



SPECIAL PERMIT	
Petition Received	10/16/86
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Action Span	
Action Date	11/18/86
Recordation	



PETITION RECEIVED - October 16, 1986

SP86-361 HEMMETER/VMS KAUAI COMPANY III

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

COUNTY

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

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

DATE

INI

8/3/88

Motion to Amend Decision and Order filed by J. Funaki.

dk

8/26/88

Agenda sent to Tom Shigemoto, James T. Funaki, Esq., Michael Belles, Esq., also all persons & organizations on the Statewide & Kauai mailing list.

fl

8-31-88

Amended agenda for 9-7-88 & 9-8-88 sent to Tom Shigemoto, James Funaki, Michael Belles, Sid Fuke, Belt Collins, and Henry Shigekane.

dk

8-31-88

Amended Agenda for 9-7-88 & 9-8-88 sent to all persons & organizations on the Statewide and Kauai Mailing List.

9-1-88

Supplement to Motion to Amend Decision and Order filed by J. Funaki.

dk

11/04/88

Served Order to Amend Findings of Fact, Conclusions of Law, and Decision and Orders to T. Shigemoto, J. Funaki

to





STATE OF HAWAII  
DEPARTMENT OF BUSINESS  
AND ECONOMIC DEVELOPMENT

LAND USE COMMISSION

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

JOHN WAIHEE  
Governor

RENTON L.K. NIP  
Chairman

LAWRENCE F. CHUN  
Vice Chairman

COMMISSION MEMBERS:

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

ESTHER UEDA  
Executive Officer

November 16, 1988

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

To all concerned agencies:

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

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




Notification of L Decisions  
November 16, 1988  
Page Two

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

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

Sincerely,



ESTHER UEDA  
Executive Officer

EU:to  
Att.



NOTIFICATION OF BOUNDARY AMENDMENT DECISIONS BY LUC

Concerned Agencies

State (all petitions)

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

City & County of Honolulu (Oahu petitions only)

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

Hawaii County (Hawaii petitions only)

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

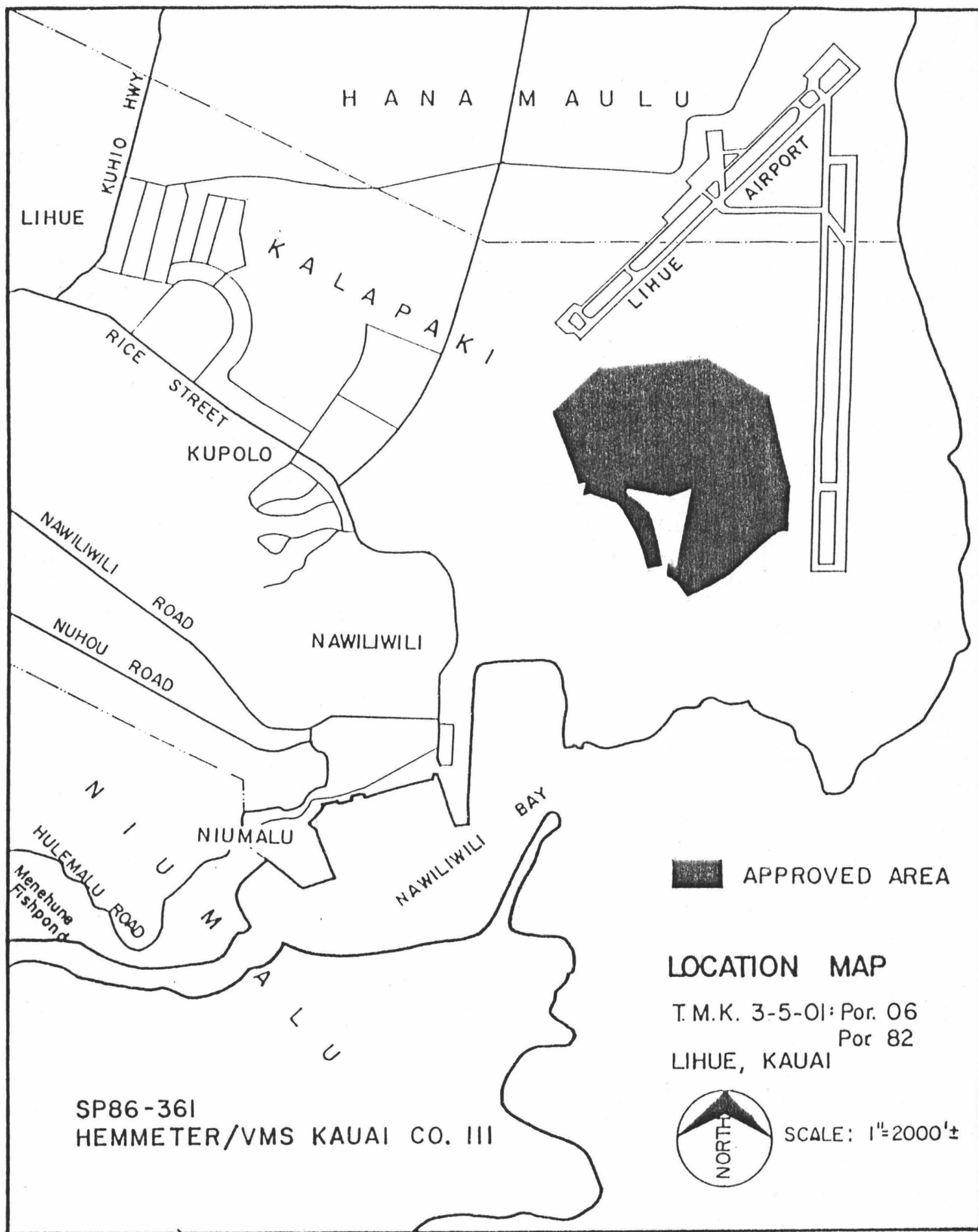
Maui County (Maui petitions only)

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

Kauai County (Kauai petitions only)

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





SP86-361  
HEMMETER/VMS KAUAI CO. III



BEFORE THE LAND USE COMMISSION  
OF THE STATE OF HAWAII

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

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

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

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

DOCKET NO: SP86-361  
HEMMETER/VMS KAUAI  
COMPANY III

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

**NOV 04 1988**

**Date**

**by**

**Executive Officer**

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

BEFORE THE LAND USE COMMISSION  
OF THE STATE OF HAWAII

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

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

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

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



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

#### FINDINGS OF FACT

##### Background

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

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

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

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

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

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

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

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



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

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

Petitioner's Motion and Supporting Affidavit

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

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

ORDER

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

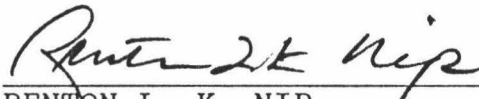
IT IS HEREBY FURTHER ORDERED that the Findings of Fact, Conclusions of Law, and Decision and Order for Special

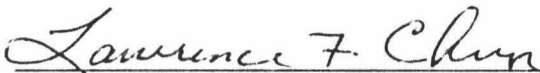
Permit Docket Number 86-361 is hereby amended by adding the clubhouse/starter shed area as reflected on Revised Exhibit A-2 attached hereto and incorporated by reference herein.

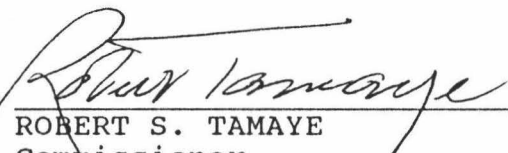
DOCKET NO. SP86-360 - HEMMETER/VMS KAUAI COMPANY III  
DOCKET NO. SP86-361 - HEMMETER/VMS KAUAI COMPANY III


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


LAND USE COMMISSION  
STATE OF HAWAII

By   
RENTON L. K. NIP  
Chairman and Commissioner

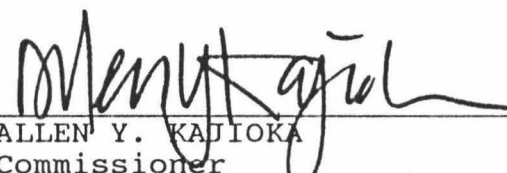
By   
LAWRENCE F. CHUN  
Vice Chairman and Commissioner

By   
ROBERT S. TAMAYE  
Commissioner

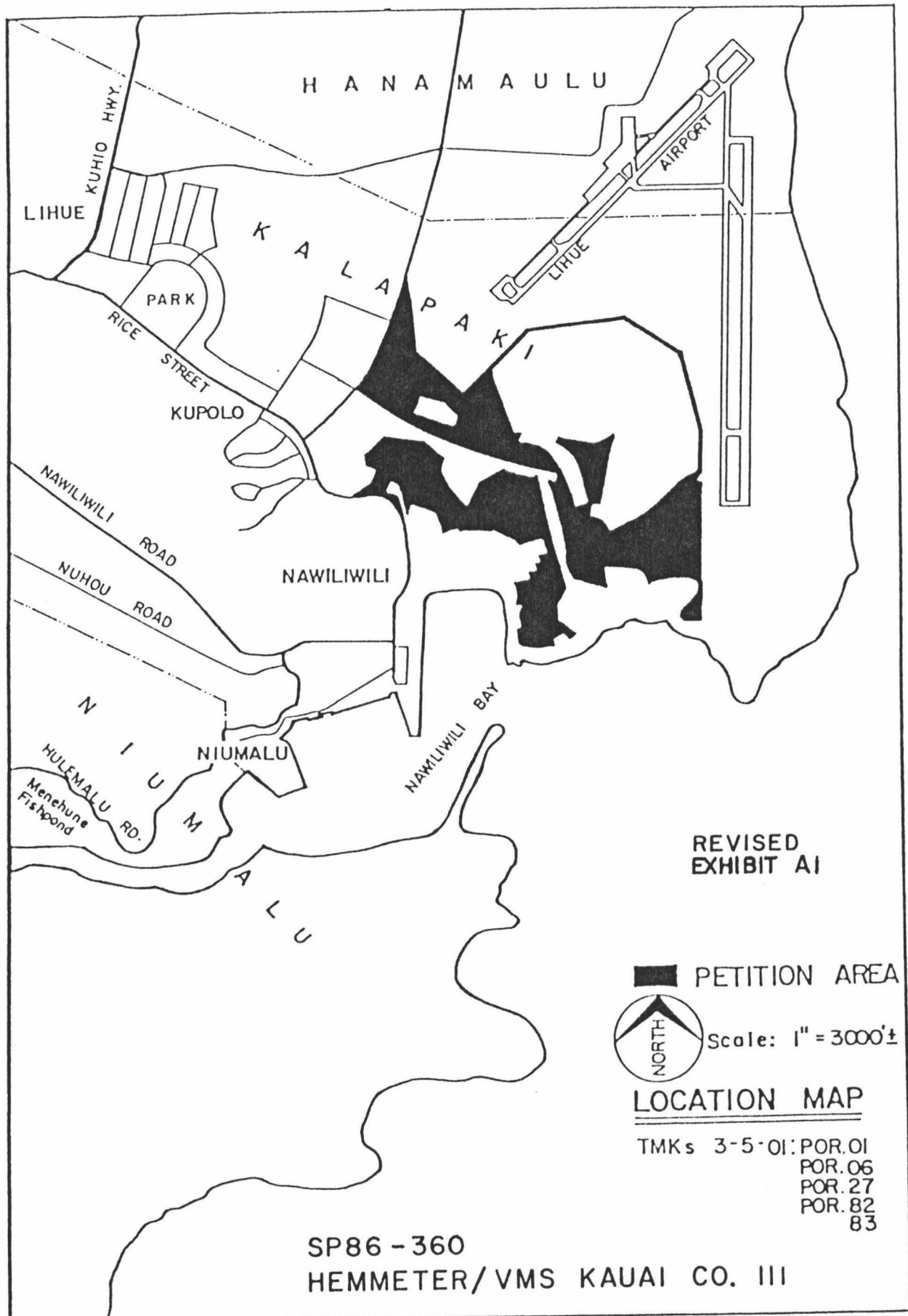
By   
TORU SUZUKI  
Commissioner

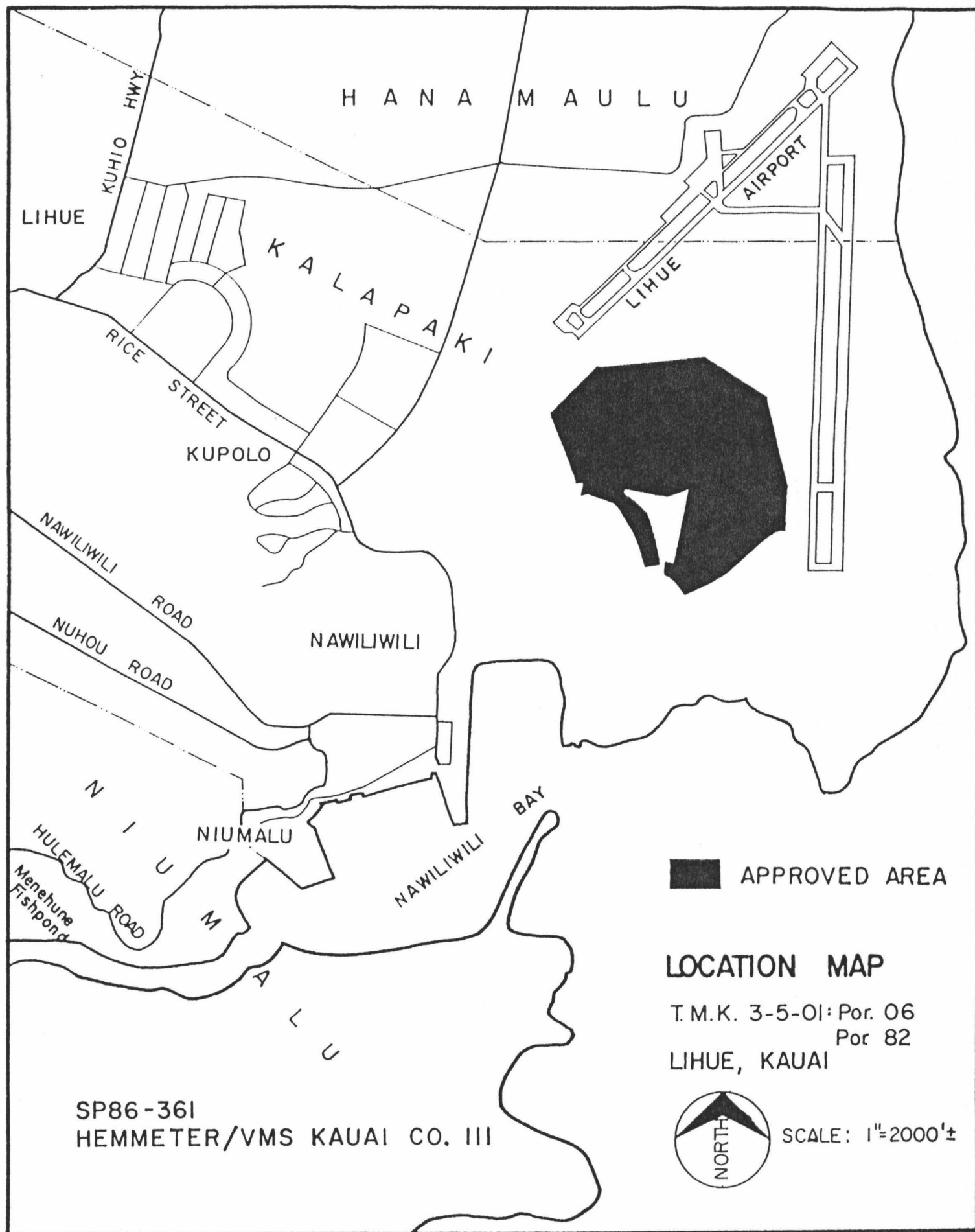
By   
FREDERICK P. WHITTEMORE  
Commissioner

By   
ALLEN K. HOE  
Commissioner

By   
ALLEN Y. KAJIOKA  
Commissioner







BEFORE THE LAND USE COMMISSION  
OF THE STATE OF HAWAII

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

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Order to Amend Findings of Fact, Conclusions of Law, and Decision and Order was served upon the following by either hand delivery or depositing the same in the U. S. Postal Service by certified mail:

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



P-555 274 249

James T. Funaki, Esq.  
733 Bishop, Ste. 1400  
Honolulu, 96813

.65

.85

.90

2.40



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

**SENDER:** Complete items 1 and 2 when additional services are desired, and complete items 3 and 4.

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

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

3. Article Addressed to:

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

4. Article Number

P-555 274 249

Type of Service:

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

Always obtain signature of addressee or agent and DATE DELIVERED.

