  
6 a problem, but the problem that exists again, a  
7 banker will make a very simple statement and he'll  
8 say, can you absolutely warrant that that road will  
9 be under construction at that time. And we'll say  
10 no. And they'll say then you don't have your loan.  
11 And that's the practical way it works.

12 Because, Mr. Youn, what the problem is, is  
13 once they commit to the development financing, then  
14 we have the right to go and spend that money. And  
15 that money, the sixty-two and a half million dollars  
16 on this Phase III with an additional two hundred  
17 million on that hotel portion. And once we spend  
18 that money, the 65, or the 62.5 million, excuse me,  
19 on the Phase III, it's in anticipation of the Phase  
20 IV development. And if that Phase IV development  
21 doesn't come about, then the Phase III money just  
22 doesn't make any sense at all.

23 And in my testimony at the last public  
24 hearing, I indicated to you what we were trying to do  
25 is set up a series of events here that made a logical



1 planning process, and so that we could have our  
2 critical path move in such a direction that we could  
3 accomodate certain events today, in anticipation of  
4 certain events in the future taking place.

5 If we eliminate the possibility of those  
6 future events, then it's difficult.

7 Now, we would have no problem with the  
8 banking community, suggesting to them that we  
9 recognize we must have a building permit before we  
10 can build. That's an unknown. But to some degree,,  
11 or in fact almost entirely it's in our hands because  
12 that's a very defined issue. Once we meet those  
13 regulations, the building permit would be issued  
14 subject to the proper zoning.

15 It's the unknown factor that's difficult.

16 If I may make one last comment, my good  
17 friend suggested I make myself clear.

18 What we're suggesting, which provides the  
19 fail-safe again, is the permit being issued at the  
20 earliest, upon the completion of the highway.  
21 Therefore, we would suggest that the traffic problem  
22 would at least be addressed. Or, 21 to 24 months  
23 from March 1988, which provides us an awful long  
24 period of time as a fail-safe against that January  
25 date of 1988. Because that's the earliest we could

1 open that hotel.

2 He said another thing to me that distresses  
3 me. He said well, you all get another shot at us  
4 when we come in for the SMA, in any event. And I  
5 recognize that. But I think that this particular  
6 issue, which is a high charged issue, and rightly so,  
7 needs to be addressed at this point, at this  
8 particular point, because we either have to abort or  
9 move forward at an early stage.

10 THE CHAIRMAN: The director has requested  
11 we take a short recess. We'll take a five minute  
12 recess.

13 (Short recess.)

14 THE CHAIRMAN: We'll call our meeting back  
15 to order please.

16 MR. YOUN: During the recess we discussed a  
17 suggested alternative. And rather than relating to  
18 any building permit at all, we tried to relate this  
19 condition to the occupancy permit. And we have a  
20 suggestion that goes: In order to assure adequate  
21 timing for completion of the Ahukini bypass road, no  
22 occupancy permit for the hotel shall be issued prior  
23 to January 1st, 1990. This gives the developer the  
24 option to secure his building permit way before that  
25 time, and it also does not make the project dependant

1 on completion of a government project.

2 THE CHAIRMAN: Is that agreeable?

3 MR. HEMMETER: Yes. I think that is  
4 agreeable to us, because from the banking standpoint  
5 we then can demonstrate that we have the finances  
6 available to carry the costs of the interim  
7 development loan up through a given period of time.  
8 As long as we can tie back to a specific period of  
9 time as a minimum, then we can satisfy the banking  
10 community.

11 THE CHAIRMAN: Do you have any other items  
12 that you that you wanted to discuss?

13 MR. HEMMETER: No, sir.

14 THE CHAIRMAN: Does the commission have  
15 anything else that they want to question Mr. Hemmeter  
16 on?

17 Thank you very much.

18 Okay, just for an explanation for the  
19 commission, we will be acting first on item B, which  
20 is the zoning amendment. ZA-86-7, change from  
21 Agriculture District (A) to Resort Residential  
22 district (RR-20). And then we'll backtrack to the  
23 other two items.

24 What is the pleasure of the commission?  
25 Commissioner Matsumura.

1 COMMISSIONER MATSUMURA: Mr. Chairman, I  
2 move to accept staff's recommendation on zoning  
3 amendment ZA-86-7 be approved with its amended  
4 condition.

5 MR. YOUN: And the amended condition  
6 reads: "In order to assure"-- this condition  
7 replaces condition number 5: "In order to assure  
8 adequate time for completion of the Ahukini bypass  
9 road, no occupancy permit for the hotel shall be  
10 issued prior to January 18th, 1990."

11 THE CHAIRMAN: Is there any discussion?  
12 Was there a second?

13 COMMISSIONER COSTA: Second.

14 THE CHAIRMAN: Any discussion? Hearing  
15 none, Madeline, may we have a roll call vote please.

16 (ROLL CALL VOTE WAS TAKEN).

17 THE CHAIRMAN: That has been carried.

18 We'll now can act on item A, and C  
19 together. A, being the Special Permit SP-86-6 and C  
20 being the Special Management Area Use Permit.

21 COMMISSIONER COSTA: Mr. Chairman, I move  
22 that Special Permit SP-86-6 and SMA Use Permit  
23 U-86-16, Project Development Use Permit U-86-60 and  
24 Class IV Zoning Permit Z-IV-86-70 be approved as  
25 recommended by staff.

1 COMMISSIONER SIALANA: I second.

2 THE CHAIRMAN: It has been moved and  
3 seconded that SP-86-6 and Special Management Area Use  
4 SMA (U)-86-16, Project Development Use Permit  
5 PDU-86-60 and Class IV Zoning Permit Z- IV-86-70 be  
6 approved as accepted by staff. Is there any  
7 discussion? Madeline, may we have a roll call vote  
8 please.

9 (ROLL CALL VOTE WAS TAKEN).

10 THE CHAIRMAN: It has been approved. Thank  
11 you very much:

12 We'll recess until one thirty for lunch.

13 (The hearing was concluded at 12:15 p.m.)

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CERTIFICATE

I, RICHARD D JACOBS hereby certify that  
the foregoing is a full, true and correct statement of  
the proceedings held on AUGUST 13/86, as taken  
down by me in stenotype and thereafter transcribed into  
typewriting under my supervision.

DATED: Honolulu, Hawaii, 8-13-86.

Richard Jacobs CSR 256



1 PLANNING DEPARTMENT, COUNTY OF KAUAI

2 STATE OF HAWAII

3  
4 In the matter of )  
5 HEMMETER/VMS KAUAI COMPANY )  
6 ZONING AMENDMENT ZA-86-7 )  
7 \_\_\_\_\_ )

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

8 TRANSCRIPT OF TAPE RECORDING OF HEARING

9  
10 Hearing held on Wednesday, July 23, 1986, commencing  
11 at 4:39 PM, in the Council Chambers, County of Kauai,  
12 4396 Rice Street, Lihue, Hawaii.

13 BEFORE:

14 THOMAS CONTRADES, Planning Commissioner  
Chairman

15 SUNSHYNE COSTA, Commissioner

16 GWEN HAMABATA, Commissioner

17 BETTY MATSUMURA, Commissioner

18 REBECCA SIALANA, Commissioner

19 AVERY YOUN, Planning Director

20 MICHAEL LAURETA, Planner  
21  
22  
23  
24  
25

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I N D E XPRESENTATIONS BY:PAGE NO.

Owen Miyamoto	5
Tony Kunimura	12
Chris Hemmeter	18 43
Cheryl Lovell Obatake	31
Dr. Albert Ley	38
David Pratt	49
Bert Lyon	49
Andy Nichols	51
Leslie Lovell	57

1 THE CHAIRMAN: We're now on item B7,  
2 Zoning Amendment ZA-86-7, and change from Agricul-  
3 tural, District A, to Resort Residential, RR 20,  
4 Special Management Area Use Permit SMAU 86-16,  
5 Project Development Use Permit U86-60, Special  
6 Permit SP 86-18, and Class 4 Zoning Permit Z486-70.  
7 Hemmeter/VMS Kauai Company III, Expansion of Resort  
8 Project in Nawiliwili.

9 Michael will be doing the staff report  
10 for us. Michael? Mike will locate the subject  
11 property for the commissioners.

12 MR. LAURETA: I think everybody knows  
13 where it is.

14 THE CHAIRMAN: I think so.

15 MR. LAURETA: Tax map keys are 3502 and  
16 3501, portions of Parcels 6, 27, 82, 83 and Parcel 1.  
17 The total acreage of the overall Westin resort will  
18 be approximately 454, plus or minus, acres. The  
19 total acreage of the first Westin permit request  
20 was for 214 acres.

21 Land use classification: conservation,  
22 urban and agriculture. Existing uses: agriculture,  
23 resort hotel and related uses, and golf course. The  
24 General Plan designation is Resort, Urban Mixed Use,  
25 Open and Agriculture. Zoning: agriculture and open.

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1 Utilizing this map, I'd like to locate  
2 the different phases of the project.

3 Those improvements(?)\* of Phase 1 included:  
4 revise entryway in the parking, revise existing  
5 ten-story structures and the convention center,  
6 a restaurant and paddling club, the walkway, the  
7 swimming pool, ten-story structure and parking areas  
8 here, a Japanese inn, relocated access to the Pali  
9 Kai cottages in this configuration here, parking  
10 by the Pali Kai cottages, a restaurant at the Point,  
11 a chapel, a spa and health center here.

12 Those were basically the major considera-  
13 tions in the first request.

14 This request coming in now is for the  
15 areas in blue, is this lagoon, approximately 40  
16 acres of lagoon here, three commercial areas,  
17 cliffs, lagoons and the islands located(?) in  
18 yellow, revised golf course layout, a clubhouse,  
19 a driving range, new entryway off Kapuli(?) Highway  
20 and from the airport.

21 This application also requests a zoning  
22 amendment for a future hotel site. This application  
23 does not -- does not refer to this hotel site now.  
24 It's just for zoning amendment. It will come in  
25 later. They'll have to go through another public

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1 hearing for the SMA(?) zoning use permits at a  
2 later date.