5. Signature — Addressee

X

6. Signature — Agent

*[Handwritten Signature]*

7. Date of Delivery

*16-7-88*

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

P-555 274 257

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

Mr. Tom Shigemoto

4280 Rice Street

Lihue, HI 96766

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U.S. G.P.O. FORM 360

Post Office 360, June 1981



● **SENDER:** Complete items 1 and 2 when additional services are desired, and complete items 3 and 4.

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

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

3. Article Addressed to:

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

4. Article Number

P-555 274 250

Type of Service:

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

Always obtain signature of addressee or agent and DATE DELIVERED.

5. Signature — Addressee

X

6. Signature — Agent

X

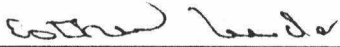
7. Date of Delivery

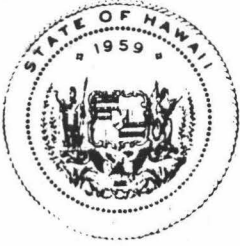
8. Addressee's Address (*ONLY if requested and fee paid*)

SP86-360 & SP86-361/HEMETER/VMS KAUAI  
COMPANY III

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

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

  
\_\_\_\_\_  
ESTHER UEDA  
Executive Officer



## LAND USE COMMISSION

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

## COMMISSION MEMBERS:

Sharon R. Himeno  
Teofilo Phil Tacbian  
Allen Kajfoka  
Robert Tamaye  
Frederick P. Whittemore  
Toru Suzuki  
Allen K. HoeESTHER UEDA  
Executive Officer

September 6, 1988

MEMORANDUM

To: Land Use Commission

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

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

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

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

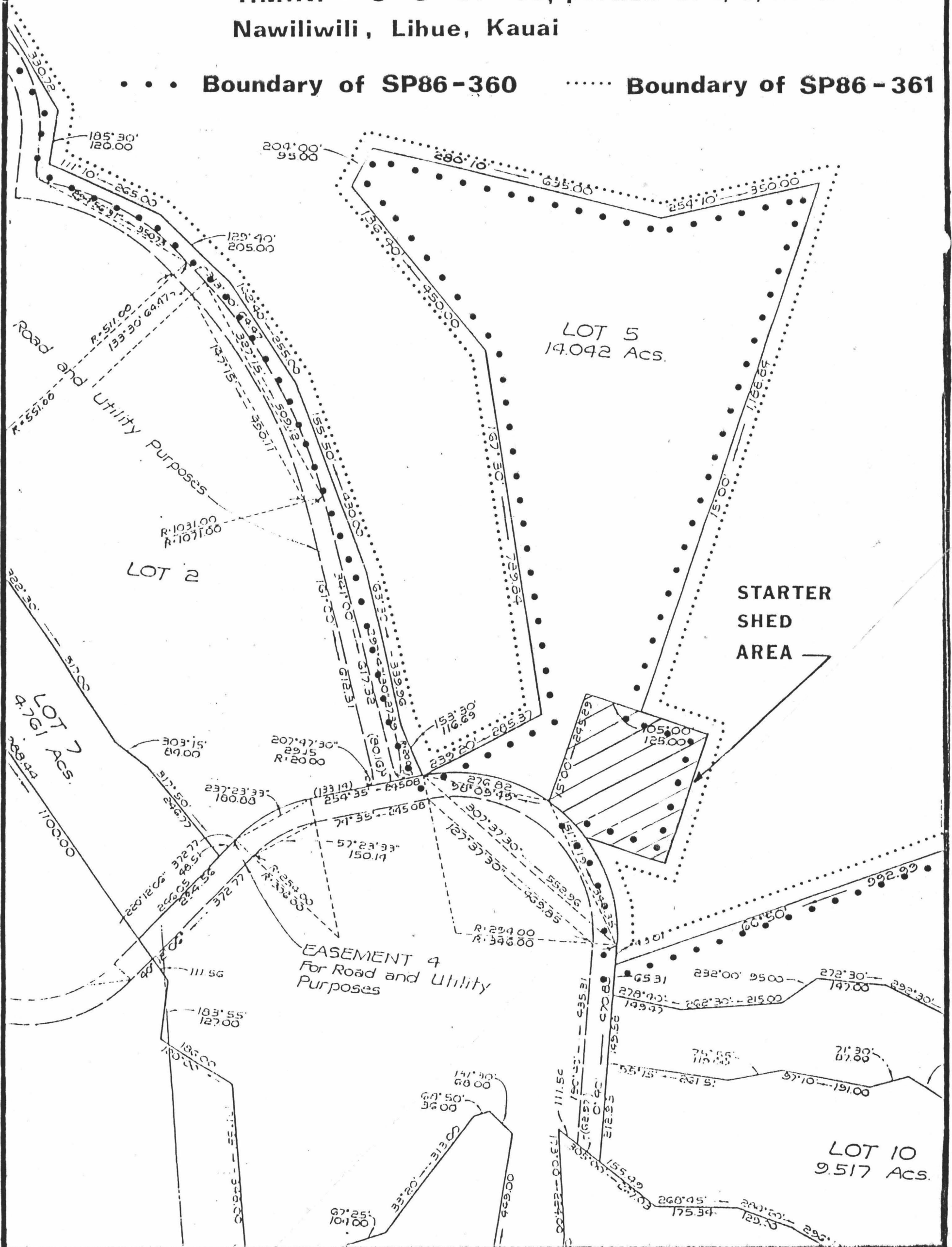
#### Attachments

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

LOT 4  
200.254 ACS

7713.

• • • **Boundary of SP86-360**      ..... **Boundary of SP86-361**



**EXHIBIT "A"**



TONY T. KUNIMURA  
MAYOR



AVERY H. YOUN  
PLANNING DIRECTOR

TOM H. SHIGEMOTO  
DEPUTY PLANNING DIRECTOR

TELEPHONE (808) 245-3919

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

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

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

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

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

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

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

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

Michael Laureta  
Planner

cc Jim Bell

EXHIBIT " B "

Apana

LOT 4  
200.254 Acs

7713

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

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

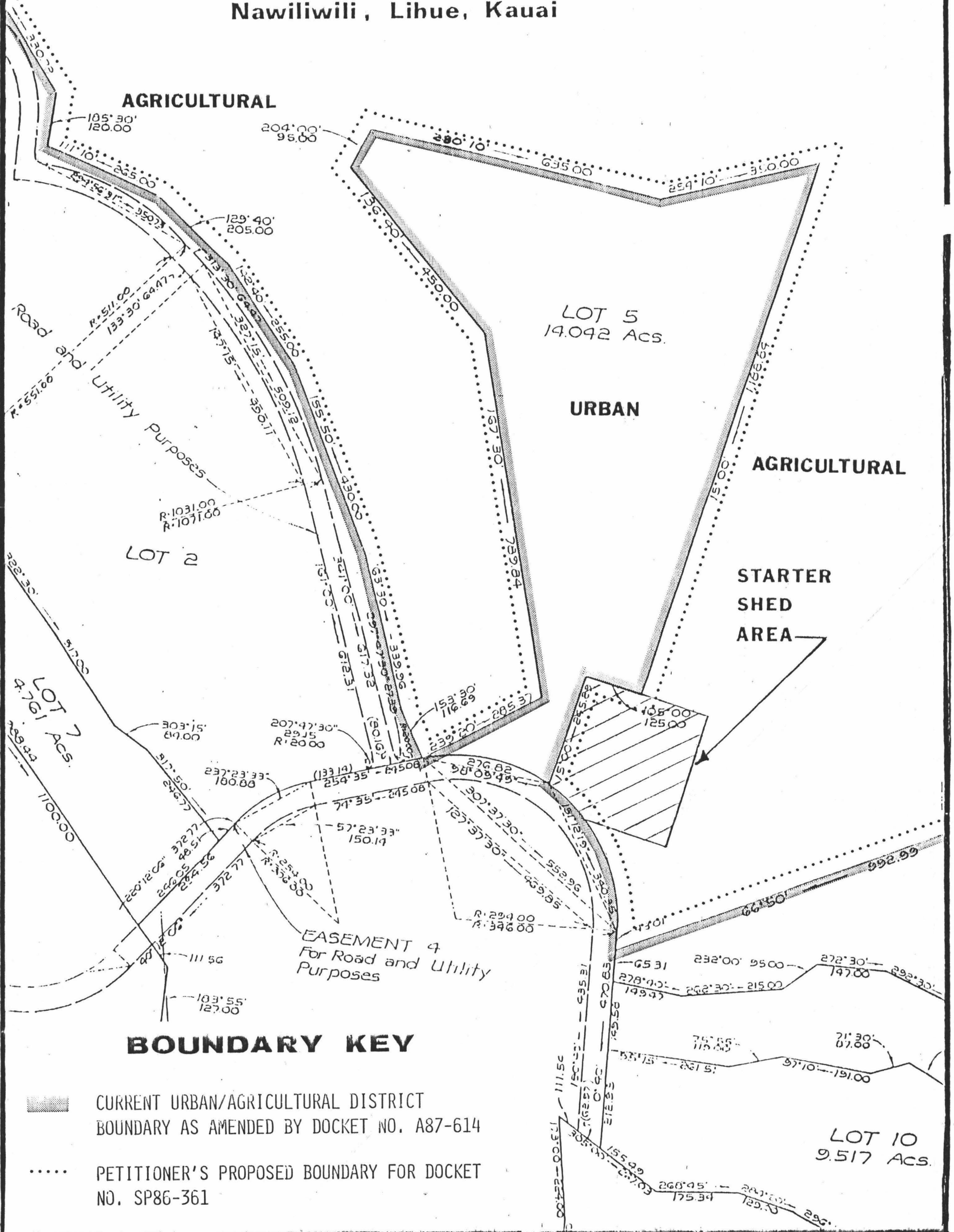


EXHIBIT "C"

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

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

Attorney for HEMMETER/VMS KAUAI COMPANY III

BEFORE THE LAND USE COMMISSION  
OF THE STATE OF HAWAII

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

SUPPLEMENT TO MOTION TO AMEND DECISION AND ORDER

(CERTIFICATE OF SERVICE ATTACHED)

LAND USE COMMISSION  
STATE OF HAWAII  
SEP 1 8 33 AM '88

BEFORE THE LAND USE COMMISSION  
OF THE STATE OF HAWAII

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

SUPPLEMENT TO MOTION TO AMEND DECISION AND ORDER

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

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

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

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

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

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

DATED: Honolulu, Hawaii, August 31, 1988.

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

spana

2

Part

to

V.

Kamam.

LOT 1

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

Lagoons  
(1905)  
ET 'B'

Lot 5 of  
The Kauai Lagoons  
(File Plan 1905)

DRIVING RANGE

1.8 Acs.±

Lot 4 of  
The Kauai Lagoons  
(File Plan 1905)

Lihue Plantation Co., Ltd. (owner)

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

SEE INSET 'C'

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

LOT 4



BEFORE THE LAND USE COMMISSION  
OF THE STATE OF HAWAII

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

SECOND AFFIDAVIT OF SIDNEY FUKE

STATE OF HAWAII	)	
	)	ss.
COUNTY OF HAWAII	)	

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

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

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

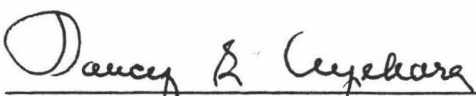
3. Attached to this second affidavit is EXHIBIT 1A AMENDED containing a map which correctly delineates the starter shed area and which supercedes EXHIBIT 1A attached to the affidavit set forth as EXHIBIT 2 of the said motion.

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

FURTHER Affiant sayeth naught.

  
\_\_\_\_\_  
Sidney Fuke

Subscribed and sworn to before me  
this 31<sup>st</sup> day of August,  
1988.

  
\_\_\_\_\_  
Notary Public, State of Hawaii

My commission expires: MAY 27, 1992

Spana

2

part

to

Kamam

LOT 1

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

Lagoons  
(1905)  
ET 'B'

Lot 5 of  
The Kauai Lagoons  
(File Plan 1905)

DRIVING RANGE

1.8 Acs.±

Lot 4 of  
The Kauai Lagoons  
(File Plan 1905)

Lihue Plantation Co., Ltd. (owner)

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

SEC INSET 'C'

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

LOT 4  
9.976 Acs

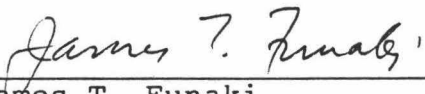
CERTIFICATE OF SERVICE

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

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

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

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

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

STATE OF HAWAII  
LAND USE COMMISSION

Minutes of Meeting

Senate Conference Room 3  
State Capitol  
Honolulu, Hawaii

*approved  
9/30/88*

September 7, 1988

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

COMMISSIONERS ABSENT: Teofilo Phil Tacbian

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

Chairman Nip called the meeting to order.

ACTION

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

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

Commissioner Hoe was excused from the action on this matter.



Appearances

Ivan Lui-Kwan, Esq., Attorney for Petitioner

Oswald Stender, Petitioner

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

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

Abe Mitsuda, Land Use Division, Office of State  
Planning

David Hulse, Land Use Division, Office of State  
Planning

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

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

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

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

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



Appearances

James Funaki, Esq., Attorney for Petitioner

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

Michael Laureta, Planning Department, County of Kauai

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

Abe Mitsuda, Land Use Division, Office of State  
Planning

David Hulse, Land Use Division, Office of State  
Planning

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

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

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

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

HEARING

A88-625 OCEANIC PROPERTIES, INC.

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

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

APPEARANCES

James Funaki, Esq., Attorney for Petitioner

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

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

Abe Mitsuda, Land Use Division, Office of State Planning

David Hulse, Land Use Division, Office of State Planning

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

PETITIONER'S EXHIBITS

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

COUNTY'S EXHIBITS

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



STATE'S EXHIBITS

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

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

Commissioner Chun was absent from the proceeding at this time.

PUBLIC WITNESSES

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

PETITIONER'S WITNESSES

1. Larry Lum

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

- 1:53 p.m. -

Commissioner Chun joined the proceeding at this time.

PETITIONER'S WITNESSES (Cont'd)

1. Larry Lum (Continued)

Commissioner Himeno was absent from the proceeding at this time.

2. Tyrone Kusao

Commissioner Himeno joined the proceeding at this time.

3. Kay Muranaka

MINUTES - September 7, 1988  
Page 6

Commissioner Chun was absent from the proceeding at this time.

4. Ken Ishizaki

Commissioner Himeno was absent from the proceeding at this time.

5. Julian Ng

MISCELLANEOUS

1. ADOPTION OF DECISION AND ORDERS

The Decision and Order for the following docket was adopted:

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

2. ADOPTION OF MINUTES

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

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



STATE OF HAWAII  
LAND USE COMMISSION

NOTIFICATION OF LAND USE COMMISSION MEETING

DATE, TIME AND PLACE

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

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

REC'D. BY

1988 AUG 29 AM 9 44

LI. GOVERNOR'S OFFICE

A G E N D A

I. ACTION

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

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

II. HEARING

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

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

III. MISCELLANEOUS

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

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



STATE OF HAWAII  
LAND USE COMMISSION

NOTIFICATION OF LAND USE COMMISSION MEETING

DATE, TIME AND PLACE

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

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

REC'D. BY

1988 AUG 31 PM 2 58

GOVERNOR'S OFFICE

A M E N D E D

A G E N D A

I. ACTION

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

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

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

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

II. HEARING

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

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



### III. MISCELLANEOUS

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

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

P-555 274 390

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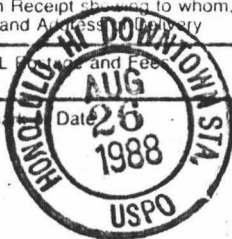
NOT FOR INTERNATIONAL MAIL

(See Reverse)

U.S. P.O. 193-506

PS Form 3800, June 1985

Sent to <b>Tom H. Shigemoto</b>	
Street and No. <b>4280 Rice St.</b>	
P.O., State and ZIP Code <b>Lihue, HI 96766</b>	
Postage	\$ .25
Certified Fee	.85
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt showing to whom and Date Delivered	
Return Receipt showing to whom, Date, and Address on Delivery	↗ .90
TOTAL Postage and Fee	\$ 2.00
Postmark Date	



SP86-360

SP86-361

SP86-361

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3. Article Addressed to:

Tom H. Shigemoto, Planning  
Director  
Planning Dept., Co. of Kauai  
4280 Rice Street  
Lihue, HI 96766

- #### 4. Article Number

P-555-274 390

Type of Service:

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

**Always obtain signature of addressee  
or agent and DATE DELIVERED.**

- ### 5. Signature — Addressee

**X**

6. Signature — Agent

**X**

### 7. Date of Delivery

8/29/88

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

STATE OF HAWAII

JOHN WAIHEE  
Governor

DEPARTMENT OF BUSINESS  
AND ECONOMIC DEVELOPMENT

RENTON L.K. NIP  
Chairman

LAWRENCE F. CHUN  
Vice Chairman



LAND USE COMMISSION

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

COMMISSION MEMBERS:

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

ESTHER UEDA  
Executive Officer

August 26, 1988

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

Dear Mr. Shigemoto:

Enclosed is a Land Use Commission meeting agenda.

Please note that petition(s)

SP86-360 - HEMMETER/VMS KAUAI COMPANY III

✓ SP86-361 - HEMMETER/VMS KAUAI COMPANY III

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

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

Very truly yours,

ESTHER UEDA  
Executive Officer

Enclosure

P-555 274 393

RECEIPT FOR CERTIFIED MAIL

NO INSURANCE COVERAGE PROVIDED

NOT FOR INTERNATIONAL MAIL

(See Reverse)

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

PS Form 3800, June 1985

Sent to	
James T. Funaki, Esq.	
Street and No.	
733 Bishop St., Ste. 1400	
P.O., State and ZIP Code	
Honolulu, HI 96813	
Postage	\$ .25
Certified Fee	.85
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt showing to whom and Date Delivered	
Return Receipt showing to whom, Date, and <sup>Special</sup> Delivery	.90
TOTAL Postage and Fees	\$ 2.00
Postmark or Date	



SP86-360

SP86-361





STATE OF HAWAII

JOHN WAIHEE  
Governor

DEPARTMENT OF BUSINESS  
AND ECONOMIC DEVELOPMENT

RENTON L.K. NIP  
Chairman

LAWRENCE F. CHUN  
Vice Chairman



LAND USE COMMISSION

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

COMMISSION MEMBERS:

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

ESTHER UEDA  
Executive Officer

August 26, 1988

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

Dear Mr. Funaki:

Enclosed is a Land Use Commission meeting agenda.

Please note that petition(s)

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

will be <sup>\*heard</sup>  
\*\*acted on \_\_\_\_\_ at that time. We request that you or  
your representative attend this meeting.

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

Very truly yours,

ESTHER UEDA  
Executive Officer

Enclosure

P-555 274 391

# RECEIPT FOR CERTIFIED MAIL

NO INSURANCE COVERAGE PROVIDED

NOT FOR INTERNATIONAL MAIL

(See Reverse)

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

PS Form 3800, June 1985

Sent to	
Michael Belles, Esq.	
Street and No	
4396 Rice Street	
P.O., State and ZIP Code	
Lihue, HI 96766	
Postage	\$ .25
Certified Fee	.85
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt showing to whom and Date Delivered	
Return Receipt showing to whom, Date, and Restricted Delivery	.90
TOTAL Postage and Fees	\$ 2.00
Postage or Delivery	

SP86-360

SP86-361



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SP86-361

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1. ☐ Show to whom delivered, date, and addressee's address.      2. ☐ Restricted Delivery  
  ↑(Extra charge)↑   ↑(Extra charge)↑

#### 4. Article Number

P-555-274-391

Type of Service:

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

**Always obtain signature of addressee  
or agent and DATE DELIVERED.**

**X**

**X**

7. Date of Delivery

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



STATE OF HAWAII

DEPARTMENT OF BUSINESS  
AND ECONOMIC DEVELOPMENT

LAND USE COMMISSION

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

JOHN WAIHEE  
Governor

RENTON L.K. NIP  
Chairman

LAWRENCE F. CHUN  
Vice Chairman

COMMISSION MEMBERS:

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

ESTHER UEDA  
Executive Officer

August 26, 1988

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

Dear Mr. Belles:

Enclosed is a Land Use Commission meeting agenda.

Please note that petition(s)

SP86-360 - HEMMETER/VMS KAUAI COMPANY III

✓ SP86-361 - HEMMETER/VMS KAUAI COMPANY III

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

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

Very truly yours,

ESTHER UEDA  
Executive Officer

Enclosure

ORIGINAL

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

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

Attorney for HEMMETER/VMS KAUAI COMPANY III

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

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

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

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

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

Aug 3 10 52 AM '88  
LAND USE COMMISSION  
STATE OF HAWAII

MOTION TO AMEND DECISION AND ORDER

(CERTIFICATE OF SERVICE ATTACHED)

ORIGINAL

Vol 3 10 ES 11 93  
FBI - NEW YORK  
COMMUNICATIONS SECTION



BEFORE THE LAND USE COMMISSION  
OF THE STATE OF HAWAII

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

MOTION TO AMEND DECISION AND ORDER

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

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

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

In support of this motion, Petitioner states that:

I. BACKGROUND

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

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

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

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

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

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

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

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

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

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

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

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

WHEREFORE, Petitioner respectfully requests that LUC:

1. Hear this motion as soon as practicable;

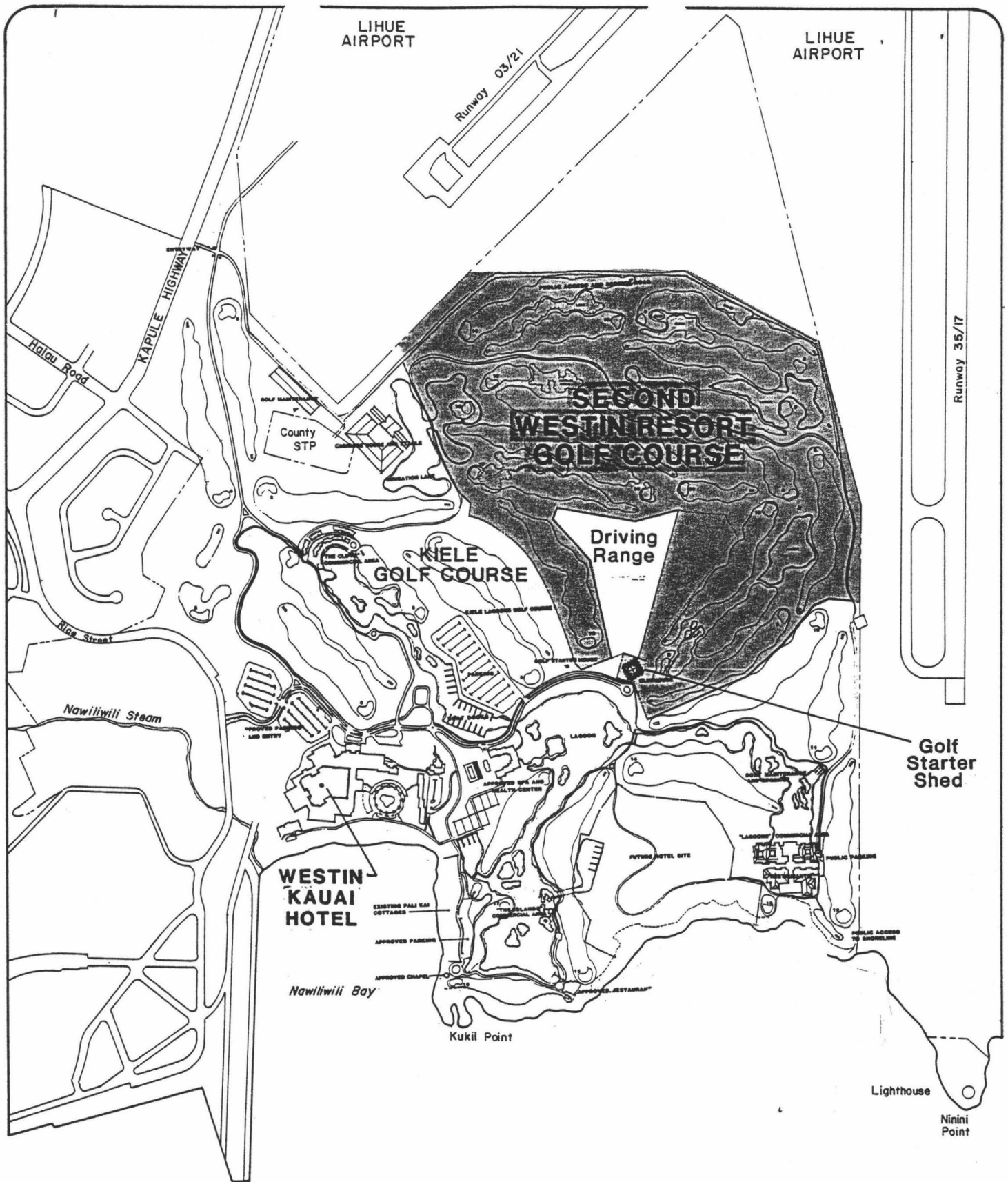
2. Approve and grant the aforesaid motion to amend the Decision and Order in LUC Docket SP86-360 by deleting the starter shed area from the lands approved for special permit thereunder and to effectuate said amendment by replacing Exhibit A of the said Decision and Order with Exhibit A amended attached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

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

DATED: Honolulu, Hawaii, August 3, 1988.

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





# PROPOSED DEVELOPMENT CONCEPT

AUGUST 1986

EXHIBIT 1

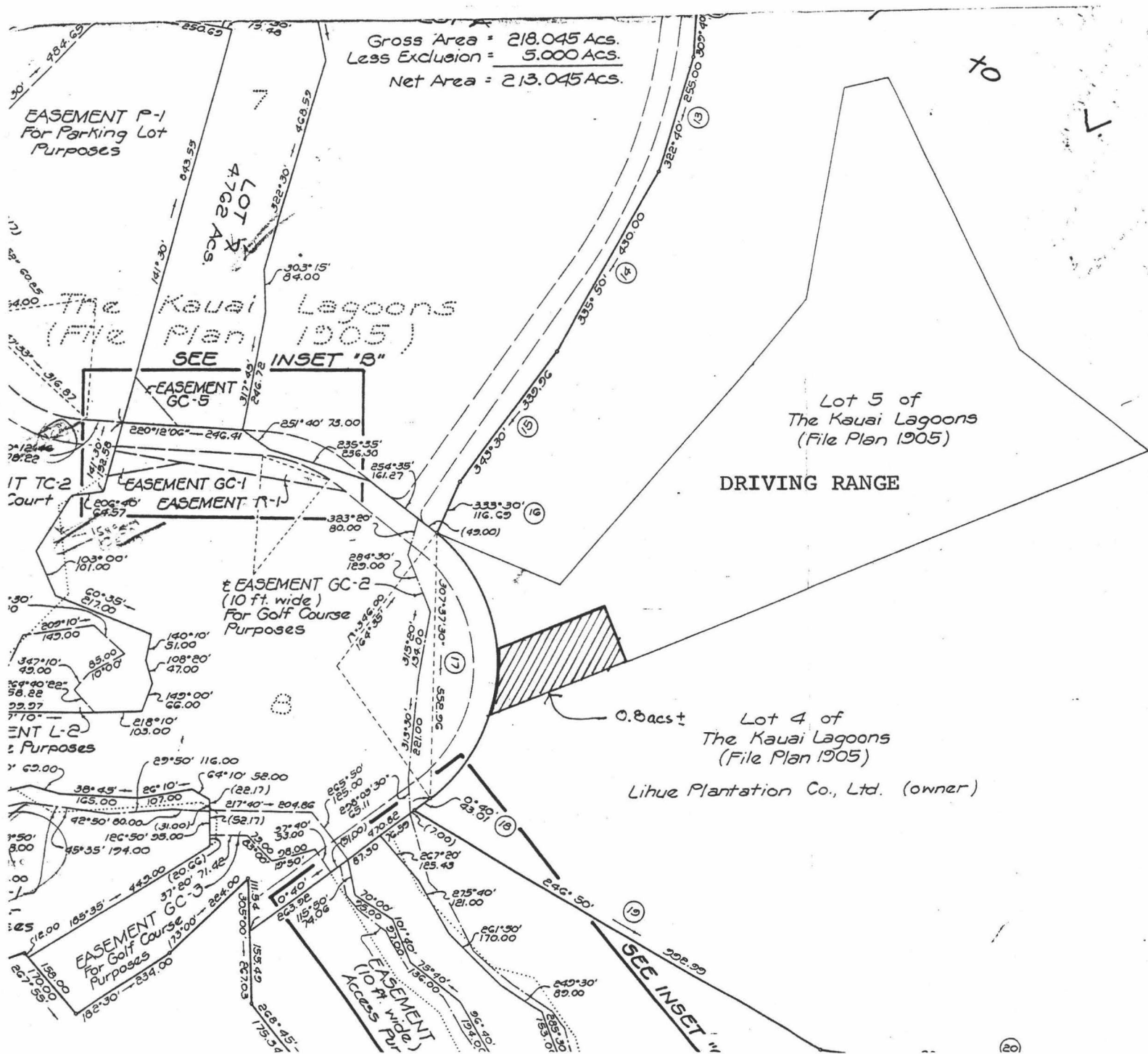


EXHIBIT 1A

BEFORE THE LAND USE COMMISSION  
OF THE STATE OF HAWAII

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

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

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

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

AFFIDAVIT OF SIDNEY FUKU

STATE OF HAWAII	)	
	)	ss.
COUNTY OF HAWAII	)	

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

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

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

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

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

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

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

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

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

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



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

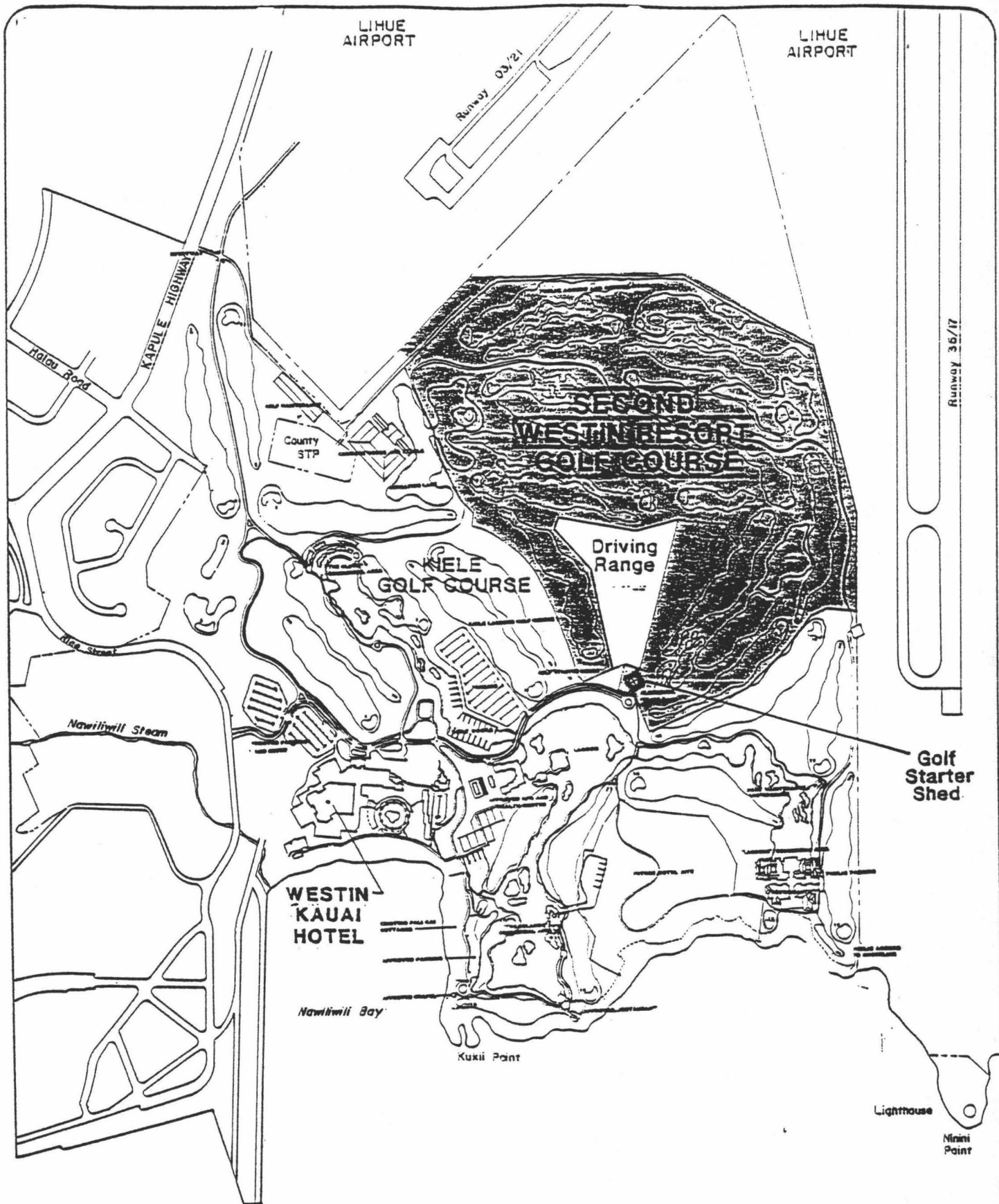
FURTHER Affiant sayeth naught.