3 Access(?) required, project description  
4 and use: A special permit is required since the  
5 applicant proposes to establish certain uses within  
6 the State Land Use Agricultural District that are  
7 not agriculturally related. The requested uses  
8 and improvements include, one, the redesign of the  
9 existing 18-hole golf course by Jack Nicholas; two,  
10 a new driving range; three, a new golf clubhouse  
11 and starter shed, approximately 26,000 square feet;  
12 four, golf and grounds maintenance areas; five,  
13 approximately 30 acres of waterways and lake; six,  
14 boat docks for 100 charter boats and three ferries;  
15 seven, a parking area for 600-plus cars; eight,  
16 irrigation lagoon of approximately nine acres; nine,  
17 the boat maintenance facility --(?)

18 MR. MIYAMOTO: Appreciate your considera-  
19 tion. My name is Owen Miyamoto. I'm the Airports  
20 Administrator for Department of Transportation.

21 I'm not here to speak either for or  
22 against the project. We have been working closely  
23 with Mr. Hemmeter and his consultants in the  
24 development of this project.

25 They have come to us for information

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1 concerning the existing conditions at the airport  
2 as well as future plans for the development of the  
3 airport.

4 I think, as all of you are familiar,  
5 there has been a lot of interest in our airport  
6 and its future role in providing service for  
7 overseas carriers. There have been a lot of  
8 comments as to whether or not we should provide  
9 a longer runway for Lihue Airport. Now, that  
10 consideration, although it is not an approved  
11 project at this present time -- and let me emphasize  
12 that particular point. We do not have the approval  
13 by the Legislature to build a longer runway for  
14 Lihue Airport. We have to, of course, consider  
15 in the development of the Master Plan for the  
16 airport such a possibility.

17 As you all know, we previously had a  
18 hearing here in Kauai concerning a longer runway  
19 for the airport. The reaction that we received at  
20 the public hearings were that the community was not  
21 in favor of the runway at that time. And so we  
22 proceeded to build a second runway here at Lihue  
23 Airport, a 6500-foot-long runway.

24 At the present time we do have approval  
25 for the extension of the former -- or the existing

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1 old runway, Runway 321, which is right in front of  
2 the terminal building, from its present length to  
3 6500 feet. This is one of the concerns that we have  
4 expressed to the noise consultants for the developer,  
5 that he should take into consideration the fact that  
6 extension of the old runway is imminent. That run-  
7 way is, of course, very close to the development,  
8 and should be considered in planning for the noise  
9 impact of that runway.

10 Another project that we have is a project  
11 called a Part 150 (?) study that is under a federal  
12 aid program for the examination of the noise impact  
13 of the airport and any mitigation efforts that we  
14 should take to reduce noise impact to the community.  
15 The project will start very soon. We will have  
16 public information meetings here in Kauai to advise  
17 the community as to what we plan to do in that  
18 particular area.

19 Under that program, a new type of noise  
20 identification called the loudness-day-and-night  
21 indicator, which was referred to in the presentation  
22 by the consultant, will be developed in that project,  
23 literally(?). And in that project, when the noise  
24 contours are developed under that program, it will  
25 give you a very good idea as to what should be

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1 developed in various areas and what should not. It  
2 will be based on not only the plans for the existing  
3 runway but any future development that may be  
4 considered, that may be approved, in the future  
5 for Lihue Airport.

6 So my main reason for being here today --  
7 and I appreciate again your consideration of my  
8 testimony, without any written information -- is  
9 that you take into consideration the fact that  
10 there is an airport immediately adjacent to this  
11 development -- and I'm sure that this is an obvious  
12 thing, but that in your consideration, that the  
13 developer be asked to continue to work with us  
14 very closely so that their development, as well as  
15 ours, are compatible to each other.

16 Thank you very much. If you have any  
17 questions, I'd be happy to answer them at this time.

18 THE CHAIRMAN: Commissioners, do you  
19 have any questions?

20 The director has a question.

21 MR. YOUN: You're using LDN(?) now?

22 MR. MIYAMOTO: Yes, we are.

23 MR. YOUN: Our commission is more familiar  
24 with decibel levels. Now, the LDN numbers and the  
25 db numbers, how can you tell what they (?)

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1 (unintelligible)?

2 MR. MIYAMOTO: Yes. We can correlate  
3 them for you. This is part of the program that we  
4 have so we can make a direct comparison between  
5 LDNs and decibels. You know, actually, the LDN is  
6 a system where it takes into account, as your staff  
7 has indicated, the frequency of operations, not only  
8 the loudness but how many times an airplane goes  
9 back and forth over an affected area.

10 The studies that have been conducted  
11 worldwide on the impact of airport noise is that  
12 it's not only the one event that occurs but also  
13 how many times that event occurs. The more time  
14 it occurs, obviously the people are going to get  
15 more annoyed. But the decibel system merely  
16 measures a single event, the loudness level, and  
17 I know that you're familiar with that. But what  
18 we're trying to do is combine the single event with  
19 the frequency of operation.

20 We expect the Lihue Airport to continue  
21 to grow. The number of flights will continue to  
22 increase. So that has to be cranked into this  
23 formula that we have to give you the LDN system.  
24 But we will try to make it, when the presentation  
25 is made, as clear as possible and to relate it to

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1 actual noise levels that you are familiar with.

2 MR. YOUN: So can you establish a specific  
3 LDN contour?

4 MR. MIYAMOTO: Yes.

5 MR. YOUN: And then we can use that as  
6 the zoning boundary?

7 MR. MIYAMOTO: Yes. That's our intention,  
8 to provide that for guidance to your Commission.

9 MR. YOUN: That's by when?

10 MR. MIYAMOTO: Till(?) the project will  
11 be completed, it will take a year's time. But I'm  
12 pretty sure that we will have advance information  
13 on those noise contours much earlier than that.

14 MR. YOUN: Thank you.

15 THE CHAIRMAN: Any further questions?

16 Thank you, Mr. Miyamoto.

17 MR. MIYAMOTO: Thank you, Mr. Chairman.

18 Mike(?), (unintelligible).

19 MR. LAURETA: OK. I'm going to try and  
20 streamline the agency comments by highlighting in  
21 certain areas.

22 Disposal of effluent from our Lihue  
23 sewage treatment plant is a serious concern. Similar  
24 to conditions imposed by the State Land Use Commission  
25 on the reclassifying of the subject lands, the

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1 County should impose conditions to the permits to  
2 resolve the problem of effluent disposal satisfac-  
3 torily.

4 Also, No. 5 is page 4, Roman numeral IV,  
5 item 19, Golf Course Irrigation. The report  
6 indicates that sewage effluent from the STP is  
7 available for golf course irrigations. Previously  
8 we had an agreement with InterIsland Resorts for  
9 the use of effluent from our Lihue STP for golf  
10 course irrigation. However, at the time of transfer  
11 of ownership of Kauai Surf Hotel to Hemmeter/VMS,  
12 the assumption of that agreement was to have been  
13 prepared by the new owner. To date no assumption  
14 of the agreement has been made.

15 The original agreement with InterIsland  
16 Resorts expires in June 1989. In light of what is  
17 being proposed relative to use of the effluent, a  
18 new agreement for use of the effluent should be  
19 entered into.

20 Item 7, Roman numeral IV, item 21,  
21 Sewerage. The report indicates that the existing  
22 county sewage facilities can accommodate the sewage  
23 to be generated by the proposed development.  
24 However, the report fails to indicate that  
25 accommodation is conditional. The proposed

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1 development is outside of the service area of the  
2 present 1.5 NGB(?) capacity. An agreement must be  
3 reached on the conditions upon which sewer service  
4 will be provided by the County.

5 All other agency comments are attached.  
6 This concludes the report.

7 THE CHAIRMAN: Do the commissioners have  
8 any questions?

9 Thank you, Mike.

10 Mr. Hemmeter, are you going to be making  
11 a presentation? At this time we will let you, if  
12 you want to come here or at the mike.

13 MR. HEMMETER: Thank you, Mr. Chairman.

14 Before I start my presentation, I know  
15 the mayor is very kind to be here today, and his  
16 time might be pressing. If you would like to  
17 receive any testimony or any comments from the  
18 mayor, if he had plans on making such, due to his  
19 time schedule I'll be happy to defer my comments  
20 until the mayor has made his comments.

21 MR. KUNIMURA: Thank you very much. (?),  
22 Mr. Hemmeter.

23 Members of the Commission, as you know,  
24 I very seldom come up to Commission hearings, but  
25 this particular project I feel is of such magnitude

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1 that it becomes incumbent to be present here to  
2 testify and to share with you some of my -- you  
3 know (?).

4 My whole concept of this project will  
5 not be just to determine the Hemmeter development  
6 but to take the total existence or the survival of  
7 Lihue Plantation, which is a sugar plantation. I  
8 share with you that it's becoming extremely  
9 difficult for the sugar industry to survive from  
10 the present conditions, starting from mostly (?)  
11 sugar.

12 This will give, if approved and become  
13 a reality, will give Lihue Plantation a certain  
14 amount of income other than sugar, and we may be  
15 able to sustain the plantation for quite a few  
16 years in(?) the future.

17 The other factors that I would like to  
18 share with you, and, as I have discussed this  
19 matter with the manager of the Lihue Plantation  
20 and some of the Amfac officials, as well as with  
21 Mr. Hemmeter, that -- the effect of the County  
22 capital outlay to get(?) rid of the effluent from  
23 our sewage treatment plant to an outflow in the  
24 ocean would become necessary. There might be (?)  
25 quite a bit of savings for us because this

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1 development may be using all the known (?) --  
2 the effluent from the sewage treatment plant for  
3 the irrigation of the golf course, as stated (?).

4 Also, one very, very sore spot in the  
5 Lihue Plantation environmental quality is that  
6 settling(?) pond down near the airport across from the  
7 new terminal. That thing, I'm told by the Lihue  
8 Plantation officials, that pond will be filled and  
9 dumping of clean wash water will be terminated and  
10 that fluming of cane down to the present mill would  
11 be eliminated and a conveyor system would be  
12 developed. So less water will be used to flume  
13 the cane down to the mill and then subse-  
14 quently pumped up again and recycled back and forth  
15 and become very, very muddy and dirty.