Sidney Fuke  
Sidney Fuke

Subscribed and sworn to before me  
this 1st day of August,  
19 88.

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

My commission expires: 09-28-91



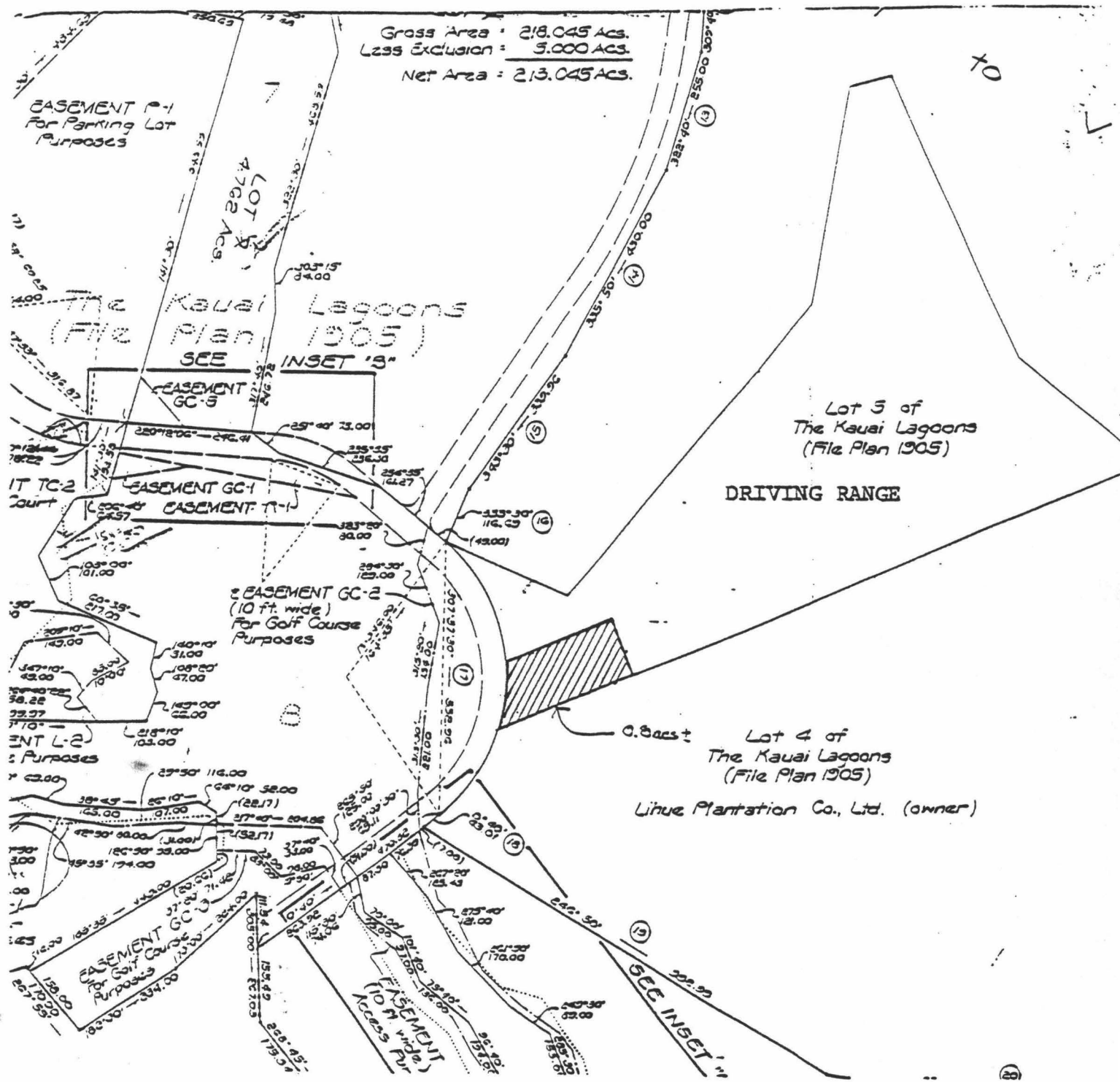
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FEET



PROPOSED  
DEVELOPMENT CONCEPT

AUGUST 1986

EXHIBIT 1



TONY T. KUNIMURA  
MAYOR



TOM H. SHIGEMOTO  
PLANNING DIRECTOR

TELEPHONE (808) 245-3919

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

November 27, 1987

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

NOV 30 1 07 PM '87  
STATE LAND USE COMMISSION  
HONOLULU, HAWAII

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

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

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

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

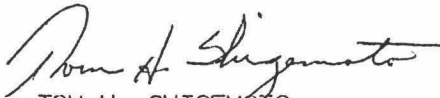
12/2/87  
LUC

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

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

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

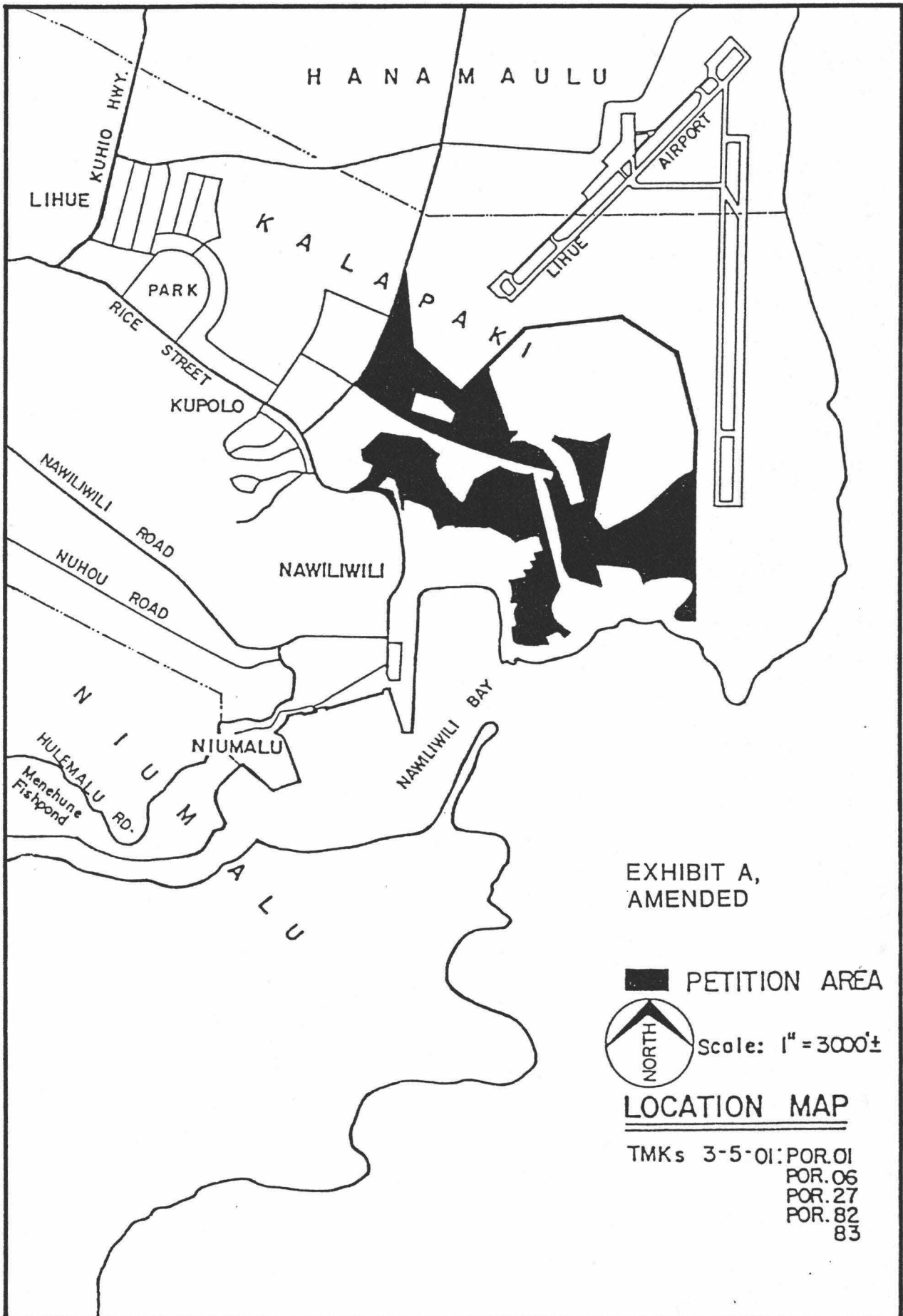
Should you have any questions, please feel free to contact Michael Laureta of my staff.

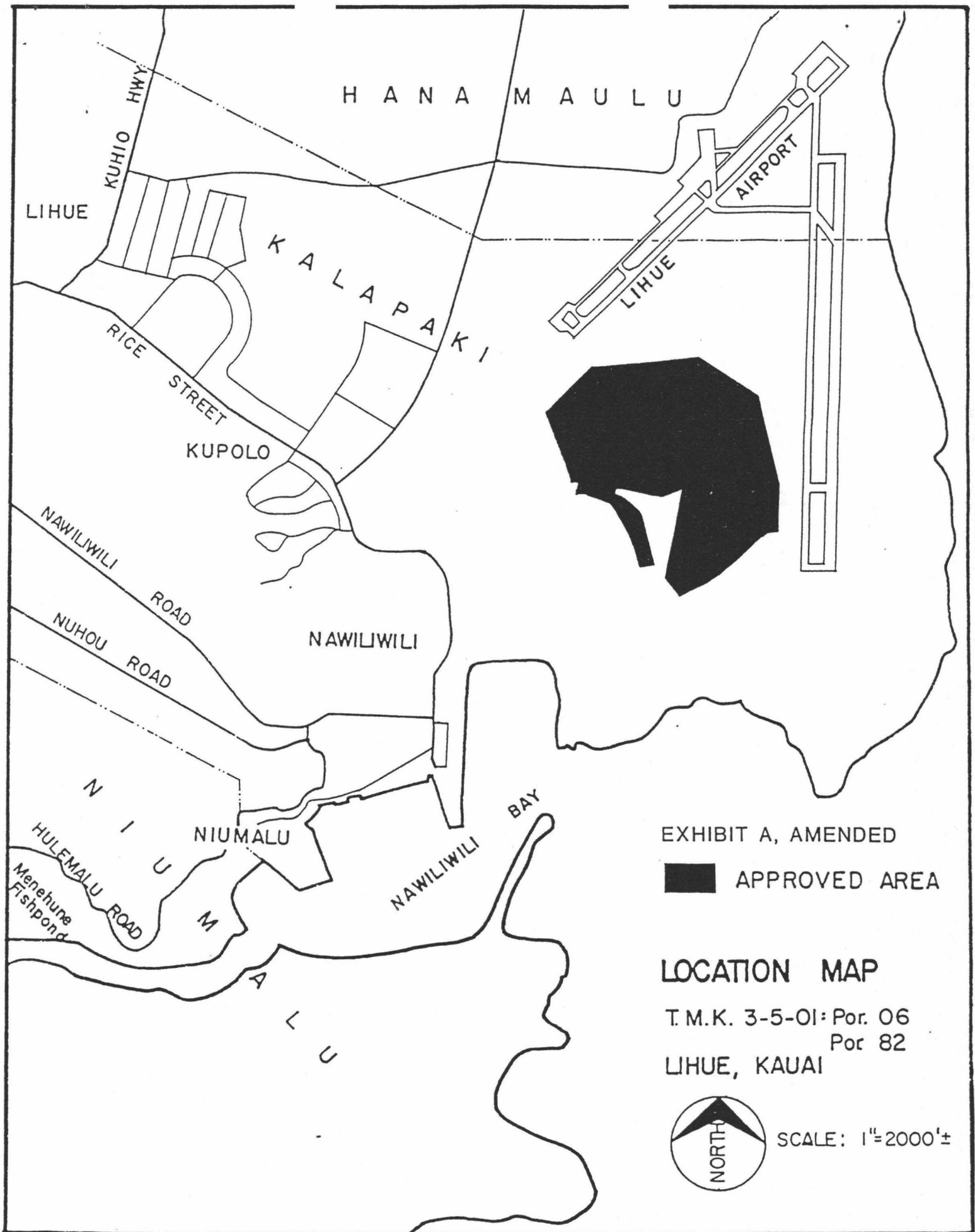


TOM H. SHIGEMOTO  
Planning Director

cc: James Funaki  
Sidney Fuke







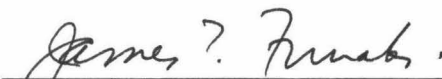
CERTIFICATE OF SERVICE

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

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

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

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

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

STATE OF HAWAII  
LAND USE COMMISSION

Minutes of Meeting

Conference Room  
9th Floor, Kamamalu Building  
250 S. King Street  
Honolulu, Hawaii

*approved  
1/20/88*

January 5, 1988

COMMISSIONERS PRESENT: Teofilo Phil Tacbian, Chairman  
Renton L.K. Nip  
Richard Choy  
Toru Suzuki  
Robert Tamaye  
Lawrence Chun (Portion of Proceedings)  
Everett Cuskaden (Portion of Proceedings)  
Sharon R. Himeno

COMMISSIONERS ABSENT: Frederick P. Whittemore, Vice-Chairman

STAFF PRESENT: Esther Ueda, Executive Officer  
Annette Chock, Esq., Deputy Attorney General  
Raymond Young, Staff Planner  
Darlene Kinoshita, Chief Clerk  
Holly Hackett, Court Reporter

Chairman Tacbian called the meeting to order.

ACTION

SP73-159/MAKOTO NITAHARA dba NANI MAU GARDENS (Hawaii)

Chairman Tacbian announced that the Commission would take action in the matter to allow a transfer of the special permit from Makoto Nitahara dba Nani Mau Gardens, Inc. to Toyama Garden Hawaii Corporation dba Nani Mau Gardens, Inc. and to amend conditions 2 and 3 of the Commission's Decision and Order.

Appearances

Sidney Fuke, Planning Consultant

Richard Jitchaku, Island Representative



Norman Hayashi, Planner, County of Hawaii, Planning Department

Raymond Young, Staff Planner, oriented the Commission to the area being requested for reclassification on the USGS and tax maps and gave a summary report of the special use permit request by Petitioner.

After hearing comments from Petitioner's representative, Sidney Fuke, and Norman Hayashi for the County of Hawaii, questions were asked by the Commissioners.

Commissioner Tacbian moved for an executive session to confer with the Deputy Attorney General regarding legal issues. The motion was seconded by Commissioner Nip and carried unanimously by voice votes.

Commissioner Nip moved to approve SP73-159/Makoto Nitahara dba Nani Mau Gardens, Inc. by allowing a transfer of the special permit from Makoto Nitahara dba Nani Mau Gardens, Inc. to Toyama Garden Hawaii Corporation dba Nani Mau Gardens, Inc. and subject to the following conditions:

1. The applicant, successors or assigns shall be responsible for complying with all of the conditions of approval.
2. Plans for the proposed addition, including parking, shall be submitted to the County Planning Department for Plan Approval review within one year from the effective date of this amendment.
3. Construction of the proposed addition shall commence within one year from the date of receipt of Final Plan Approval and be completed within two years thereafter.
4. A drainage system in accordance with the requirements of the County Department of Public Works shall be installed.
5. All other applicable laws, rules, regulations, and requirements, including those of the State Department of Health, shall be complied with.



6. An annual progress report shall be submitted to the State Land Use Commission, County Planning Commission, and County Planning Department prior to the anniversary date of the approval of this amendment. The report shall address the status of the development and the compliance with the conditions of approval. This condition shall remain in effect until all of the conditions of approval have been complied with and the Planning Director acknowledges that further reports are not required.

7. An extension of time for the performance of conditions within the permit may be granted by the County Planning Director upon the following circumstances: a) the non-performance is the result of conditions that could not have been foreseen or are beyond the control of the applicants, successors or assigns, and that are not the result of their fault or negligence; b) granting of the time extension would not be contrary to the general plan or zoning code; c) granting of the time extensions would not be contrary to the original reasons for the granting of the permit; and d) the time extension granted shall be for a period not to exceed the period originally granted for performance (i.e., a condition to be performed within one year may be extended for up to one additional year). Further, should any of the conditions not be met or substantially complied with in a timely fashion, the Director may initiate procedures to nullify the permit.

8. The applicant may not operate a kitchen or restaurant on the subject premises, but may operate a snack facility during the hours of operation of the commercial arboretum which is subordinate to its commercial arboretum activity provided, however, that it satisfies all applicable County and State sewage, health, drainage, water, and building requirements.

The motion was seconded by Commissioner Suzuki.

The motion to approve the special use permit subject to eight conditions was unanimously carried by the following voice votes:

Ayes: Commissioner Nip, Choy, Suzuki, Cuskaden, Himeno, Tamaye, and Chairman Tacbian



SP87-367/ALLIED HAULING, INC. (Maui)

Chairman Tacbian announced that the Commission will be taking action on this special use permit.

Appearances

Patrick Murakami, Petitioner

Max Graham, Esq., Attorney for M. Funes

Clayton Yoshida, Planner, Planning Dept., County of  
Maui

Raymond Young, Staff Planner, oriented the Commission to the area being requested and gave a summary report of the special use permit request by Petitioner to allow the operation of a rock crushing plant and concrete batching plant on approximately 45.957 acres of land within the Agricultural District at Pulehunui and Waikapu, Wailuku, Maui.

After hearing comments from Petitioner, Patrick Murakami, Max Graham, and Clayton Yoshida, questions were asked by the Commissioners.

Commissioner Suzuki moved to approve SP87-367/Allied Hauling, Inc. to allow the operation of a rock crushing plant and concrete batching plant on approximately 45.957 acres of land within the Agricultural District at Pulehunui, Waikapu, Wailuku, Maui subject to the following conditions:

1. That said operation shall be limited to quarrying, rock crushing, and concrete batching and shall be valid until October 16, 1993, the time when the applicant's land license agreement with the State of Hawaii terminates. Time extensions may be granted upon timely request and favorable review by the Maui Planning Commission and the State Land use Commission.

2. That appropriate measures shall be taken to mitigate potential adverse impacts relative to soil erosion from wind and rain, ambient noise levels, and traffic disruptions.



MINUTES - January 5, 1988

Page 5

3. That full compliance with the requirements of the Department of Public Works in their memo dated November 10, 1987 shall be rendered unless written verification be submitted to the Planning Department that the conditions have been modified or deleted.

4. That the Special Use Permit shall be valid only for the uses as approved and in accordance with plans submitted therein.

5. That the uses or structures allowable by the Special Use Permit shall not be expanded or increased in size or area or changed to another special use, unless so authorized.

6. In the event any historic, archaeological, or cultural sites, remains, artifacts, or resources are discovered, work shall stop and the State Historic Site Office, Department of Land and Natural Resources, the Office of Hawaiian Affairs, and the County Planning Department shall be duly notified to advise of appropriate action.

7. That upon termination of operations depleted and excavated areas shall be graded to blend with the surrounding natural contours and that appropriate vegetative cover consisting of trees, shrubs, and groundcover shall be established.

8. That this permit shall be non transferable (Allied Hauling holding the land license agreement and M. Funes Concrete being the Operator) unless prior approval has been obtained from the Planning Commission, the State Land Use Commission, and the Board of Land and Natural Resources.

9. In the event that any of the conditions of this permit are breached the applicant/permittee shall be served a written notice by the Planning Department or appropriate County enforcement agency and shall be required to cease all operations from and after receipt of said notice of the Planning Commission to address the breach of conditions. If no appeal is duly filed by the applicant, the Planning Commission shall revoke the subject Special Use Permit.

10. That the project shall conform to the requirements



of other Federal, State, and County statutes, ordinances, rules, and regulations or codes.

11. That the special use permit conditions by the Planning Commission be incorporated in the operating agreement with operator, M. Funes Concrete, Inc.

The motion was seconded by Commissioner Nip and unanimously carried by the following voice votes:

Ayes: Commissioner Suzuki, Tamaye, Cuskaden, Nip, Himeno, Choy, and Tacbian.

\* SP86-361/HEMMETER-VMS KAUAI CO.III (Kauai)

Chairman Tacbian announced that the Commission will be taking action on the motion filed by the County of Kauai, Planning Department, to correct the record of the proceedings before the Commission.

Commissioner Himeno had earlier declared a conflict of interest and was excused from the proceedings.

Appearances

James Funaki, Esq., Attorney for Petitioner

Michael Laureta, Planner, Planning Department, County of Kauai

John Anderson, Esq., Deputy Attorney General, Department of Business and Economic Development

After hearing comments from Mr. Funaki, Mr. Laureta, and Mr. Anderson, questions were asked by the Commissioners.

Commissioner Cuskaden moved for an executive session to discuss legal matters with the Deputy Attorney General. The motion was seconded by Commissioner Choy.

Chairman Tacbian ordered that the Petitioner and the County file a formal motion to correct the Decision and Order.



A87-618/ISEMOTO CONTRACTING CO., LTD., SJA PARTNERSHIP, AND  
MARCH E. TAYLOR (Hawaii)

Chairman Tacbian announced that the Commission will act to determine whether the anticipated effects discussed in the Isemoto's Environmental Assessment to reclassify approximately 9.9 acres of land currently in the Conservation District into the Urban District at Honokohau, North Kona, Hawaii, for baseyard and service uses constitute a "significant effect" pursuant to Chapter 343, H.R.S.

Appearances

Sandra Pechter Schutte, Esq., Attorney for Petitioner

Norman Hayashi, Planner, Planning Department, County of Hawaii

John Anderson, Esq., Deputy Attorney General,  
Department of Business and Economic Development

Abe Mitsuda, Land Use Division, Department of Business and Economic Development

EXHIBIT

State's Exhibit No. 1 was admitted into evidence.

Arguments were heard from Sandra Schutte and Abe Mitsuda. After hearing arguments, questions were asked by the Commissioners.

Commissioner Nip moved that Petitioner be required to prepare an environmental impact statement. The motion was seconded by Commissioner Cuskaden.

The Commissioners were then polled as follows on the motion that Petitioner prepare an environmental impact statement:

Ayes: Commissioner Nip, Cuskaden, Himeno, Choy, and Tamaye.

Nays: Commissioner Suzuki and Chairman Tacbian.



The motion was passed and Petitioner was ordered to prepare an environmental impact statement.

A lunch recess was taken at 12:30 p.m. to reconvene at 1:45 p.m.

- 2:00 p.m. -

CONTINUED HEARING

A87-613/THE TRUSTEES UNDER THE WILL AND OF THE ESTATE OF  
JAMES CAMPBELL, DECEASED

This proceeding is a continuation of the hearing which was held on September 29, 1987, September 30, 1987, November 16, 1987, November 17, 1987, December 17, 1987, and December 18, 1987.

Commissioner Cuskaden was absent from the proceeding at this time. Commissioner Chun joined the proceeding at this time and presided over the proceeding for Chairman Tacbian.

Appearances

Ivan Lui-Kwan, Esq., Attorney for Petitioner

Oswald Stender, Petitioner

David Laxson, Esq., Deputy Corporation Counsel, City and County of Honolulu

Betsy Marcinkus, Dept. of General Planning, City and County of Honolulu

John Anderson, Esq., Deputy Attorney General, Department of Business and Economic Development

Abe Mitsuda, Land Use Division, Department of Business and Economic Development

The letter dated December 15, 1987 from Elizabeth Ann Stone was admitted into evidence by the Commission.

EXHIBITS

1. Petitioner's Exhibits A-11, A-12, Addendum to A-12, Z, AA through FF, HH through KK, MM, NN, X-1 through X-15, and S-1 through S-17 were admitted into evidence.

PETITIONER'S WITNESSES

1. Iwao Miyake

Commissioner Choy and Commissioner Nip were absent from the proceeding at this time.

2. Roy Tsutsui

3. Joseph Vierra

At this time, Ivan Lui-Kwan, Attorney for Petitioner, requested a continuance because the Kapolei Task Force report and Mr. Hastert's long range master plan were not completed and Petitioner did not have any further witnesses until these reports were completed. Acting Chairman Chun continued the hearing until January 19, 1988.

MISCELLANEOUS

A85-589/ A & B PROPERTIES, INC.

Walton Hong, Esq., Attorney for Petitioner, and William Campbell, representative of Petitioner, gave the Commission a status report of the petition.

The meeting was adjourned at 4:25 p.m.



STATE OF HAWAII  
LAND USE COMMISSION

NOTIFICATION OF LAND USE COMMISSION MEETING

DATE, TIME AND PLACE

January 5, 1988 - 9:00 a.m.  
and January 6, 1988\*

Conference Room  
9th Floor, Kamamalu Building  
250 South King Street  
Honolulu, Hawaii

1987 DEC 22 PM 2 47  
REC'D. BY  
LI. GOVERNOR'S OFFICE

A G E N D A

I. ACTION

1. SP73-159 - MAKOTO NITAHARA dba NANI MAU GARDENS, INC.  
(Amendment) (Hawaii)

To allow a transfer of the special permit from Makoto Nitahara dba Nani Mau Gardens, Inc. to Toyama Garden Hawaii Corporation dba Nani Mau Gardens, Inc. and to amend conditions 2 and 3 of the Commission's Decision and Order.

2. SP87-367 - ALLIED HAULING, INC. (Maui)

To allow the operation of a rock crushing plant and concrete batching plant on approximately 45.957 acres of land within the Agricultural District at Pulehunui and Waikapu, Wailuku, Maui.

3. ✓ SP86-361 - HEMMETER/VMS KAUAI COMPANY III (Kauai)

Motion to correct the record of the proceedings before the Commission which had provided for the establishment of a second 18-hole golf course, driving range, and miscellaneous accessory uses including carriage paths and landscaping on approximately 200 acres of land within the Agricultural District at Nawiliwili, Lihue, Kauai.



4. A87-618 - ISEMOTO CONTRACTING CO., LTD., S J A  
PARTNERSHIP, AND MARCH E. TAYLOR (Hawaii)

To determine whether the anticipated effects discussed in the Isemoto's Environmental Assessment to reclassify approximately 9.9 acres of land currently in the Conservation District into the Urban District at Honokohau, North Kona, Hawaii, for baseyard and service uses constitute a "significant effect" pursuant to Chapter 343, H.R.S.

## II. CONTINUED HEARING

1. A897-613 - THE TRUSTEE UNDER THE WILL AND OF THE  
ESTATE OF JAMES CAMPBELL, DECEASED (Oahu)

To reclassify approximately 890 acres of land currently in the Agricultural District into the Urban District at Honouliuli, Ewa, Oahu, Hawaii, for a residential and business community.

## III. MISCELLANEOUS

1. Adoption of Decision and Orders
2. Adoption of Minutes
3. Tentative Meeting Schedule
4. Status Report of Project Development in Docket No. A85-589/A & B Properties, Inc.

\*Meeting will continue on January 6, 1988 only if not completed on January 5, 1988.



P-561 708 379

## RECEIPT FOR CERTIFIED MAIL

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

PS Form 3800, June 1985

Sent to	
Tom H. Shigemoto	
Street and No.	
4280 Rice Street	
P.O., State and ZIP Code	
Lihue, HI 96766	
Postage	\$ ,22
Certified Fee	.75
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt showing to whom and Date Delivered	.70
Return Receipt showing to whom, Date, and Address of Delivery	
TOTAL Postage and Fees	\$ 1.67
Postmark or Date	



SP86-361-HEMMETER/VMS KAUI CO. III

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

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



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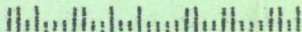
PENALTY FOR PRIVATE  
USE, \$300

RETURN  
TO



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







STATE OF HAWAII  
DEPARTMENT OF BUSINESS  
AND ECONOMIC DEVELOPMENT

• • •  
LAND USE COMMISSION

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

JOHN WAIHEE  
Governor

TEOFILO PHIL TACBIAN  
Chairman

FREDERICK P. WHITEMORE  
Vice Chairman

COMMISSION MEMBERS:

Richard B.F. Choy  
Lawrence F. Chun  
Everett L. Cuskaden  
Sharon R. Himeno  
Toru Suzuki  
Robert S. Tamaye  
Renton L.K. Nip

ESTHER UEDA  
Executive Officer

December 22, 1987

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

Dear Mr. Shigemoto:

Enclosed is a Land Use Commission meeting agenda.

Please note that petition(s)

SP86-361-HEMMETER/VMS KAUAI COMPANY III (Kauai)

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

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

Very truly yours,

ESTHER UEDA  
Executive Officer

Enclosure

P-561 708 380

# RECEIPT FOR CERTIFIED MAIL

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SP86-361 - HEMMETER/VMS KAUAI CO. III

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

S Form 3800, June 1985

Sent to	
James Funaki, Esq.	
Street and No.	
733 Bishop, Ste. 1400	
P.O., State and ZIP Code	
Honolulu, HI 96813	
Postage	\$ .22
Certified Fee	75
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt showing to whom and Date Delivered	.70
Return Receipt showing to whom, Date, and Address of Delivery	
TOTAL Postage and Fees	\$ 1.67
Postmark or Date	



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CERTIFIED MAIL FEE, AND CHARGES FOR ANY SELECTED OPTIONAL SERVICES. (see front)**

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2. If you do not want this receipt postmarked, stick the gummed stub to the right of the return address of the article, date, detach and retain the receipt, and mail the article.
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4. If you want delivery restricted to the addressee, or to an authorized agent of the addressee, endorse **RESTRICTED DELIVERY** on the front of the article.
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PENALTY FOR PRIVATE  
USE, \$300

RETURN  
TO



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

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STATE OF HAWAII  
DEPARTMENT OF BUSINESS  
AND ECONOMIC DEVELOPMENT

LAND USE COMMISSION

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

JOHN WAIHEE  
Governor

TEOFILO PHIL TACBIAN  
Chairman

FREDERICK P. WHITEMORE  
Vice Chairman

COMMISSION MEMBERS:

Richard B.F. Choy  
Lawrence F. Chun  
Everett L. Cuskaden  
Sharon R. Himeno  
Toru Suzuki  
Robert S. Tamaye  
Renton L.K. Nip

ESTHER UEDA  
Executive Officer

December 22, 1987

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

Dear Mr. Funaki:

Enclosed is a Land Use Commission meeting agenda.