16 And when all these things happen, and  
17 I hope it will, then the present cultivation of  
18 sugar cane in this particular area, which is very  
19 rich soil -- but at the present time, according  
20 to all the statistics, one of the most highly  
21 classified ag lands has become close to a watercress  
22 patch because of the high amount of water that was  
23 necessary to be dumped to satisfy the excess water  
24 spreading over this great area.

25 So the sugarcane, because -- being in

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1 the grass family, you need to have this drying  
2 process or ripening process, once that sugarcane  
3 becomes mature, as I'm told, because I was raised  
4 on a plantation. But after the sugarcane becomes  
5 mature, it becomes necessary that you cut out the  
6 irrigation and you dry out the field to a certain  
7 -- for a certain period so that you develop the  
8 brick(?). That's the quantity of sugar. And if  
9 you continue to apply water, then the sugarcane  
10 will continue to grow because it has no point in  
11 time where it becomes -- where it won't stop growing  
12 because it belongs to the grass family and will  
13 continue the process of photosynthesis and will not  
14 you know, be providing the necessary quantity of  
15 sugar in the stalk but rather just leaves and high  
16 fiber and a lot of water and very low quality of  
17 juice for sugar manufacturing.

18 So, taking all of these things into  
19 consideration, there never will be (?) an  
20 environmental impact on the lifestyle, maybe (?),  
21 on Kauai. But we're going to have to determine  
22 whether we're going to continue to have sugar  
23 cultivation or we're going to continue to have  
24 job opportunity on this island. And if you search(?)  
25 some of the statistics provided by the statisticians

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1 of the state and the HVB, that Kauai, since 1979,  
2 I believe, the highest point, began to decline, and  
3 then all of a sudden back in 1984 we started to  
4 climb again after Hurricane Iwa. 1983, of  
5 course, was not a true reflection because of the  
6 heavy damage sustained by Hurricane Iwa.

7 But I feel that until we can find some  
8 alternative other than tourism or sugar, we've got  
9 to do the best we can with what we can do best.  
10 And I would like to recommend that this Commission  
11 be very serious about considering this project,  
12 and I would like to recommend that I personally  
13 will be supporting this because I feel that every  
14 effort is being made to make this one of the best  
15 resort areas in the world. And Kauai had been  
16 left, maybe rightfully so, to be relegated to a  
17 position where Hawaii, Maui and Oahu have had  
18 major first-class-type, world-class-type develop-  
19 ments, except Kauai has lagged behind, maybe  
20 rightfully. You know, it's a good thing it happened  
21 to us because we learn from their mistakes.

22 But I would rather have one of these --  
23 one of this development here than the kind of a  
24 honky-tonk that came up along Kihei in Maui  
25 because the quality of the visitor here is very

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1 important: if you're going to have one visitor  
2 spend \$100 and one type of class come over here,  
3 the quality visitor. And the other way, to have  
4 Kihei reenacted or, you know, developed on Kauai,  
5 then you're going to have 300 people come over here  
6 to spend the same amount of money. Then I think  
7 we will be making a big mistake.

8 I would like to surely recommend that every  
9 individual coming over here has a volume, a cubic  
10 displacement, a square-foot displacement, under-  
11 stand(?), and the number of vehicles on the road.  
12 I certainly would like to recommend a quality  
13 development over some of the cheaper-type develop-  
14 ments from bringing (?) a lot of people here with  
15 very little spending. I'd rather see a few people  
16 come over here and spend a lot of money.

17 Thank you very much. I have an appoint-  
18 ment at Coco Palms at 6 o'clock because some of  
19 the people making a presentation will have to catch  
20 their plane home, and so I have to rush over. But  
21 if you have any questions, I'd be most happy to  
22 answer.

23 THE CHAIRMAN: Are there any questions,  
24 Commissioners?

25 Thank you, Mr. Mayor.

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1 MR. KUNIMURA: Thank you very much.

2 THE CHAIRMAN: Turn it over to you, Mr.  
3 Hemmeter.

4 MR. HEMMETER: Thank you very much, Mr.  
5 Commissioner.

6 After listening to Mike's report, I was  
7 astounded at how complex these developments can  
8 become, and after reading them, I'm even more  
9 amazed.

10 I would like to reduce some things back  
11 to a more simple form and try to address those  
12 because all the technical issues have been well  
13 addressed, and maybe some of the larger and more  
14 important issues should be highlighted. Maybe if  
15 I could make a few comments on those, I would  
16 appreciate it.

17 The area that we're talking about in  
18 this particular application is currently cane land,  
19 and, more importantly, this area is a dumping ground  
20 for effluent and for their wastewater. When we  
21 acquired the Kauai Surf project, we knew that the  
22 No. 1 problem that we had in that location was the  
23 mosquito problem, the mill-wastewater-dumping problem,  
24 the burning-of-the-cane problem, as it relates to  
25 that particular hotel. This has caused some serious



1 problems in the past, and we had to address that  
2 issue.

3 When we got involved in studying that  
4 issue, we found out that this particular area that  
5 we're discussing today was receiving about 6.5  
6 million gallons a day from the Lihue Plantation of  
7 a very brown, milky water, and it was being dumped  
8 here because there was no other area for this water  
9 to be dumped. It was the cheapest area. It could  
10 gravity-feed to this area. What we were dealing  
11 with, really, was a great saturation basin.

12 Across on the makai side, the east side,  
13 of the runway there were silting ponds where they  
14 tried to get the water to move through the soil at  
15 a more rapid pace. They had assigned something in  
16 the neighborhood of 10,000 gallons for every acre  
17 of land to be dumped into this area. This was  
18 causing our problems with the mosquitos in the  
19 area and caused us additional problems with  
20 emergency dumping of the mill wastewater into Na-  
21 wiliwili Stream and a lot of the pollution in the  
22 bay, Nawiliwili Harbor.

23 So, when we took a look at that, we  
24 decided that -- because it became a larger problem  
25 than we originally thought, we decided that we

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1 would talk to Amfac and see if there was some  
2 possibility that we could acquire the majority of  
3 those lands around the airport and put them to other  
4 uses, to be selectively used for recreational  
5 purposes and where we could develop a few golf  
6 courses, 36 holes of golf in that area.

7 The Lihue Plantation folks indicated  
8 their interest in our discussions for a number of  
9 reasons, including the fact that they knew they had  
10 to clear up this problem in some way and some day,  
11 this dumping problem of water.

12 So, after a lengthy survey, it was  
13 indicated that it would cost about 3.6 million  
14 dollars to accommodate their problem, to put in a  
15 mechanical system for moving cane as opposed to a  
16 flume system to move the water up into the upper  
17 reservoirs and so it could be used properly for  
18 the irrigation of the canefields. Lihue Plantation  
19 indicated to us that if we were willing to pay that  
20 sum of money and redo their entire mill system, as  
21 it relates to this wastewater dumping, that we in  
22 fact could enter into discussions on the alternate  
23 use of this property. We agreed to do that and  
24 proceeded with the engineering drawings and the  
25 like to accommodate Amfac and Lihue Plantation

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1 on that dumping problem.

2 When our original application was made  
3 for this hotel project, we at that time were talking  
4 about 214 acres of land. With this additional  
5 acreage, I believe we're somewhere over 550 acres,  
6 closer to 580 acres.

7 We were able to accommodate a number of  
8 other benefits through this land acquisition program.  
9 One of the benefits was the fact that we would be  
10 able to access traffic directly from the airport  
11 onto our properties and that the guests coming to  
12 the Westin Kauai hotel would not have to go out and  
13 use public roadways. So when we talk about increase  
14 in traffic, we're certainly not talking about an  
15 increase in -- a great amount of increase in  
16 traffic from the guests of this resort hotel.

17 If I was to suggest that Belt Collins was  
18 to do a study and compare it back to the original  
19 Kauai Surf hotel as to the traffic it generated  
20 vis-a-vis the traffic we would generate, knowing  
21 that we will have access directly from the airport  
22 parking ramps directly onto our property for guests  
23 arriving and departing from our resort, I would  
24 suggest that we might even be decreasing the amount  
25 of traffic on the roads of the county.

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1           On the other hand, we are increasing  
2 traffic as it relates to our employees. We will  
3 be employing a great deal of additional folks, and  
4 these folks will have to come in from the varying  
5 bedroom communities surrounding the area. This  
6 will cause traffic. Employment causes traffic.

7           On the way here today, somebody turned  
8 to me and said, "Yes, Chris, but I think unemploy-  
9 ment might cause more traffic." I thought that one  
10 through a little bit and thought maybe that could  
11 be something we might wish to think about also.  
12 And, lo and behold, it might well be true.

13           As it relates to the sound situation, we  
14 have had continuing meetings with the Airports  
15 Division. We are pleased in our working relation-  
16 ship with them to explore areas where we can  
17 accommodate and reduce the sound, the effective  
18 sound, on the resort. The 856 rooms are already at  
19 the resort. There were 553 rooms at the resort  
20 prior to our arriving on the scene. We have  
21 learned that we could substantially reduce the  
22 noise by burming around the airport lands, by  
23 heavily landscaping that area and the like, because  
24 sound, to some degree, follows line of sight and  
25 drops off very quickly once line of sight is

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1 broken.

2           So we are going to be moving hundreds of  
3 thousands of cubic yards of material, and our plan  
4 calls for substantial burming around the entire  
5 airport property and substantial landscaping,  
6 which should certainly reduce the sound levels of  
7 what is currently at the resort. We will also, of  
8 course, stay within the LDN noise-contour lines.

9           In further developing our resort, we  
10 found other benefits from this program. One was  
11 that our golf courses were able to expand and we  
12 were able to utilize more land and more open space  
13 in this development. So we didn't get down to the  
14 restricted areas. And we were able to introduce  
15 these lakes.

16           A gentleman stopped me today, and he  
17 said, "I understand you're proposing 125 boat slips  
18 out on the ocean for charter boats." I indicated  
19 to him that we were not doing that but what we had was  
20 125 slips on this 30-some-acre lake that we were  
21 creating and that what we were going to do is  
22 these boats would be outrigger canoes that would  
23 be widened a little bit, they would be paddled  
24 by young fellows in the community who wish to take  
25 on this kind of employment, and that these

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1 particular boats would be operated about 14 hours  
2 a day and that we were looking at anywhere from a  
3 five-to-seven-hour utilization of these boats for  
4 canoe trips around the lake.

5 Well, to give you an idea of the size of  
6 the lake, the lake has over ten miles of shoreline.  
7 So you're talking about a substantial-size lake.  
8 If we were to interrelate the three ferry boats,  
9 the three motorized boats, between the three  
10 commercial centers, then we would be talking about  
11 a trip that's over three and a half miles by ferry-  
12 boat on the lakes themselves.

13 This particular model that you're looking  
14 at is an incomplete model. We tried to rush it  
15 through, and the fellows were working on it until  
16 late last night. But about, oh, 70 or 80 percent  
17 of the landscaping has been omitted from the model.--  
18 we didn't get it in in time -- because the entire  
19 shoreline will be lined with palm trees and the like.  
20 So I think the esthetic presentation of this model  
21 will be greatly improved as we complete it, and, of  
22 course, the site likewise.

23 It's important that I define what these  
24 commercial centers are. Two of them are 15,000  
25 square feet. To give you an idea of how much 15,000

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1 square feet is, that's approximately the number of  
2 retail stores that were in the old Kauai Surf hotel.  
3 So we're not talking about regional shopping centers.  
4 The third area is 40,000 square feet. That is  
5 about the same amount of shop area that currently  
6 exists in the Hyatt Regency Maui hotel. So, again,  
7 we're not talking about regional shopping complexes.  
8 We're talking about very small resort centers that  
9 activate the lake, that allow people to get out onto  
10 the lakes and take their trips and to enjoy their  
11 horse-and-carriage rides around the lake, and the  
12 like.

13           Somebody had indicated to me also that  
14 there was some concern about the financing arrange-  
15 ments on this project. In our first phase, we  
16 closed our major loan in June of this year. We  
17 were behind schedule. We were behind schedule  
18 about four months in closing that loan. When we  
19 got the legal bills at the end of that period and  
20 the time that we closed it, we found out that the  
21 legal work to close the Surf hotel loans were 35  
22 person-years of legal work, equaling 3.5 million  
23 dollars.

24           So, when we're talking about financing,  
25 we're not talking about going down to the bank and

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1 borrowing some money to buy a car or something like  
2 that. It's just an enormous job. There were  
3 numbers of law firms all over the world working on  
4 this, from Japan to New York to Hawaii. As I say,  
5 there was a total of over 35 person-years' work  
6 put in on the loan closing alone.

7           During the time that we were delayed, I  
8 might further indicate that we met over \$11,000,000  
9 to get our people working and to have that program  
10 move forward so that we could meet our construction  
11 dates. \$11,000,000 equates to the same amount of  
12 money that was spent on a lot of the -- a number of  
13 the hotels here in Kauai on a turn-key basis. So  
14 that was just our interim program.

15           I bring that up to you not to suggest  
16 that this is something extraordinary but to suggest  
17 to you that these types of projects, which will be  
18 competitive on a world basis and which will be able  
19 to stand with the great resorts of the world, are  
20 large, are complex and do take a great deal of time  
21 and effort and a great deal of confidence and a lot  
22 of people.

23           When we talk about size, there seems to  
24 be some concern about "My goodness, we're getting  
25 too large." Well, our Phase 2 hotel project here

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1 of 750 rooms is scheduled to come on in the early  
2 1990s, and we're not talking about something that  
3 we're going to break ground tomorrow on. This is  
4 long-range planning. But unless we have in place  
5 long-range planning, we cannot accomplish short-  
6 term goals. We cannot go out and put sixty-two  
7 and a half million dollars worth of additional  
8 expenditure in our golf course operations and our  
9 lakes program in anticipation that down the line  
10 we will be able to further develop these properties  
11 unless we have some understanding of the critical  
12 path that might lead to those accomplishments,  
13 even though that they're years down the line.

14 We recognize that if you were kind  
15 enough to consider this application favorably, that  
16 we would have to come back in for SMA permits, we  
17 would have to come back in for all other types of  
18 permits. So we're not suggesting for a moment that  
19 the new hotel is even a fait accompli. All we're  
20 suggesting is that the new hotel at least be  
21 recognized in the long-range planning of this  
22 community as something that might be appropriate  
23 for us.

24 The density is going to be low. When  
25 you look at 580 acres with these two hotel facilities

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1 and the high quality of facilities, the amount of  
2 amenities that are present here, as it relates to  
3 other hotel projects that are built on 10, 20, 30  
4 acres of land, you can see that the densities  
5 utilized in the overall areas of the project are  
6 significantly lower than anything that exists.

7 The phasing-in of these projects is going  
8 to be done in a way that is -- that makes sense not  
9 only to us but to the community at large. You're  
10 going to continue to control that, and you should  
11 control that factor.

12 The financial community, to some degree,  
13 is also going to have a hand in controlling the  
14 long-range development of Kauai because unless the  
15 funds can be brought from around the world to these  
16 projects, these projects are not going to be built.

17 I'm aware of other projects on this  
18 island that are in the planning stage and have  
19 come before you and that I think will be fine  
20 projects. These projects have not yet been able  
21 to consummate their financing. This is the  
22 difficult link in this whole process. It's the  
23 most difficult link in the process.

24 I think that it will come about because  
25 of the responsible people behind these projects.

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1 But it still opens that avenue and suggests that  
2 there might well be a question as to the future  
3 growth on this island.

4 So those are the types of long-range plans  
5 that we wish to address with this project. We wish  
6 to look at this project as a project that can stand  
7 with the finest resorts of the world, that is not  
8 sprawling out along the shorelines of our islands,  
9 that has a road map, a critical path, to a future  
10 development, that addresses planning issues in a  
11 sensible fashion, that looks at studies such as --  
12 sound studies such as traffic studies and the like  
13 and finds out how we can participate and accommodate  
14 the conclusions that you would like to arrive at in  
15 those issues.

16 So we're pleased to continue to work very  
17 closely with you all to bring Kauai something that  
18 we can all be very, very proud of. We think that  
19 this larger concept accommodates these kinds of  
20 goals, and I would be more than pleased to answer  
21 any questions that you might have. I'm also  
22 pleased to announce that a number of the cottage  
23 owners are present today. They are our neighbors.  
24 We have been able to acquire 12 of the 23 cottages  
25 along the cliffs. We have entered into a contract

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1 to have those cottages removed from the cliffs.  
2 Unfortunately, we found out it cost us \$10,000 a  
3 cottage to demolish them. So if you and any of  
4 your friends would like to go see Hawaiian Dredging  
5 and agree to pull them away, that's the budget just  
6 to get rid of those, and that doesn't include the  
7 planting and landscaping of that area.

8 So we think that that area is going to  
9 have a less density and it's going to be a lovely  
10 living spot for those who wish to remain there.

11 We have also entered into an agreement  
12 with the cottage owners that we would provide them  
13 with a private lane and a private parking area  
14 completely separate from the public parking areas  
15 up in that area.

16 I think that what we tried to do there is,  
17 after we went through all the jostling of our first  
18 zoning application, our first public hearings before  
19 you, we were appreciative of their support, and we  
20 came back to them without their request and suggested  
21 that we accommodate them with these additional  
22 improvements to their area so that they could have  
23 quiet enjoyment and be separate from the traffic  
24 that we might create in the resort area.

25 So I'm pleased that those folks are with

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1 us today. I think together we can pull this resort  
2 together to something we can be proud of. Thanks  
3 so much.

4 THE CHAIRMAN: Commissioners, do you have  
5 any questions?

6 Thank you, Mr. Hemmeter.

7 MR. HEMMETER: Thank you, Mr. Chairman.

8 THE CHAIRMAN: Are you going to have  
9 anyone else present anything? No? OK.

10 At this time we'll open the hearing to  
11 the public. Is there anyone wishing to speak for  
12 this application?

13 MS. OBATAKE: Mr. Chairman and members  
14 of this Commission, my name is Cheryl Lovell  
15 Obatake. I represent several members of my family,  
16 Mrs. Beatrice Lovell, my grandmother, Mr. Leslie Lovell,  
17 my father, both of whom are real property owners  
18 of Tax Map Key 3-5-32-10, further described to be  
19 adjacent landowners to Westin Kauai's present  
20 development at Kalapaki. This property is located  
21 between the old Kuboyama hotel and Nawilili Marine  
22 Supply.

23 As you can recall, May 8th, 1985, at  
24 this Council Chambers, Mr. Hemmeter first proposed  
25 his plans for the new Westin Kauai project. For

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1 this Commission's reference, the transcript of  
2 proceedings dated May 8th, 1985, which was  
3 commenced at 3:23 PM at the Council Chambers,  
4 regarding Special Management Use Permit SMA 3-85-3,  
5 Project Development Permit U-28-85, Special Permit  
6 SP-8A5-A-5, and Class 4 Zone Permit E-4-85-35,  
7 Volume 1.

8 I wish to relate my concerns towards  
9 the May 8th, 1985, transcript of proceedings, which  
10 is on records. As you can recall, our attorney,  
11 Mr. Hartwell Blake, of Case, Kay & Lynch, personally  
12 represented my family during the May 8, 1985, hearing  
13 as an intervenor. Also, a letter filed by Miss  
14 Candace McCaslin of Case, Kay & Lynch, who submitted  
15 two claims on my family's behalf: one, a protec-  
16 tional(?) easement document with the Bureau of  
17 Conveyances December 14th, 1962, Book No. 451,  
18 page 388; two, title claim to property we thought  
19 we had title to because of the lawsuit that  
20 involved my family, which we found out later the  
21 incident occurred on Kauai Surf's property.