Please note that petition(s)

SP86-361 - HEMMETER/VMS KAUAI COMPANY III (Kauai)  
will be acted on at that time. We request that you or  
your representative attend this meeting.

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

Very truly yours,

ESTHER UEDA  
Executive Officer

Enclosure

P-561 708 412

# RECEIPT FOR CERTIFIED MAIL

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(See Reverse)

Sent to

Sidney Fuke

Street and No.

100 Pauahi St.

P.O. Box and ZIP Code

Hilo, HI 96720

Postage

S

.56

Certified Fee

.75

Special Delivery Fee

Restricted Delivery Fee

Return Receipt sent to whom and for what purpose

.70

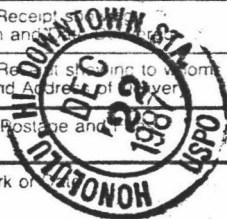
Return Receipt sent to whom Date, and Address of sender

TOTAL Postage and Fees

S

2.01

Postmark or meter number



PS 73806-159-MAKOTO NITAHARA S.G. P. 86-50361  
HEMMETER/VMS KAUI CO. III







STATE OF HAWAII  
DEPARTMENT OF BUSINESS  
AND ECONOMIC DEVELOPMENT

• • •  
LAND USE COMMISSION

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Honolulu, Hawaii 96813 Telephone: 548-4611

JOHN WAIHEE  
Governor

TEOFILO PHIL TACBIAN  
Chairman

FREDERICK P. WHITEMORE  
Vice Chairman

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Lawrence F. Chun  
Everett L. Cuskaden  
Sharon R. Himeno  
Toru Suzuki  
Robert S. Tamaye  
Renton L.K. Nip

ESTHER UEDA  
Executive Officer

December 22, 1987

Mr. Sidney Fuke  
100 Pauahi Street  
Suite 212  
Hilo, Hawaii 96720

Dear Mr. Fuke:

Enclosed is a Land Use Commission meeting agenda.

Please note that petition(s)

SP86-361 - HEMMETER/VMS KAUAI COMPANY III (Kauai)

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

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

Very truly yours,

ESTHER UEDA  
Executive Officer

Enclosure

TONY T. KUNIMURA  
MAYOR



TOM H. SHIGEMOTO  
PLANNING DIRECTOR

TELEPHONE (808) 245-3919

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

November 27, 1987

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

RECEIVED  
STATE LAND USE COMMISSION  
NOV 30 1 07 PM '87

Subject: Clarification of Special Permit SP-87-3 (SP87-361)  
Hemmeter/VMS Kauai Company III  
TMK: 3-5-01: Por. 6 Nawiliwili, Kauai

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

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

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

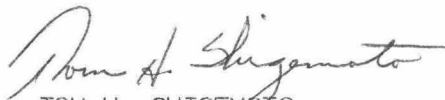
12/2/87  
LUC

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

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

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

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



TOM H. SHIGEMOTO  
Planning Director

cc: James Funaki  
Sidney Fuke

JOHN WAIHEE  
GOVERNOR



SUZANNE D. PETERSON  
CHAIRPERSON, BOARD OF AGRICULTURE

TADASHI TOJO  
DEPUTY TO THE CHAIRPERSON

State of Hawaii  
DEPARTMENT OF AGRICULTURE  
1428 So. King Street  
Honolulu, Hawaii 96814-2512

Mailing Address:  
P. O. Box 22159  
Honolulu, Hawaii 96822-0159

July 13, 1987

MEMORANDUM

To: Mr. Avery H. Youn, Director  
Planning Department  
County of Kauai

Subject: Zoning Permit (Z-IV-87-59)  
Use Permit (U-87-47)  
Special Management Area Permit (SMA-U-87-17)  
Special Permit (SP-87-15)  
Hemmeter/VMS Kauai Properties  
Hotel and related facilities  
TMK: 3-5-01: por. 6, por. 82  
Area: 27.295 acres

JUL 16 2 32 PM '87  
LAND USE COMMISSION  
STATE OF HAWAII

The Department of Agriculture has reviewed the subject applications and offers the following comments.

Our comments pertain to the area and uses that are the subject of the Special Permit (SP) application.

According to Figure II-1 and page 8 of the Planning and Engineering Report (May 1987), the applicant proposes to construct parking, a porte cochere, hotel office, and portions of the lobby and specialty restaurant. These proposed uses are directly related to the proposed hotel and other uses in the Urban District situated immediately to the south. The Lihue Airport is situated immediately to the east.

The Report states that the subject site is vacant and uncultivated but also comprised of agriculturally-suitable soils (Report, page 57). The subject site is approximately one-quarter mile south of a 200-acre site that was the subject of an earlier and separate SP application (County Special Permit SP-86-18) for a second golf course and driving range. We submitted comment on the latter SP (see attached copy of our memorandum to Mr. Thomas P. Contrades, dated October 3, 1986) with the following concern:

"In general, this Department's position is to discourage approval of special permits for large-scale uses of an urban nature which should more properly be classified in the State Urban district. A related concern is that a

8/4/87  
LUC

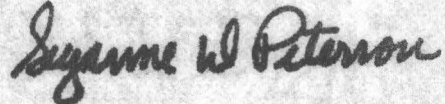


Mr. Avery H. Youn  
July 13, 1987  
Page -2-

special permit application should not be used as a "foot in the door" to gain accelerated consideration of a subsequent boundary amendment petition. Conversion of large tracts of prime agricultural land to non-agricultural use should be carefully evaluated in accordance with the established procedures and policy guidelines provided for in the land use district boundary amendment process."

Inasmuch as the subject application is inextricably related to the proposed 750-room hotel in the Urban District, our comments on the aforementioned earlier SP-86-18 remain applicable to the subject application.

Thank you for the opportunity to comment.



SUZANNE D. PETERSON  
Chairperson, Board of Agriculture

Attachment

cc: ✓LUC  
DBED

October 3, 1986

MEMORANDUM

To: Mr. Thomas P. Contrades, Chairman  
Kauai Planning Commission

Subject: Special Permit for Second Golf Course and Driving  
Range Hemmeter/VMS Kauai Company III  
TMK: 3-5-01: Por. 6 Nawiliwili, Kauai  
Acres: Approximately 200

JUL 16 2 32 PM '87  
LAND USE COMMISSION  
STATE OF HAWAII

The Department of Agriculture received on September 29, 1986, a Notice of Continuation of Public Hearing for the subject application, and offers the following comments.

We understand that a special permit for an existing golf course and related uses (SP86-360) was approved by the State Land Use Commission on September 23, 1986, at which time the County of Kauai was requested to inform agencies such as ours of the time and place of subsequent special permit hearings, in accordance with Section 205-6, Hawaii Revised Statutes.

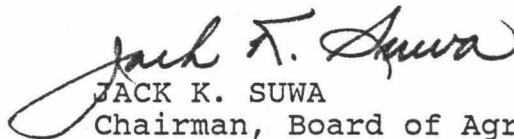
Inasmuch as the continued hearing for the subject application will take place on October 8, 1986, we have had no opportunity to review the application and plans for the proposed development, which in any case have not been forwarded to us. However, we do understand that the major portion of the subject property is Class B land (as classified by the Land Study Bureau) in sugarcane production by Lihue Plantation, and is also used for disposal of mill waste water. We understand that there may be reasons to preserve the site (situated between the two runways of Lihue Airport) as open space in the State Agricultural District, while allowing the golf course by special permit.

In general, this Department's position is to discourage approval of special permits for large-scale uses of an urban nature which should more properly be classified in the State Urban District. A related concern is that a special permit application should not be used as a "foot in the door" to gain accelerated consideration of a subsequent boundary amendment petition. Conversion of large tracts of prime agricultural land to non-agricultural use should be carefully evaluated in accordance with the established procedures and policy guidelines

Mr. Thomas P. Contrades  
October 3, 1986  
Page 2

provided for in the land use district boundary amendment process.

In the absence of any documented substantive information on the present application, we cannot comment further at this time. We understand that the Kauai Planning Department is working out procedures whereby, in the future, we will be provided with copies of special permit applications in a timely manner for comment prior to the public hearing. We would welcome the opportunity to work more closely with the County of Kauai on land use matters of mutual concern.

  
JACK K. SUWA  
Chairman, Board of Agriculture

cc: LUC  
DPED  
Kauai Planning Department



LAND USE COMMISSION

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

JOHN WAIHEE  
Governor

TEOFILO PHIL TACBIAN  
Chairman

FREDERICK P. WHITEMORE  
Vice Chairman

COMMISSION MEMBERS:

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

ESTHER UEDA  
Executive Officer

January 21, 1987

NOTIFICATION OF BOUNDARY AMENDMENT  
DECISIONS BY STATE LAND USE COMMISSION

To all concerned agencies:

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

<u>Petition Docket No.</u>	<u>Boundary Amendment Requested</u>	<u>LUC Action on November 18, 1986</u>	<u>DATE OF DECISION AND ORDER</u>
✓ SP86-361 HEMMETER/ VMS KAUAI COMPANY III	For a Special Use Permit to Establish a Second 18-Hole Golf Course with Ponds, a Driving Range and Misc. Accessory Uses Including Carriage Paths and Landscaping on Approximately 200 Acres of Land Situate within the Agricultural District at Nawiliwili, Lihue, Kauai	Approved special permit for 200 acres at Nawiliwili, Lihue, Kauai, TMK: 3-5-01: portion of parcel 6 and portion of parcel 82 (see map attached)	Jan. 7, 1987
A80-487 LONE STAR HAWAII, INC.	To reclassify approximately 37.8 acres from Conservation to Urban at Kailua, Koolaulupoko, Oahu, Hawaii	<u>LUC Action on December 2, 1986</u> Approved approximately 37.8 acres at Kailua, Koolaulupoko, Oahu, Hawaii, TMK: 4-2-04: portion of 1, portion of 15, and portion of 23 (see map attached)	Jan. 16, 1987

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

Sincerely,

ESTHER UEDA  
Executive Officer

EU:to  
Att.



NOTIFICATION OF BOUNDARY AMENDMENT DECISIONS BY LUC

Concerned Agencies

State (all petitions)

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

City & County of Honolulu (Oahu petitions only)

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

Hawaii County (Hawaii petitions only)

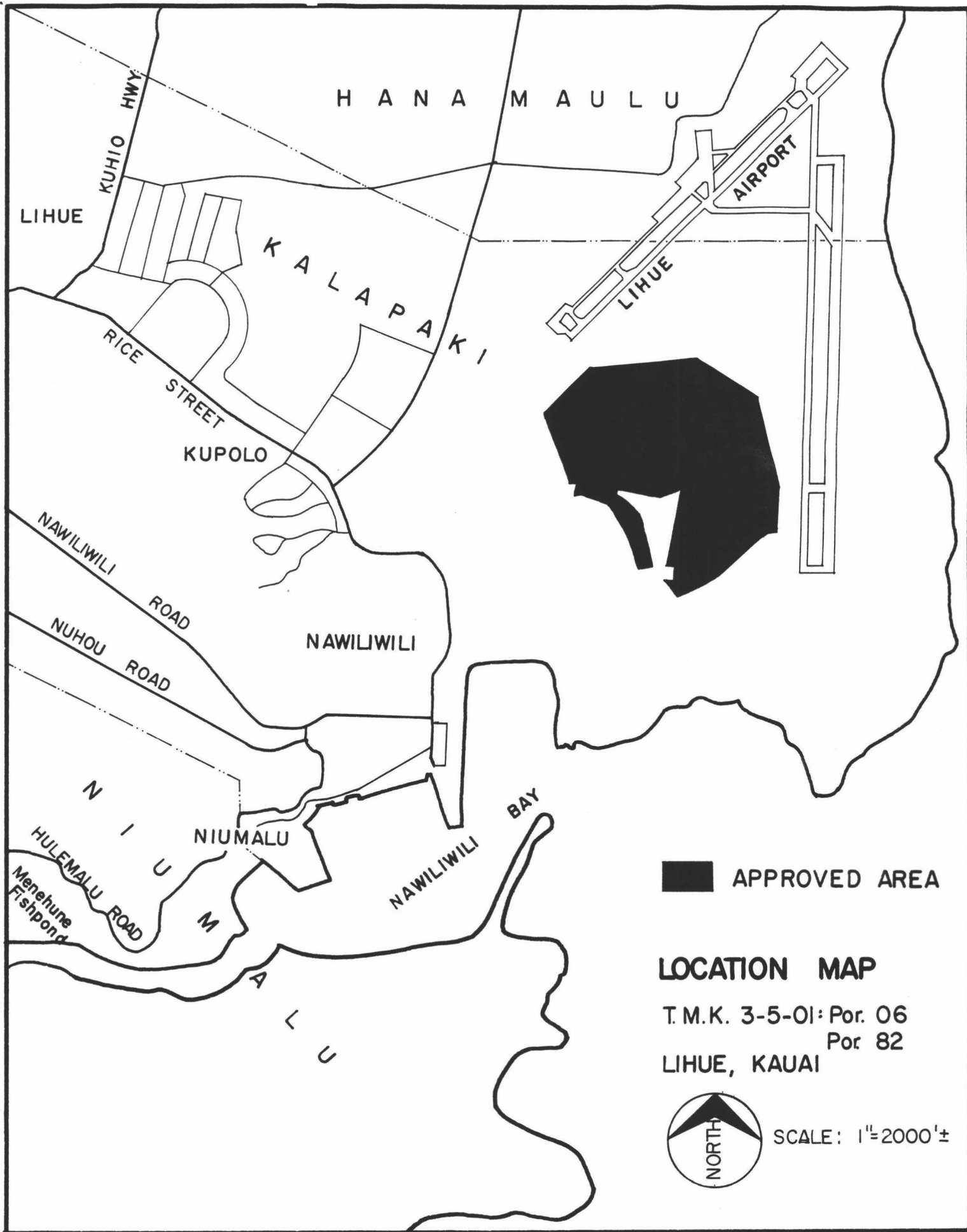
1. Dept. of Planning - Director
2. Planning Commission - Chairman
3. Dept. of Water Supply
4. Dept. of Public Works
5. Real Property Tax Office

Maui County (Maui petitions only)

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

Kauai County (Kauai petitions only)

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



BEFORE THE STATE LAND USE COMMISSION

STATE OF HAWAII

In the Matter of the Petition of )

HEMMETER/VMS KAUAI COMPANY III )

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

DOCKET NO: SP86-361

HEMMETER/VMS KAUAI  
COMPANY III

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

1/07/87

Date

by

*Robert L. Ladd*  
Executive Officer

FINDINGS OF FACT, CONCLUSIONS  
OF LAW AND DECISION AND ORDER

JAN 7 1 47 PM '87  
LAND USE COMMISSION  
STATE OF HAWAII

BEFORE THE STATE LAND USE COMMISSION

STATE OF HAWAII

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

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FINDINGS OF FACT, CONCLUSIONS  
OF LAW AND DECISION AND ORDER

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

FINDINGS OF FACT

GENERAL DESCRIPTION

1. The Commission received the Special Use Permit request and record of the County of Kauai Planning Department on October 16, 1986.



2. Under the Special Use Permit, Petitioner proposes to establish a second 18-hole golf course, driving range, and miscellaneous accessory uses including carriage paths and landscaping (hereinafter the "Project") on approximately 200 acres of land situate within the State Land Use Agricultural District in Nawiliwili, Lihue, Island of Kauai.

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

4. Petitioner's proposed Project is part of the Westin Kauai Resort's plans to enhance the amenities available to the guests of the resort and the future 750-room hotel.

The proposed Project is an addition to the uses approved by the Commission in Docket No. SP86-360/Hemmeter/VMS Kauai Company III by Order filed on October 27, 1986, which allowed the redesign of the existing golf course and the establishment of a new driving range, golf clubhouse, waterways and boat docks, parking, public access and other miscellaneous uses on approximately 310 acres of land situate south of the Property.

5. The Property is used primarily for sugarcane cultivation. A small portion to the south is currently in golf course use as approved under Special Use Permit Docket Number SP70-77 filed by Amfac Properties.