22 At this time I'd like to direct my con-  
23 cerns to our first claim, which is in the easement  
24 adjacent to Westin's project and alongside Nawilili  
25 Stream out to Kalapaki Beach. A copy of transcript

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1 of proceedings dated May 8th, 1985, page 7, line  
2 4 to 19, indicates Mr. Shigikane's(?) statement of  
3 acknowledging the easement. Mr. Shigikane repre-  
4 sented Mr. Hemmeter during the May 8th, 1985,  
5 hearing as Mr. Hemmeter's attorney. As the tran-  
6 script reads, "With respect to the application of  
7 Mrs. Lovell, however, I should like to say that,  
8 as I understand the letter which she has filed,  
9 which was done by Miss McCaslin of Case, Kay &  
10 Lynch of Honolulu, she has just two claims. One  
11 of it is that she has got an easement, and she  
12 wants that to be protected." "She has got an ease-  
13 ment" -- I'm sorry. "And the second is that she  
14 has in hand certain kinds of documents which would  
15 form (?) the basis of a claim of property rights  
16 within the lines (?) on which these developments  
17 are contemplated.

18 "With respect to the first, if she does  
19 have an easement and we understand there is an  
20 easement, we certainly are not going to do anything  
21 to destroy those rights. But I don't think the  
22 protection of that easement right needs any kind  
23 of protection by intervention in this Planning  
24 Commission hearing." (?)

25 Commissioners and Mr. Hemmeter, as of

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1 July 3rd, 1985, this easement was graded. Dirt  
2 was removed. It was a three- to four-foot drop to  
3 the easement, making it impossible for me or my  
4 family members to have access to the beach.

5 Secondly, a proposal granted for a box(?)  
6 culvert to divert certain spring water on Westin's  
7 property to flow into Nawiliwili Stream. But(?)  
8 however the plan goes, it may cross over the  
9 easement. But(?) today's proposal that Westin is  
10 now presenting concerns my family. How much more  
11 water is going to be diverted into this box culvert  
12 into Nawiliwili Stream, such as the proposed  
13 lagoons, storm drains, and water --(?) future  
14 lake?

15 I also represent Lovell's Incorporated,  
16 which was established September 11, 1967, by my  
17 late grandfather, Mr. Imo Kalawa (?) III. And Mr.  
18 Norito Kawakami (?), my uncle through marriage and  
19 family legal counselor, presently owns four parcels  
20 of land along Nawiliwili Stream, Tax Map Key 3-42-  
21 06-22, 3-2-07-17, 3-2-06-4 and 3-2-06-02. Our  
22 nature of business is real property leasing.

23 As adjacent landowners by the stream, we  
24 are concerned with several environmental impacts to our  
25 properties. One, whenever a high surf occurs, the

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1 mouth of the stream is blocked by sand, causing  
2 the water to return within the stream and overflow  
3 onto the adjacent properties. Two, the bed(?) of the  
4 stream has accumulated an extreme amount of sedi-  
5 mentation and silt during the past years.  
6 Therefore, it does not have much depth to retain  
7 the amount of water when a flood occurs. The  
8 proposed plan going(?) to Westin will add more  
9 water to Nawiliwili Stream. Basically, it's like over-  
10 pouring into a glass of water that is already full.  
11 The act of God has been overlooked by the various  
12 authorities and developers.

13 The impacts that may be encountered:  
14 one, flood damages to homes and various businesses;  
15 two, sewage backup; three, property depreciation,  
16 depreciation caused by flood due to wet land; four,  
17 infestation of rats and mosquitos on the wet land.

18 Questions regarding my concerns:

19 1. Is there an actual environmental  
20 statement that proves Westin's project to be fault-  
21 less of any liabilities? If so, how can I obtain  
22 a copy?

23 2. Who is responsible for maintaining  
24 the mouth of the stream when a high surf occurs?

25 3. Who is responsible for cleaning

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1 Nawiliwili Stream when it has accumulated enough  
2 silt, sedimentation and overgrown vegetation?

3 Commissioners, you can recall Hawaii's  
4 state emblem with the motto "Ua Mau Ke Ea O Ka  
5 Aina I Ka Pono," "The Right of the Land Is Perpet-  
6 uated in Righteousness." Do you believe this is  
7 righteousness?

8 The enclosed tax map keys designates  
9 properties owned by my family. We might become  
10 money-makers made by Japan. We're just one of the  
11 few Hawaiians who are trying to preserve and  
12 protect our inheritance of land. If in God we  
13 trust, the right of the land will be perpetuated  
14 in righteousness. God is not to blame. The act  
15 of God has been overlooked by the Commission, the  
16 various authorities and the big-time developers.

17 Before I came to this hearing, I met  
18 with Mr. Hemmeter, and we discussed several ideas  
19 as far as how we could resolve our easement. I  
20 said to him that I could not give him a decision  
21 then because I only represent my father and my  
22 grandmother. But I am for this project because  
23 of the land that we have presently at Harvest(?)  
24 Village. We see potentials for that. But we'd like  
25 to make aware some of these environmental impacts

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1       that will be involved in some of our land. Thank  
2       you.

3               THE CHAIRMAN: Commissioners, do you  
4       have any questions?

5               MR. YOUN(?): Yes, we have (?).

6               THE CHAIRMAN: Go ahead.

7               MR. YOUN: You first started out talking  
8       about the easement?

9               MS. OBATAKE: Mm-hmm.

10              MR. YOUN: Now, what's wrong with the  
11       easement now?

12              MS. OBATAKE: Well, presently it has  
13       been restored. There is a six-foot pathway. We  
14       have not negotiated or had any written negotiations  
15       as far as what we should do next, whether to follow  
16       the pathway of what is proposed on the culvert or  
17       should we decide to leave it existingly(?), like  
18       how it was. It has not been decided yet because I  
19       have to talk to my dad and my grandmother yet.

20              MR. YOUN: Isn't it located where it's  
21       supposed to be now?

22              MS. OBATAKE: Yes, it is, presently now.

23              MR. YOUN: Isn't access improved as to  
24       what existed before?

25              MS. OBATAKE: Access is improved, yes,

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1 now, but during the survey by Mr. Hemmeter's  
2 surveyors, we have found that our easement has been  
3 eroded by Nawiliwili Stream. And again there's  
4 the question who is responsible for the maintenance  
5 of Nawiliwili Stream. If it was maintained, then  
6 the overflow of the water would not erode our  
7 easement. Because there is a lot of sedimentation  
8 and silt built up, there is no depth to retain the  
9 water.

10 MR. YOUN: Can you leave us a copy of your  
11 testimony so we can answer all your questions in  
12 writing?

13 MS. OBATAKE: I'm sorry. I was so  
14 anxious to say my testimony, I forgot to give it  
15 out.

16 THE CHAIRMAN: Any further questions?

17 Thank you, Cheryl.

18 Is there anyone wishing to speak against  
19 the application?

20 DR. LEY: Mr. Contrades and Commissioners,  
21 I spoke at the May 5th hearing, as you recall, as  
22 an intervenor, and I'm still an intervenor, I  
23 believe.

24 THE CHAIRMAN: Excuse me.

25 MR. ?: (Unintelligible) Dr. Ley (??)?

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1 DR. LEY(?): I think you(?) (unintelli-  
2 gible).

3 THE CHAIRMAN: Are you requesting to be  
4 an intervenor?

5 DR. LEY: I request intervenor status,  
6 please.

7 THE CHAIRMAN: Could you state your  
8 reason?

9 DR. LEY: I'll state my reason here.  
10 As an adjoining landowner of Lot 21, Kalapaki  
11 Subdivision, I am opposed to granting a permit for  
12 an additional 750-room hotel site before the new  
13 Westin Kauai hotel now under construction has been  
14 completed and the impact of this present expanded  
15 hotel project has been assessed.

16 Now, there has been some very, how shall  
17 I say, slick argument that all the people are going  
18 to come in to this hotel from the airport and they  
19 won't cause any additional traffic because they're  
20 all going to stay there. Are they going to lock  
21 them in? I don't know. But if they want to go up  
22 to see the canyon, if they want to go up to see  
23 Hanalei, I think they're going to rent a car and go.  
24 Until we resolve our present road congestion, an  
25 additional 750-room hotel, in addition to the

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1 additional rooms that Kauai Westin is going to  
2 produce, will further stagnate our traffic.

3 So what I'm simply requesting is that we  
4 go a little bit slow in getting all these hotel  
5 rooms until we've completed the infrastructure  
6 that will give people a reasonable access to their  
7 homes.

8 It's true that the new employees will  
9 considerably increase the traffic, but so will the  
10 new guests. See, the new guests aren't going to  
11 be very happy if they have to sit in a traffic jam  
12 to try to get out on the highway to try to go up  
13 to the canyon.

14 Also, I think we have yet to see how well  
15 Hemmeter Company meets the obligations it now has  
16 with the current subdivision owners, and I say  
17 that advisedly. I have here in my file a copy of  
18 an agreement that was signed -- and it's dated  
19 12th of November, 1985, and it was signed by Henry  
20 Shigikane(?), who I believe is one of the members  
21 of this corporation who is qualified to sign a  
22 contract.

23 Let me read from this: "H/VMS shall  
24 permit owner or his designee the exclusive use of  
25 three assigned, reserved and designated parking

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1 stalls to be constructed along the cottage access  
2 road in an area roughly opposite Cottages 11 through  
3 23. In the event that H/VMS in the future ceases  
4 to own the motel, H/VMS shall require that, as part  
5 of the transaction," etc. It will require the  
6 hotel operator to maintain these.

7 A map, which I'm sure you have in your  
8 files, is included, which shows these additional  
9 designated parking stalls.

10 Now, on July 16th of this year I received  
11 a letter from Diane Plotts(?), who is also a  
12 qualified member of this corporation, I believe,  
13 and she states in that letter that now we're simply  
14 going to have the parking spaces that we originally  
15 had. Mr. Hemmeter also referred to this, that  
16 now they've changed the road.

17 So what I'm trying to demonstrate to you  
18 is that this is in a state of flux. They say one  
19 thing, they sign a contract with the proper names(?)  
20 for one kind of accommodation. Here at this hear-  
21 ing, as well as is witnessed by this letter, which  
22 you should also have a copy of, from Hemmeter/VMS  
23 Kauai Company II, they're changing it.

24 I'd like to wait and see what happens.

25 So that's the basis of my requesting to

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1 be an intervenor and to object to this proposal to  
2 grant another hotel zoning permit. And I give you  
3 the copies of my letter. Thank you.

4 MR. ?: (Unintelligible.) (?)

5 MR. ?: (Unintelligible) being proposed  
6 (?).

7 MR. YOUN: The request for intervention  
8 here as to what he can intervene on and what we  
9 will not allow, firstly, on the special permit you  
10 have in your findings, Dr. Ley would qualify  
11 for intervention on the special permit,  
12 but it does not include the hotel because the  
13 hotel at this stage is only for a zoning amendment,  
14 and it's a legislative action, and we're not the  
15 final authority on that. So this body is not the  
16 body to intervene with on the hotel itself.

17 You can intervene on the special permit  
18 request, which does not include the hotel, and also  
19 on the SMA requests, which does not include the  
20 hotel, also.

21 DR. LEY: Should I, then, submit a  
22 separate request?

23 MR. YOUN: I'm just trying to clarify  
24 as to what you're going to intervene on. You  
25 initially stated only the hotel facility. But

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1 this project incorporates --

2 DR. LEY: Yes, I understand.

3 MR. YOUN: -- commercial areas, boat  
4 docks and lagoons, which is all part of the SMA  
5 and special permit application.

6 DR. LEY: All right.

7 MR. YOUN: We cannot grant your -- we will  
8 not grant your intervention status on the hotel  
9 zoning amendment.

10 DR. LEY: OK. I'll amend my request  
11 for intervenor status, then, to include the  
12 project.

13 MR. YOUN: For the special permit and  
14 for the Special Management Area Use Permit? Is  
15 that what you're amending it to?

16 DR. LEY: That's correct.

17 If you wish, I'll make that in writing  
18 to the commissioners.

19 THE CHAIRMAN: Mr. Hemmeter, do you have  
20 a response?

21 MR. HEMMETER: Yes. I strongly oppose  
22 his intervention.

23 You know, folks like the doctor come up here  
24 and state one thing that he claims we talk about  
25 and finds out that he can't make inroads that way,

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1 so he switches his story and decides he'll amend  
2 it and jump around and do anything he can to be  
3 an obstructionist. I think that doesn't add great  
4 dignity to what we're trying to accomplish here.

5 Let me make a comment on his comment  
6 about parking. Of course, you know, we've been in  
7 business a long time in this community and in the  
8 state of Hawaii, and I think one of the things  
9 that our company has done over the years that's  
10 made us stand tall is we do what we say we're  
11 going to do. In the case of the doctor's property,  
12 where we said we'd provide him with three stalls,  
13 of course we're going to do that.

14 We flew to Scottsdale -- I did -- spent  
15 some time with another one of the owners, came  
16 back, worked up a beautiful -- this, by the way,  
17 has caught me totally by surprise. I mean, this  
18 really caught me. We came back with a program for  
19 a whole private lane, parking right at their homes,  
20 things that are going to cost us -- I think they  
21 cost us so much we're over \$140,000 to accommodate  
22 these folks on these additional improvements.

23 And then I hear this. Well, if it wasn't  
24 for some of my other good friends up there, I'd  
25 revert back to what I said we were going to do in

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1 the first place. Or maybe we can just leave the  
2 doctor's area out of our program.

3 So I strongly oppose it. When he talks  
4 about the traffic relating to the hotel and then  
5 finds out that he can't intervene on that area, I  
6 don't think these public hearings are set up to allow  
7 people this type of freedom of abuse of our system,  
8 especially of the public hearing system. I very  
9 much oppose it and am appalled.

10 (Unintelligible discussion.)

11 THE CHAIRMAN: I just want to clarify  
12 on this (?). What you have to do is vote. The  
13 Commission will have to vote on the intervention  
14 request. And just, again, the standard would be  
15 that if you believe Dr. Ley has demonstrated that  
16 he will be so directly and immediately affected  
17 by the proposed change -- and that's limited to  
18 the SMA special permit -- that his interests in  
19 the proceeding is clearly distinguishable from  
20 that of the general public, then he should be  
21 admitted as an intervening party. It's up to you  
22 to determine that on the basis of his situation.

23 It might be helpful to clarify whether  
24 his property is actually adjacent to the property;  
25 that is, the parcel that is being considered in

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1 this application.

2 (Unintelligible discussion.)

3 MR. YOUN: Dr. Ley is not an immediately  
4 abutting owner. We are -- the application before  
5 you today is for the Anini property or the  
6 Amfac property, as applied for about a year ago.

7 (Unintelligible discussion.)

8 THE CHAIRMAN: Commissioners, at this  
9 time we have to make a decision on whether or not  
10 we will allow Dr. Ley to be an intervenor. We  
11 need a motion.

12 (Unintelligible discussion.)

13 MS. MATSUMURA: Mr. Chairman --

14 THE CHAIRMAN: Commissioner Matsumura?

15 MS. MATSUMURA: -- I move that we do  
16 not accept Dr. Ley's intervention status.

17 MS. ?: I second it.

18 THE CHAIRMAN: It has been moved and  
19 seconded that Dr. Ley's request to intervene not  
20 be accepted. Is there any discussion?

21 MS. MATSUMURA: Yes. The reason I'm  
22 saying that we do not accept his intervention is  
23 because what he is doing is something that we have  
24 already acted upon and it's something between he  
25 and Mr. Hemmeter. You know, when it comes to

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1 their parking and whatever, it's a business  
2 transaction between the developer and Dr. Ley.

3 The areas we are concerned and we are  
4 working on is not what has already been passed by  
5 this Commission. These are the lands outside of  
6 what has been passed. For these reasons, he is --  
7 and, furthermore, it's almost identical  
8 to some of the lands that -- or the same lands  
9 that Amfac had come in for rezoning changes, and  
10 at that time we have had no intervention.

11 And now I feel that because it's --  
12 Hemmeter/VMS is coming on, they -- he is trying  
13 to put two pieces together, which one has already  
14 been adopted and passed, and one that is set, the  
15 one we are working on, is (inaudible).

16 THE CHAIRMAN: Any further discussion?

17 MS. MATSUMURA: I hope I made it clear.

18 THE CHAIRMAN: Clear as mud.

19 If there is no further discussion, we'll  
20 take a voice vote on this. All those in favor of  
21 the motion signify by saying aye.

22 THE COMMISSIONERS: Aye.

23 THE CHAIRMAN: Opposed?

24 Your request has been denied, Dr. Ley.

25 MR. ?: Let him continue, Dr. Ley. (?)

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1 THE CHAIRMAN: However, if you would like  
2 to continue as testifying against the application,  
3 you may do so.

4 DR. LEY: Well, I don't want to take up  
5 the Commission's time with what appears to be  
6 an ex parte locata (?) agreement. I don't think,  
7 from what I understand of what you're saying, that it's  
8 fair to delay your proceedings. I think that's  
9 something I'll have to try to resolve with the  
10 Hemmeter Company. They tell me one thing in their  
11 contract and their attorney denies it (?). Their  
12 presentation today, their letter from Diane Plotts  
13 indicates they've changed their mind about things  
14 (?).

15 So I apologize if I've come to you with  
16 something that (?) -- some misinterpretation on  
17 their part or change in mind about what kind of  
18 an agreement they made with me back in December(?).  
19 That I'll have to take up with legal counsel.

20 MS. MATSUMURA: Mr. Chairman --

21 THE CHAIRMAN: Yes.

22 MS. MATSUMURA: -- although we have  
23 voted against the intervention, the statement he  
24 had made I think is on record. He has sort of  
25 testified in opposition and already knew of our

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1 deliberations (?). Although he has not intervened,  
2 I believe that the case (?) is on record and some-  
3 thing can be done later on.

4 THE CHAIRMAN: All right. Is there  
5 anyone wishing to testify for the application?

6 MR. PRATT: I have not studied the  
7 intricacies of drainage or cottage parking. I  
8 would like to speak in favor of the project  
9 generally as something that we need on Kauai.  
10 This type of well-planned resort is something that  
11 our economy will need in the long run, and so I  
12 think we can just -- we can take it (?) on that  
13 basis.

14 THE CHAIRMAN: Any questions, Commis-  
15 sioners?

16 Thank you.

17 Anyone wishing to speak against the  
18 application?

19 Anyone else wishing to speak for the  
20 application?

21 MR. LYON: (Unintelligible.)

22 THE CHAIRMAN: I don't think we have  
23 in-betweens(?). But if you would like to come up  
24 and do that (?), Mr. Lyon, we'll be glad to listen.

25 MR. LYON: This could be your first

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1 in-between. This is a letter from the Kauai Group  
2 of the Hawaii Chapter of the Sierra Club. I'll  
3 just quote from (?) the letter.

4 "Our concerns regarding the above" --  
5 "the proposed Hemmeter/VMS resort expansion  
6 proposal are as follows:

7 "1. We trust that the applicant will  
8 abide by the 40-foot height limitation with respect  
9 to the 750-room hotel.

10 "2. We also trust that the applicant has  
11 consulted or will consult with federal and state  
12 authorities regarding a breeding," paren(?),  
13 "(endangered) Hawaiian gallibill (?) as to the  
14 damage (?) (unintelligible) of the former Kauai  
15 Surf Resorts golf course before proceeding with  
16 any plans to alter habitat.

17 "3. We ask that the Planning Commission  
18 require the applicant to do the following regarding  
19 exterior lighting in order to minimize the autumnal  
20 (?) fallout of rural shearwaters:

21 "a. Install exterior light fixtures  
22 only of the following types: shielded lights,  
23 cut-off luminaires or indirect lighting, and

24 "b. Avoid using unnecessary lighting  
25 during the critical shearwater fallout period

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1     October and November each year, such as floodlights  
2     that light up the surf or shine upward upon build-  
3     ings or trees.

4             "Thank you for your consideration.  
5     Sincerely, Burt Lyon, Conservation Chairman."

6             THE CHAIRMAN: Any questions, Commission-  
7     ers?

8             I would like to make one observation on  
9     behalf of everyone here. We are not approving a  
10    750-room hotel today. OK?

11            MR. LYON: I realize that. (?)

12            THE CHAIRMAN: I want everybody to please  
13    understand that. We are not approving the hotel  
14    today.

15            Any questions?

16            Thank you.

17            (Unintelligible discussion.)