6. Access to the Property will be shared with access to the Westin Kauai which is currently provided from Rice Street.

7. Hemmeter/VMS Kauai Company I, an affiliate of Petitioner owns Parcel 82. The Lihue Plantation Company owns parcel 6.

8. The Lihue Plantation Company, by letter dated August 8, 1986, authorized Petitioner to file this petition.

Summary of Environmental and Resource Related Concerns

9. The Property contains a combination of Lihue Silty Clay and Lihue Gravelly Silty Clay soils.

10. The Property is classified as "Prime Agricultural Land" according to the Department of Agricultural Lands of Importance to the State of Hawaii Classification system.

11. The Property is rated Master Productivity Rating B according to the Land Study Bureau.

12. The County sewage treatment plant, located to the north-northwest of the resort, emits noxious gas by-products and may impact portions of the proposed Project during limited and unusual wind conditions.

13. The County Public Works Department stated that potential problems may arise regarding the compatibility of the Lihue Sewage Treatment Plant with increased public access; that Petitioner resolve problems created by the withdrawal of cane lands currently used for effluent disposal, for golf course use; and that Petitioner retain or relocate an existing ditch

easement that runs from the sewage treatment plant to the ocean for emergency sewage outfall.

14. The State Department of Health stated its concerns that Petitioner should implement its agreement with Lihue Plantation Company to modify its mill wastewater disposal system in order to mitigate problems of water pollution and mosquito infestation associated with the existing method of disposing mill wastewater on the lower Lihue Plantation fields including the Property.

15. The State Department of Agriculture (DOA) stated that with respect to that portion of the Property currently in cane cultivation, the DOA's position is to discourage approval of special permits for large-scale uses of an urban nature which should more properly be classified in the State Urban District.

16. A noise study prepared by Darby and Associates in 1985 indicated that small portions of the northern part of the Property lie within the 60 Ldn and greater.

Petitioner states that 60 Ldn is an acceptable noise level for golf course use, and that the existing noise conditions will have no significant impact upon the golf course therefore no mitigation measures appear necessary.

#### Public Services and Facilities

17. Petitioner and Lihue Plantation Company proposes to expend approximately \$3.6 million in improvements to the existing mill wastewater disposal system to discontinue the use

of the lower cane fields for wastewater disposal. Petitioner projects the proposed improvements will be operational by March, 1987.

18. Petitioner proposes to drill wells for golf course irrigation to supplement use of sewage effluent in the primary irrigation system. At least one of the wells drilled will be for both withdrawal and injection of excess effluent.

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

20. Petitioner anticipates that all other public services such as potable water, energy and communication, sewage and solid waste disposal, police and fire protection will be adequate or can be upgraded, without significant adverse impacts, to serve the Property.

#### Conformance to Special Permit Guidelines

21. The withdrawal of the Property from sugar cane cultivation is considered a minor portion of Lihue Plantation's land holdings and will have minimal impacts to their agricultural operations and will not be contrary to the Land Use Law.

22. The proposed Project would not generate excessive noise, odors, emissions or traffic and will not adversely impact upon lands surrounding the Property.



23. The proposed Project will not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage and school improvements, and police and fire protection. All public service functions are available and where they are not, improvements will be made by the Petitioner, as required by the appropriate government agencies.

24. Unusual conditions, trends, and needs have arisen since the district boundaries and regulations were established. The proposed second golf course is an extension of the primary hotel/resort function of the overall Property, and functionally more a part of that than an agricultural activity.

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

26. On October 8, 1986, the County Planning Commission recommended that the subject special use permit be approved subject to the following conditions:

- "1. Requirements and concerns of the State Health Department, County Public Works, Water and Fire Departments shall be met and resolved with the respective agencies.
2. Applicant shall apply for the necessary permits to establish such use within one (1) year from the date of Land Use Commission review and approval, and complete construction of the golf course within three (3) years from the date of Land Use Commission review and approval.

3. The Planning Commission may impose additional conditions, restrictions, or requirements on the permits approved herein should unanticipated or unforeseen circumstances arise which require such additional conditions to insure compliance with the standards contained in the Comprehensive Zoning Ordinance or the State Land Use District Rules and Regulations."

#### CONCLUSIONS OF LAW

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

#### ORDER

IT IS HEREBY ORDERED that Special Permit Docket Number 86-361 to establish a second 18-hole golf course, driving range and miscellaneous accessory uses including carriage paths and landscaping, on approximately 200 acres of land situate within the State Land Use Agricultural District at Nawiliwili, Lihue, Island of Kauai, Tax Map Key Number 3-5-01: portion of parcel 6 and portion of parcel 82 and approximately identified on Exhibit A attached hereto and incorporated by reference herein be approved subject to the following conditions:

1. Requirements and concerns of the State Health Department, County Public Works, Water and Fire Departments shall be met and resolved with the respective agencies.

2. Petitioner may not apply for the necessary permits to establish such use until after the Kauai County Council enacts an appropriate zoning ordinance permitting construction of the proposed 750-room hotel adjacent to Kukii Point and shall complete construction of the golf course within three (3) years after the County Council's enactment of such zoning ordinance.

3. The Planning Commission may impose additional conditions, restrictions, or requirements on the permits approved herein should unanticipated or unforeseen circumstances arise which require such additional conditions to insure compliance with the standards contained in the Comprehensive Zoning Ordinance or the State Land Use District Rules and Regulations.

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

Done at Honolulu, Hawaii, this 7th day of January 1987,  
per motions on November 18, 1986 and December 16, 1986.

LAND USE COMMISSION  
STATE OF HAWAII

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

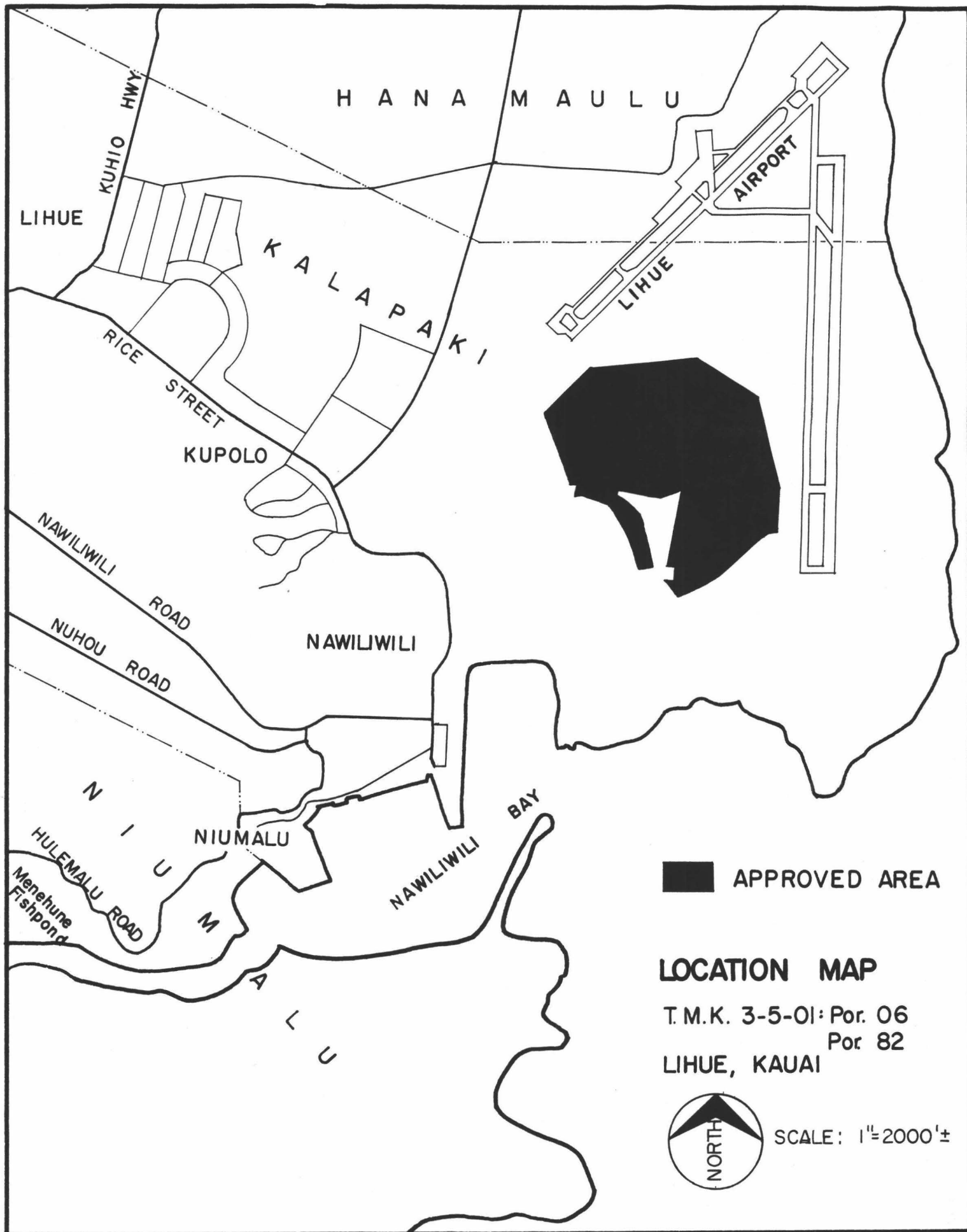
By *Frederick P. Whittemore*  
FREDERICK P. WHITTEMORE  
Vice Chairman and Commissioner

By *Toru Suzuki*  
TORU SUZUKI  
Commissioner

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

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





P 124 044 373

# RECEIPT FOR CERTIFIED MAIL

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SP86-361/Hemmeter/VMS Kauai Company III

★ U.S.G.P.O. 1984-446-014

PS Form 3800, Feb. 1982

Sent to Henry Shigekane, Esq.	
Street and No.	
P.O., State and ZIP Code	
Postage	\$ .56
Certified Fee	.75
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt Showing to whom and Date Delivered	.70
Return receipt showing to whom, Date, and Address of Delivery	
TOTAL Postage and Fees	\$ 2.01
Postmark or Date	



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2. If you do not want this receipt postmarked, stick the gummed stub on the left portion of the address side of the article, date, detach and retain the receipt, and mail the article.
3. If you want a return receipt, write the certified mail number and your name and address on a return receipt card, Form 3811, and attach it to the front of the article by means of the gummed ends if space permits. Otherwise, affix to back of article. Endorse front of article. **RETURN RECEIPT REQUESTED** adjacent to the number.
4. If you want delivery restricted to the addressee, or to an authorized agent of the addressee, endorse **RESTRICTED DELIVERY** on the front of the article.
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1. ☐ Show to whom, date and address of delivery.
2. ☐ Restricted Delivery.

3. Article Addressed to:

Henry Shigekane, Esq.

4. Type of Service:

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

Article Number

P 124 044 373

Always obtain signature of addressee or agent and DATE DELIVERED.

5. Signature - Addressee

X

6. Signature - Agent

X

7. Date of Delivery

JAN - 8 1987

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

**UNITED STATES POSTAL SERVICE**

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**RETURN  
TO**



\_\_\_\_\_  
(Name of Sender)

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

**State of Hawaii**  
**LAND USE COMMISSION**

\_\_\_\_\_  
(City, State, and ZIP Code)

**Room 104, Old Federal Building**

**335 Merchant Street**

**Honolulu, Hawaii 96813**



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



P 124 044 372

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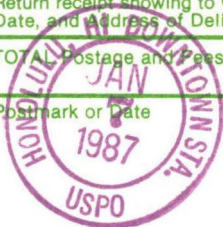
(See Reverse)

SP86-361/Hemmeter/VMS Kauai Company III

★ U.S.G.P.O. 1984-446-014

PS Form 3800, Feb. 1982

Sent to		Avery Youn
Street and No.		
P.O., State and ZIP Code		
Postage	\$	.56
Certified Fee		.75
Special Delivery Fee		
Restricted Delivery Fee		
Return Receipt Showing to whom and Date Delivered		.70
Return receipt showing to whom, Date, and Address of Delivery		
TOTAL Postage and Fees	\$	2.01
Postmark or Date		



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

3. Article Addressed to:

Avery Youn

4. Type of Service:

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

Article Number

P 124 044 372

Always obtain signature of addressee or agent and DATE DELIVERED.

5. Signature — Addressee

X

6. Signature — Agent

X

7. Date of Delivery

1/8/87

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

**UNITED STATES POSTAL SERVICE**

**OFFICIAL BUSINESS**

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TO**



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(Name of Sender)

\_\_\_\_\_  
State of HI (No. and Street, Apt., Suite, P.O. Box or R.D. No.)

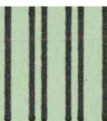
**LAND USE COMMISSION**

\_\_\_\_\_  
(City, State, and ZIP Code)

Room 104, Old Federal Building

335 Merchant Street

Honolulu, Hawaii 96813



PENALTY FOR PRIVATE  
USE, \$300

BEFORE THE LAND USE COMMISSION  
OF THE STATE OF HAWAII

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

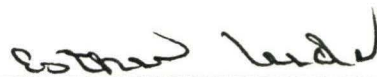
CERTIFICATE OF SERVICE

I hereby certify that a copy of the Land Use Commission Decision and Order was served upon the following by either hand delivery or depositing the same in the U.S. Postal Service by certified mail:

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

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

DATED: Honolulu, Hawaii, this 7th day of January 1987.



ESTHER UEDA  
Executive Officer



P 601 826 207

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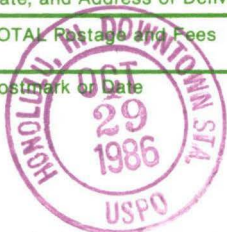
SP86-361 Hemmeter/VMS Kauai Co. III

★ U.S.G.P.O. 1982-403517

PS Form 3800, Feb. 1982

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

Postmark or Date



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3. Article Addressed to:

Henry Shigekane

4. Type of Service:

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

Article Number

P 601 826 207

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5. Signature - Addressee

X

6. Signature - Agent

X

7. Date of Delivery

OCT 30 1986

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

PS Form 3811, July 1983 147-845

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TO**



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(Name of Sender)

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

\_\_\_\_\_  
(City, State, and ZIP Code)

State of Hawaii  
**LAND USE COMMISSION**

Room 104, Old Federal Building

335 Merchant Street

Honolulu, Hawaii 96813



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

P 601 826 206

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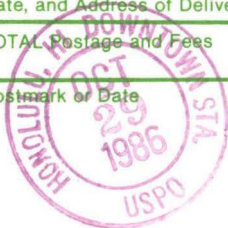
(See Reverse)

SP86-361 HEMMETER/VMS KAUI CO. III

★ U.S.G.P.O. 1983-403-517

PS Form 3800, Feb. 1982

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





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2. ☐ Restricted Delivery.

**3. Article Addressed to:**

Avery Youn

**4. Type of Service:**

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

**Article Number**

P 601 826 206

Always obtain signature of addressee or agent and  
**DATE DELIVERED.**

**5. Signature - Addressee**

X

**6. Signature - Agent**

X

**7. Date of Delivery**

10/30/85

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

**UNITED STATES POSTAL SERVICE**  
**OFFICIAL BUSINESS**

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- Attach to front of article if space permits, otherwise affix to back of article.
- Endorse article "Return Receipt Requested" adjacent to number.

**RETURN  
TO**



\_\_\_\_\_  
(Name of Sender)

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

\_\_\_\_\_  
(City, State, and ZIP Code)

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



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

BEFORE THE LAND USE COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Special Permit of	)	Docket No. SP86-361
HEMMETER/VMS KAUAI COMPANY III	)	
To Allow the Establishment of a Second	)	HEMMETER/VMS KAUAI
18-hole Golf Course with Ponds, a	)	COMPANY III
Driving Range and Miscellaneous	)	
Accessory Uses Including Carriage Paths	)	
and Landscaping on Approximately 200	)	
Acres of Land Within the Agricultural	)	
District at Nawiliwili, Lihue, Kauai	)	
	)	

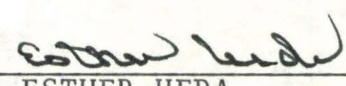
CERTIFICATE OF SERVICE

I hereby certify that a copy of the Agenda of the Land Use Commission meeting of November 18, 1986 was served upon the following by either hand delivery or depositing the same in the U.S. Postal Service by certified mail:

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

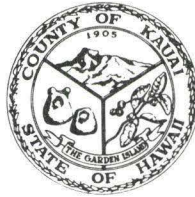
✓ HENRY SHIGEKANE, Esq., Attorney for Petitioner  
Hemmeter/VMS Kauai Company III  
2424 Kalakaua Ave.  
Honolulu, HI 96815

Dated: Honolulu, Hawaii, this 29th day of October, 1986.