18            THE CHAIRMAN: Sir, would you like to  
19    come forward now?

20            MR. NICHOLS: My name is Andy Nichols.  
21    I live in Cottage 10, Pali Kai.

22            In the beginning, when this project was  
23    passed, I had some concerns myself, and I did some  
24    research into the Westin Inn(?) organization and found  
25    them to be -- they are really good. All their

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1 hotels are priced fine (?). This is a showpiece.

2 I may have been responsible for the confusion  
3 that the doctor is having on the parking. The  
4 letters that he refers to, I also received them. I  
5 felt that they were more proposals. They were  
6 proposing to make a parking lot for us in the area  
7 of our homes.

8 There was a few things I personally  
9 didn't like about it. I didn't like the idea that  
10 my stall -- I had to pull posts (?) out of the  
11 ground in order to keep somebody from parking in  
12 my stall and that I -- the way it is now, I drive  
13 up in front of my house, and I get my groceries,  
14 and I will high-feet(?) in the door, and I put  
15 them away. I didn't want to walk to a parking lot.

16 I expressed these concerns, and I couldn't  
17 believe how quickly they reacted on them. They  
18 did it in a first-class manner. They treated me  
19 very well. I live there now. They've cut off my  
20 mail. They hand you over it, because they're  
21 concerned that I might not get the mail. And I  
22 was real unhappy I wouldn't (?) get it myself.  
23 But they don't even wait for me to come down. They  
24 bring it to me.

25 They gave us our own private road.

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1           But I didn't want to park in a parking  
2 lot, and I don't think anybody who lives in a  
3 house wants to walk across the street or down the  
4 road and park in some parking lot anywhere. I park  
5 in front of my house now, and I want it to stay  
6 that way. And they have made accommodations for  
7 us to have a private road with our own parking  
8 place still right in front of our house.

9           That was the proposal I made back to  
10 them, and they accepted it. This is why the doctor  
11 now got a new letter. I'm sure, however, if the  
12 doctor would like to walk across the  
13 street and across the landscape going into a  
14 parking lot to get to his car, the Hemmeter  
15 organization wouldn't care if he wanted to do that.  
16 But if he wants to park in front of his house like  
17 now -- like he does now, that's the arrangement  
18 that I made.

19           I just wanted to say I'm really for this  
20 project. I think it's not -- in my opinion, it's  
21 not only the best project on Kauai, it's going to  
22 be one of the best in the world, pretty near. It's  
23 a showplace. It's something to really be proud of.

24           Thank you.

25           THE CHAIRMAN: Thank you.

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1 MR. NICHOLS(?): Good evening (?).

2 MR. LAURETA(?): I'm going to try and  
3 explain(?), as I understand it -- the drawing isn't  
4 exact -- but another concept explained to me by  
5 Mr. Blotten(?).

6 This is the Pali Kai lots. This is the  
7 ocean here. The existing driveway as it  
8 comes is this here. What Mr. Hemmeter proposes  
9 to do is split this off to make it a private road  
10 with a card gate, entry only by a card. It's  
11 going to be one-way, circle around to the cul-de-sac  
12 and come back. This will be two ways. So the  
13 people coming up to the point will come right past  
14 here. This will be a burm, landscape burm,  
15 landscape over here, and parking this way.

16 So what the Pali Kai cottage owners will  
17 have is approximately three parking stalls per lot,  
18 that Mr. Hemmeter will be providing to them, plus  
19 landscaped areas. So landscaping, three parking  
20 stalls, a private driveway, this is what Mr. Ley  
21 and the other gentleman are referring to. This is  
22 what Mr. Hemmeter has done to help resolve this  
23 problem about parking and access.

24 Am I (?) substantially correct?

25 MR. HEMMETER: Yeah. We are also (?)

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1 developing around the side (?) of the cottages  
2 (unintelligible).

3 MR. LAURETA(?): Here(?)?

4 MR. HEMMETER: Yeah. Those are the ones  
5 that are especially earmarked for the cottages (?).

6 MR. LAURETA: Right. Here? Parking  
7 here? (?)

8 MR. HEMMETER: Right.

9 No one comes down that lane. There is  
10 no one allowed down that lane except the owner  
11 himself (?).

12 MR. LAURETA: Right. Only the owners  
13 will have access here. So everything else will be  
14 pushed away from the owners?

15 MR. HEMMETER: Right. And then, in  
16 addition, the burming will do one additional thing.  
17 It will tend to give isolation for the cottages  
18 from the activity that is (unintelligible) property  
19 (unintelligible).

20 MR. LAURETA: And this agreement has been  
21 reached with the Pali Kai owners?

22 MR. HEMMETER: That agreement was actually  
23 relayed to the owners. We also indicated that  
24 they would even park their cars in a direction  
25 away from the cottages so the headlights wouldn't

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1 shine into the cottages and (unintelligible).

2 So not only do they have a private road,  
3 not only do they have a private iron gate (?), not  
4 only do they have their parking in front of their  
5 cottages, not only do their guests have parking  
6 directly across the way that come to visit them,  
7 but they're separated from the public by a burm.  
8 They've got a landscaped burm. That's all (?)  
9 (unintelligible).

10 MR. LAURETA: Yeah. Now this -- (?)

11 MR. HEMMETER: That's why I was a little  
12 bit astounded to hear both (unintelligible) our  
13 integrity being questioned when we do things of  
14 this nature.

15 MR. LAURETA(?): No, this was not a  
16 requirement of the previous premise. Mr. Hemmeter  
17 resolved this as, you know, just provided as an  
18 amenity to the Pali Kai owners.

19 DR. LEY(?): When was this provided?  
20 This is absolutely new information we have (?).  
21 It's the first time I've heard it (?).

22 MR. LAURETA(?): It was presented -- it  
23 has been worked out or is in the process of being  
24 worked out. The plans are going to be submitted,  
25 plus any written agreements, so --

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1 (Unintelligible discussion.)

2 THE CHAIRMAN: Anyone else wishing to  
3 speak for this application?

4 MR. LOVELL: My name is Leslie Lovell.  
5 I'm one of the owners of the adjacent property, sir.

6 And I not only speak for myself,  
7 but I speak for my mother as well, Mrs. Lovell,  
8 that we are for the planning of this thing here (?).

9 There are some other concerns that we  
10 have that my daughter expressed that we hope that  
11 we can work it out with Mr. Hemmeter.

12 THE CHAIRMAN: Thank you.

13 Anyone else wishing to speak?

14 If not, then I'll close this proceeding  
15 (?).

16 Do you have a question?

17 MS. ?: (Unintelligible.)

18 MR. YOUN(?): The question I have:  
19 They're doing a box culvert right now that runs  
20 into Nawiliwili Stream, you know. Will the  
21 additional lakes be draining into this box culvert,  
22 also?

23 MR. HEMMETER: No, they won't.

24 THE CHAIRMAN: Mr. Hemmeter, would you  
25 please use the microphone, just so we can --

1 MR. HEMMETER: No. The additional lakes  
2 go down and drain down towards Anini Point, out  
3 that way. They come down in there. That's where  
4 they will drain, and there will be evaporation  
5 which will take care of part of the water, and then any  
6 additional overflow will come out down where I  
7 explained to you.

8 MR. YOUN(?): The drainage basin (?)  
9 (unintelligible)?

10 MR. HEMMETER(?): Yes. That box culvert  
11 only faces (?) the drainage basin to(?) that culvert.

12 THE CHAIRMAN: We will now close this  
13 portion of the public hearing. Thank you all for  
14 testifying. We will not be acting on this matter  
15 today.

16 (Hearing concluded, 6:22 PM.)  
17

18 -o0o-  
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22  
23  
24  
25

TRANSCRIBER'S CERTIFICATE

I, Merrill Zundell, hereby certify that  
the foregoing is a true, full and correct tran-  
script of the electronic recording designated  
herein, as transcribed by me into typewriting to  
the best of my ability.

Merrill Zundell

POWERS & ASSOCIATES

(813) 521-7815



M A P S  
(SP86-360)





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LITTLE KAYAK

DBI

5-15-82



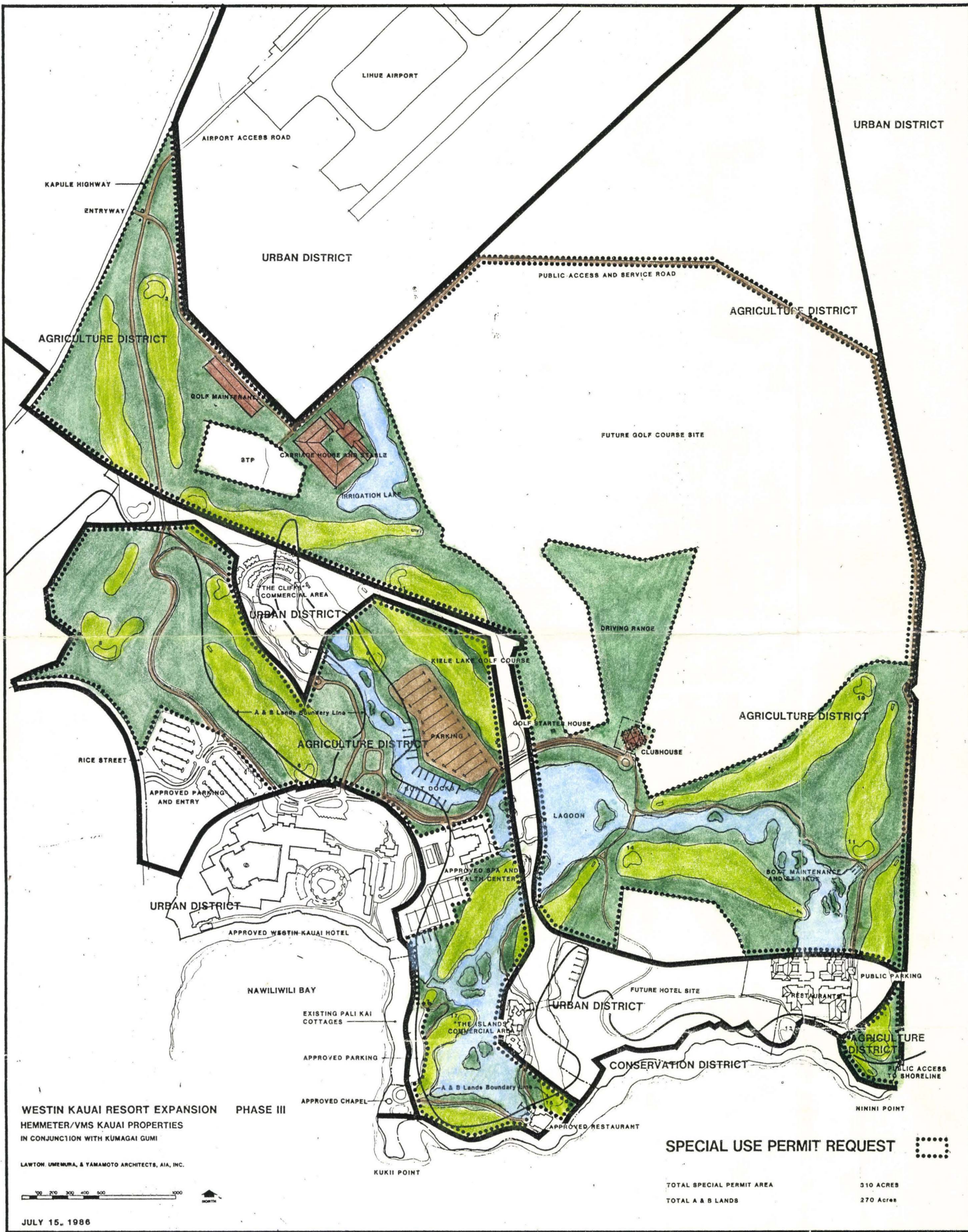
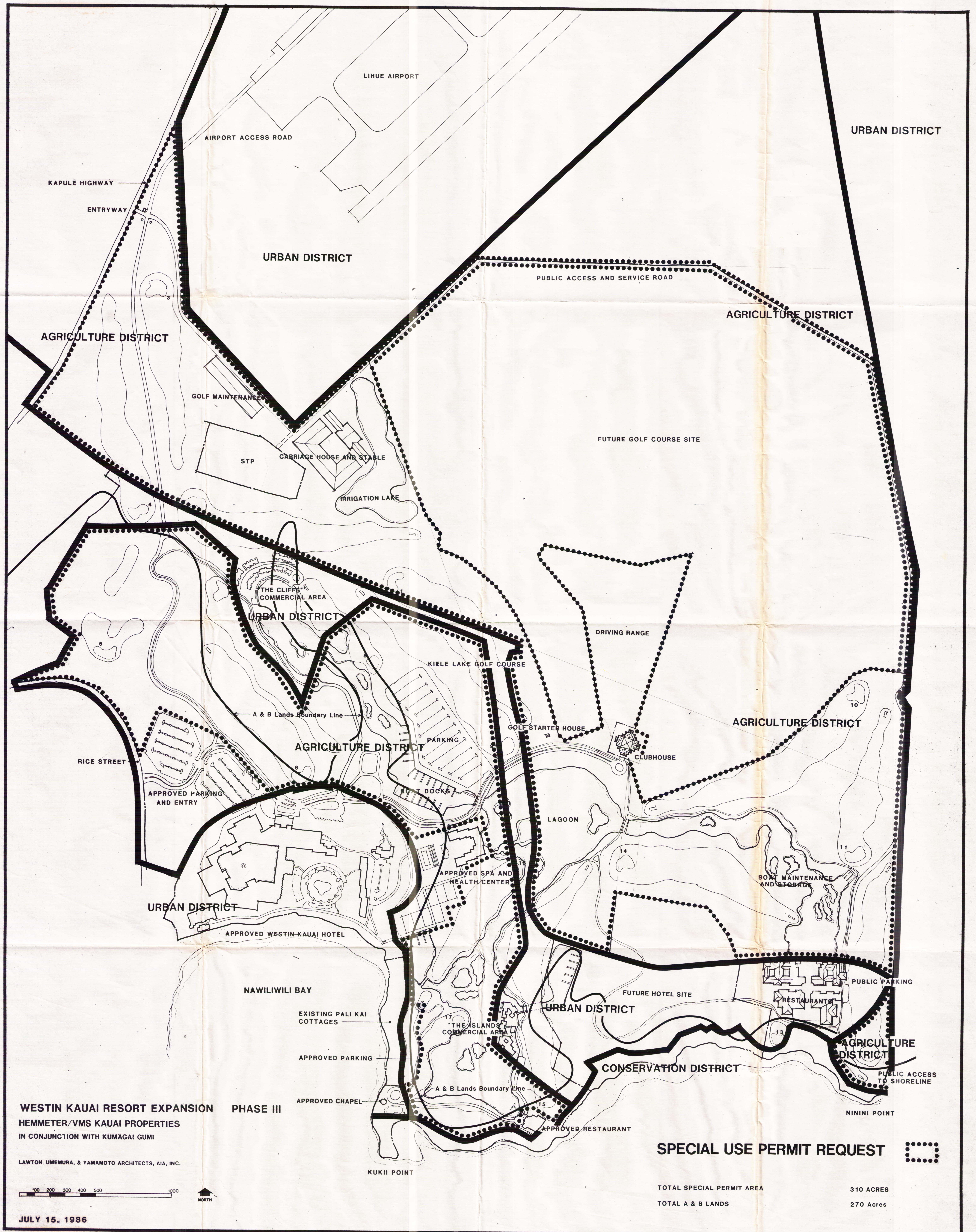


Exhibit C





**WESTIN KAUAI RESORT EXPANSION PHASE III**  
HEMMETER/VMS KAUAI PROPERTIES  
IN CONJUNCTION WITH KUMAGAI GUMI

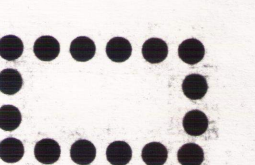
LAWTON, UMEMURA, & YAMAMOTO ARCHITECTS, AIA, INC.

0 100 200 300 400 500 1000



JULY 15, 1986

**SPECIAL USE PERMIT REQUEST**



TOTAL SPECIAL PERMIT AREA

310 ACRES

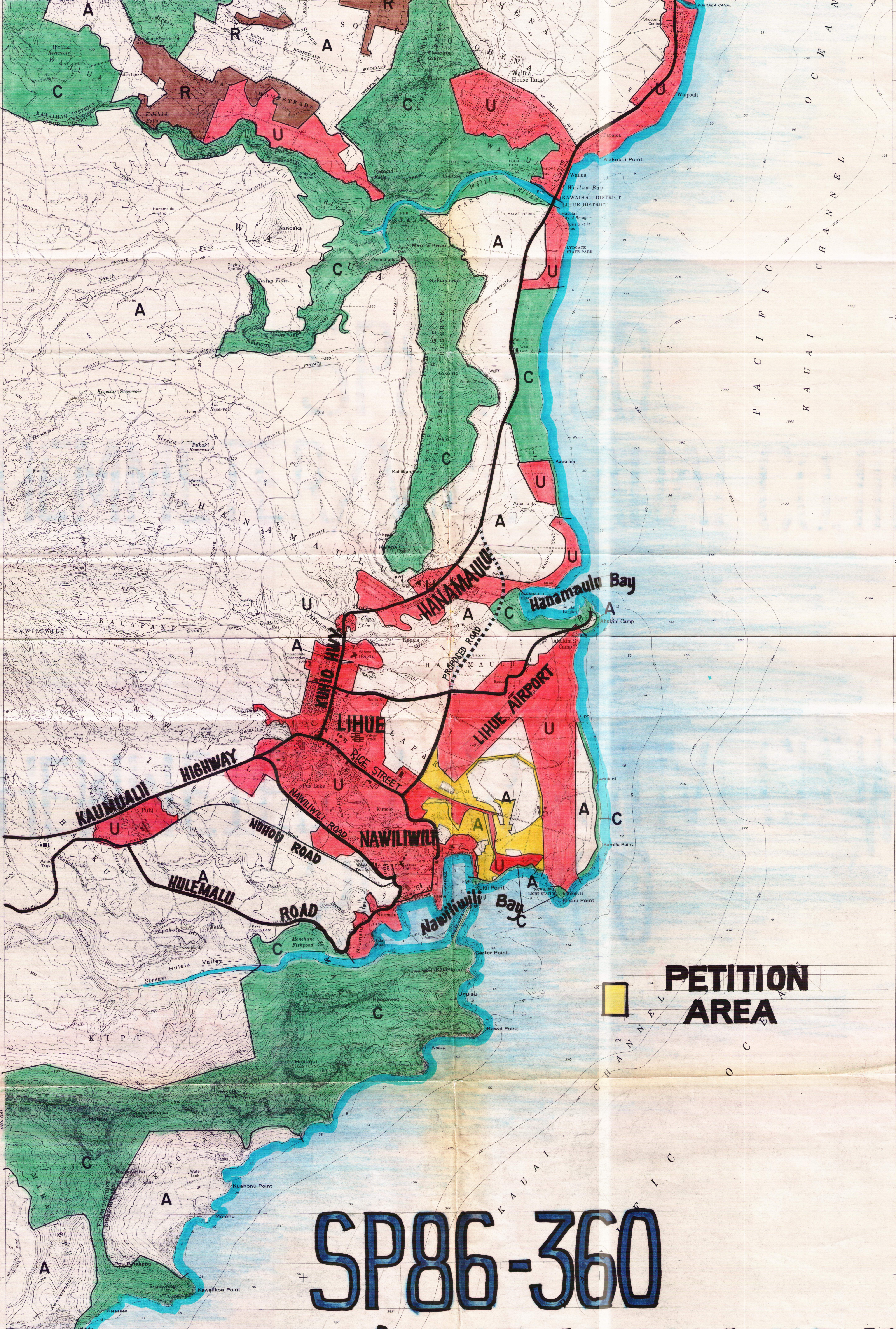
TOTAL A & B LANDS

270 Acres









**PETITION  
AREA**

**SP86-360**

**HEMMETER/VMS KAUAI CO. III**