  
\_\_\_\_\_  
ESTHER UEDA  
Executive Officer



TONY T. KUNIMURA  
MAYOR



AVERY H. YOUN  
PLANNING DIRECTOR

TOM H. SHIGEMOTO  
DEPUTY PLANNING DIRECTOR

TELEPHONE (808) 245-3919

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

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

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

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

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

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

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

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

Michael Laureta  
Planner

cc Jim Bell



STATE OF HAWAII  
LAND USE COMMISSION

Minutes of Meeting

Lihue Plantation Conference Room  
2970 Kele Street  
Lihue, Kauai

November 18, 1986

COMMISSIONERS PRESENT: Teofilo Phil Tacbian, Chairman  
Frederick Whittemore, Vice-Chairman  
Robert Tamaye  
Toru Suzuki  
William Yuen  
Everett Cuskaden  
Richard Choy

COMMISSIONERS ABSENT: Lawrence Chun  
Winona Rubin

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

Jean Marie McManus, Court Reporter

Chairman Tacbian called the meeting to order.

CONTINUED HEARING

A6-604 - OKADA TRUCKING COMPANY, LTD. (Kauai)

It was announced by Chairman Tacbian that the present matter before the Commission was a continuation of the hearing which had begun on September 3, 1986.

The Petitioner filed a motion for withdrawal of their petition on November 12, 1986. Petitioner was not present to the proceeding. Commissioner Whittemore moved for approval of the motion for withdrawal on the petition. It was seconded by Commissioner Cuskaden.

Commissioner Yuen moved to go into Executive Session to confer with the Deputy Attorney General for legal advice. It was seconded by Commissioner Cuskaden and unanimously carried by voice vote.

After the Executive Session the Commission unanimously approved the withdrawal of the petition.

ACTION

\* SP86-361 - HEMMETER/VMS KAUAI CO. III (Kauai)

Ray Young, staff planner, gave a summary report of the special use permit request by Petition to allow "the establishment of a second 18-hole golf course with ponds, a driving range and miscellaneous accessory uses including carriage paths and landscaping on approximately 200 acres of land within the Agricultural District at Nawiliwili, Lihue, Kauai.

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

Commissioner Whittemore moved for approval of Docket No. SP 86-361, Hemmeter VMS/Kauai Co. III to allow the establishment of a second 18-hole golf course with ponds, driving range and miscellaneous accessory uses, including carriage paths and landscaping of approximately 200 acres of land within the Agricultural District at Nawiliwili, Lihue, Kauai, subject to the following conditions.

1. Requirements and concerns of the State Health Department, County Public Works, Water and Fire Departments shall be met and resolved with the respective agencies.
2. Applicant shall apply for the necessary permits to establish such use within one year from the date of Land Use Commission review and approval, and complete construction of the golf course within three years from the date of Land Use Commission review and approval.
3. The Planning Commission of the County of Kauai may impose additional conditions, restrictions or requirements on the permits approved herein should unanticipated or unforeseen circumstances arise which require such additional conditions to insure compliance with the standards contained in the Comprehensive Zoning Ordinance of the State Land Use District Rules and Regulations.

4. This entire motion is subject to County Council zoning approval of the 750-room hotel.

The motion was seconded by Commissioner Tamaye.

Commissioner Cuskaden moved to go into executive session to consult with the Deputy Attorney General as to the appropriateness of condition number 4. The motion was seconded by Commissioner Choy and unanimously carried by voice vote.

Commissioner Yuen moved to amend two conditions. He moved to delete condition number 4 and amend condition number 2 as follows: "Applicant shall not apply for a necessary permit to establish such use until after the County of Kauai has enacted a zoning ordinance permitting construction of the proposed 750-room hotel at Kukii Point, and shall complete construction of the golf course within three years after the County's enactment of such zoning ordinance. The motion was seconded by Commission Tamaye.

The motion to delete condition number 4 and amend condition number 2 was unanimously carried by voice votes.

The motion to approve the petition subject to three conditions as amended was passed by the following votes:

Ayes: Commissioner Whittemore, Yuen, Tamaye, Suzuki, and Chairman Tacbian.

Nays: Commissioner Cuskaden and Choy.

#### MISCELLANEOUS:

The Commission ruled that ~~an~~ order to show cause proceeding be held on Docket No. A81-514/Pukalani Heights Associates.

The meeting was adjourned at 11:34 a.m.



STATE OF HAWAII  
LAND USE COMMISSION

VOTE RECORD

ITEM SP86-361 Hemmeter/VMS Kauai Co. III DATE November 18, 1986  
 PLACE Lihue Plantation Conf. Room  
2790 Kele Street TIME 9:30 a.m.  
Lihue, HI

	NAME	YES	NO	ABSTAIN	ABSENT
M	WHITTEMORE, FREDERICK	X			
	CHUN, LAWRENCE F.				X
M*	YUEN, WILLIAM W. L.	X			
S	TAMAYE, ROBERT S.	X			
S*	SUZUKI, TORU	X			
	CUSKADEN, EVERETT L.		X		
	CHOY, RICHARD B. F.		X		
	RUBIN, WINONA E.				X
	TACBIAN, TEOFILO PHIL	X			

Comments:

Commissioner Whittemore moved to approve SP86-361, Hemmeter/VMS Kauai Co. III subject to the following conditions. Commissioner Yuen moved to amend two conditions. Delete condition number 4 and amend condition number 2. This motion was seconded by Commissioner Tamaye.

The motion to approve the petition subject to three conditions as amended was passed by the above votes. (See transcript for conditions.)

STATE OF HAWAII  
LAND USE COMMISSION

NOTIFICATION OF LAND USE COMMISSION MEETING

DATE, TIME AND PLACE

November 18, 1986 - 9:30 a.m.  
and November 19, 1986\*

Lihue Plantation Conference Room  
2970 Kele Street  
Lihue, Kauai

A G E N D A

REC'D. BY

1986 OCT 29 PM 3 05

LI. GOVERNOR'S OFFICE

I. ACTION

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

To allow the establishment of a second 18-hole golf course with ponds, a driving range and miscellaneous accessory uses including carriage paths and landscaping on approximately 200 acres of land within the Agricultural District at Nawiliwili, Lihue, Kauai.

II. CONTINUED HEARING

1. A86-604 - OKADA TRUCKING COMPANY, LTD. (Kauai)

To reclassify approximately 40.55 acres of land currently in the Agricultural District into the Urban District at Niumalu, Lihue, Kauai, for residential use.

III. MISCELLANEOUS

1. Adoption of Minutes
2. Tentative Meeting Schedule

\*Meeting will continue on November 19, 1986 only if not completed on November 18, 1986.





STATE OF HAWAII  
DEPARTMENT OF PLANNING  
AND ECONOMIC DEVELOPMENT

LAND USE COMMISSION

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

GEORGE R. ARIYOSHI  
Governor

TEOFILO PHIL TACBIAN  
Chairman

FREDERICK P. WHITEMORE  
Vice Chairman

COMMISSION MEMBERS:

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

ESTHER UEDA  
Executive Officer

October 27, 1986

MEMORANDUM

TO: Land Use Commissioners

FROM: Staff

SUBJECT: Special Permit SP86-361/Hemmeter/VMS Kauai  
Company III

General Description

Hemmeter/VMS Kauai Company III is requesting a Special Use Permit to allow the establishment of a second 18-hole golf course with ponds, a driving range and miscellaneous accessory uses including carriage paths and landscaping on approximately 200 acres of land classified by the Land Study Bureau Master Productivity Rating as "B" within the State Land Use Agricultural District in Nawiliwili, Island of Kauai, Tax Map Key Numbers: 3-5-01: portion of parcel 6 and portion of parcel 82 (hereinafter the "Property").

Petitioner's request for the proposed uses will be part of the Westin Kauai Resort's plans to enhance the amenities available to the guests of the resort and the future 750-room hotel. This request is an addition to the uses approved by this Commission in Docket No. SP86-360/Hemmeter/VMS Kauai Company III on September 23, 1986 which allowed the redesign of the existing golf course and the establishment of a new driving range, golf clubhouse, waterways and boat docks, parking, public access and other miscellaneous uses on approximately 310 acres of land situate south of the Property.

The Property contains a combination of Lihue Silty Clay and Lihue Gravelly Silty Clay soils.

The Property is classified as "Prime Agricultural Land" according to the Department of Agriculture's Agricultural Lands of Importance to the State of Hawaii classification system.

The Property is used primarily for sugarcane cultivation. A small portion to the south is currently in golf course use, as approved under Special Use Permit Docket Number SP70-77/ Amfac Properties. In SP70-77, the Commission approved an 80-acre extension of a previously existing nine-hole golf course with the condition that Amfac Properties replace the 80 acres with land capable of producing the equivalent production of sugar.

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

Parcel 82 is owned by Hemmeter/VMS Kauai Company, an affiliate of Petitioner. Parcel 6 is owned by the Lihue Plantation Company which has authorized Petitioner to file this application by letter dated August 8, 1986 to Mr. Avery Youn, Planning Director, County of Kauai.

#### Summary of Environmental and Resource Related Concerns

The County sewage treatment plant, located to the north-northwest of the resort, emits noxious gas by-products and may impact portions of the golf course during limited and unusual wind conditions.

The County Public Works Department commented that potential problems may arise regarding the compatibility of the Lihue Sewage Treatment Plant with increased public access; that Petitioner resolve problems created by the withdrawal of cane lands currently used for effluent disposal, for golf course use; and that Petitioner retain or relocate an existing ditch easement that runs from the sewage treatment plant to the ocean for emergency sewage outfall.

The State Department of Health commented that Petitioner implement its agreement with Lihue Plantation Company to modify its mill wastewater disposal system in order to mitigate problems of water pollution and mosquito infestation associated with the existing method of disposing mill wastewater on the lower Lihue Plantation fields including the Property.

The State Department of Agriculture limited its comments to that portion of the Property currently in cane cultivation as follows:

"In general, this Department's position is to discourage approval of special permits for large-scale uses of an urban nature which should more properly be classified in the State Urban District. A related concern is that a special permit application should not be used as a "foot in the door" to gain accelerated consideration of a subsequent boundary amendment



petition. Conversion of large tracts of prime agricultural land to non-agricultural use would be carefully evaluated in accordance with the established procedures and policy guidelines provided for in the land use district boundary amendment process."

Based on 1985 noise contours prepared by Darby and Associates, small portions of the northern part of the Property lie within the 60 Ldn and greater. The Petition states that this is an acceptable noise level for golf course use, and that the existing noise conditions will have no significant impact upon the golf course and no mitigation measures appear necessary.

#### Public Services and Facilities

Petitioner proposes to drill deep wells for golf course irrigation to supplement use of sewage effluent in the primary irrigation system. At least one of the wells drilled will be for both withdrawal and injection of excess effluent.

Petitioner and Lihue Plantation Company proposes to expend approximately \$3.6 million in improvements to the existing mill wastewater disposal system to discontinue the use of the lower cane fields for wastewater disposal. Petitioner projects the proposed improvements will be operational by March, 1987.

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

Petitioner anticipates that all other public services such as potable water, energy and communication, sewage and solid waste disposal, police and fire protection will be adequate or can be upgraded, without significant adverse impacts, to serve the Property.

#### County Planning Department Evaluation

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

- "1. Although portions of the land in question are presently in golf course and sugarcane cultivation, we do not believe that the requested second golf course use will be contrary to the Land Use Law since:
  - a. Lihue Plantation considers this area (approximately 1% of their ag land operations) as a minor portion of their land holdings, and will

have minimal impacts to their agricultural operations if removed. Lihue Plantation is utilizing the drip irrigation process in order to increase per acreage yields in some areas as well as utilizing marginal lands in other areas for cane operations.

- b. Options for continued agricultural use have been affected due to the expansion and inclusion of the Lihue Airport into the Urban District, and the improvements of the Kauai Surf/Westin Resort project site.
- c. Act 298, SLH 1986, established as an outright permitted use, golf course and driving ranges on SLUC "Agriculture" districted lands provided they are not located on Class A or B soils. Since the site is on B class soils, the requested use is not considered an outright permitted use, thereby necessitating this Special Permit review.

The original Kauai Surf golf course also exists on B class soils; the Phase III permits recently approved by the Planning and Land Use Commissions have approved the re-design of the original golf course through the Special Permit process. In terms of consistency, we believe the second golf course should also be approved through the Special Permit process, and not the boundary amendment process.

- "2. The proposal would not generate excessive noise, odors, emissions or traffic which could adversely impact upon the properties that surround the subject site.
- "3. The proposal will not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage and school improvements, and police and fire protection. All public service functions are available and where they are not, appropriate upgrades and improvements will be made by the applicant, as required by the affected government agencies.
- "4. Unusual conditions, trends, and needs have arisen since the district boundaries and regulations were established:
  - a. The proposed use and improvements are in response to trends and needs within the tourism industry to provide recreational options that make optimum use



of existing and available resources. The use of the property as a golf course is a traditional approach to the development of resort areas. The golf course is considered an extension of the primary hotel/resort function of the property and functionally more a part of that than an agricultural activity.

- b. The subject site is currently utilized as a disposal site for the Lihue Sewage Treatment Plant and Lihue Plantation mill wastewater. The removal of ag lands for the expansion of the Lihue Airport has intensified the problem of saturation within the disposal area since more wastewater is being disposed of than the land area can absorb. This results in standing and ponding water, mosquitoes, and odor problems which have adversely affected the Lihue District. Should this application be approved, the applicant will be providing the necessary capital and improvements to eliminate the odor, mosquito, and saturation and wastewater disposal concerns of the County and Lihue Plantation.

- "5. Some land currently in cane cultivation will be converted to golf course use, but this change is not expected to be detrimental to Lihue Plantation's agricultural operations."

The Planning Department also provided the following in support of retaining the Agricultural District and using the Special Use Permit process over the land use district boundary amendment process as follows:

- "1. more appropriate for a golf course use since it does not remove planning options to reestablish agricultural use should the project fail. The establishment of an SLUC "Urban" District for the golf course effectively removes the future planning options for possible agricultural use;
- "2. more compatible to the County's existing General Plan designation of "Agriculture" for the site, as compared to "Urban," which would then necessitate General Plan and Zoning Amendment applications. An Urban District designation contains the potential for future urban-type growth and development, this in an area not planned for urban-type uses or growth;
- "3. more appropriate given the proximity of the airport. A preliminary noise study conducted by the applicant



and reviewed by the Department of Transportation, Airports Division, reflect the varying levels of airport noise impacts to surrounding properties. In our opinion, based on the noise contour levels reflected in the report, the area should remain in the SLUC "Agriculture" District in order to prevent any potential for the spread of urban-type uses so close to the airport operations."

During the public hearing on September 24 and October 8, 1986, no public witnesses testified on the subject request.

On October 8, 1986, the Planning Commission recommended that the subject special use permit be approved subject to the following conditions:

- "1. Requirements and concerns of the State Health Department, County Public Works, Water and Fire Departments shall be met and resolved with the respective agencies.
- "2. Applicant shall apply for the necessary permits to establish such use within one (1) year from the date of Land Use Commission review and approval, and complete construction of the golf course within three (3) years from the date of Land Use Commission review and approval.
- "3. The Planning Commission may impose additional conditions, restrictions, or requirements on the permits approved herein should unanticipated or unforeseen circumstances arise which require such additional conditions to insure compliance with the standards contained in the Comprehensive Zoning Ordinance or the State Land Use District Rules and Regulations."

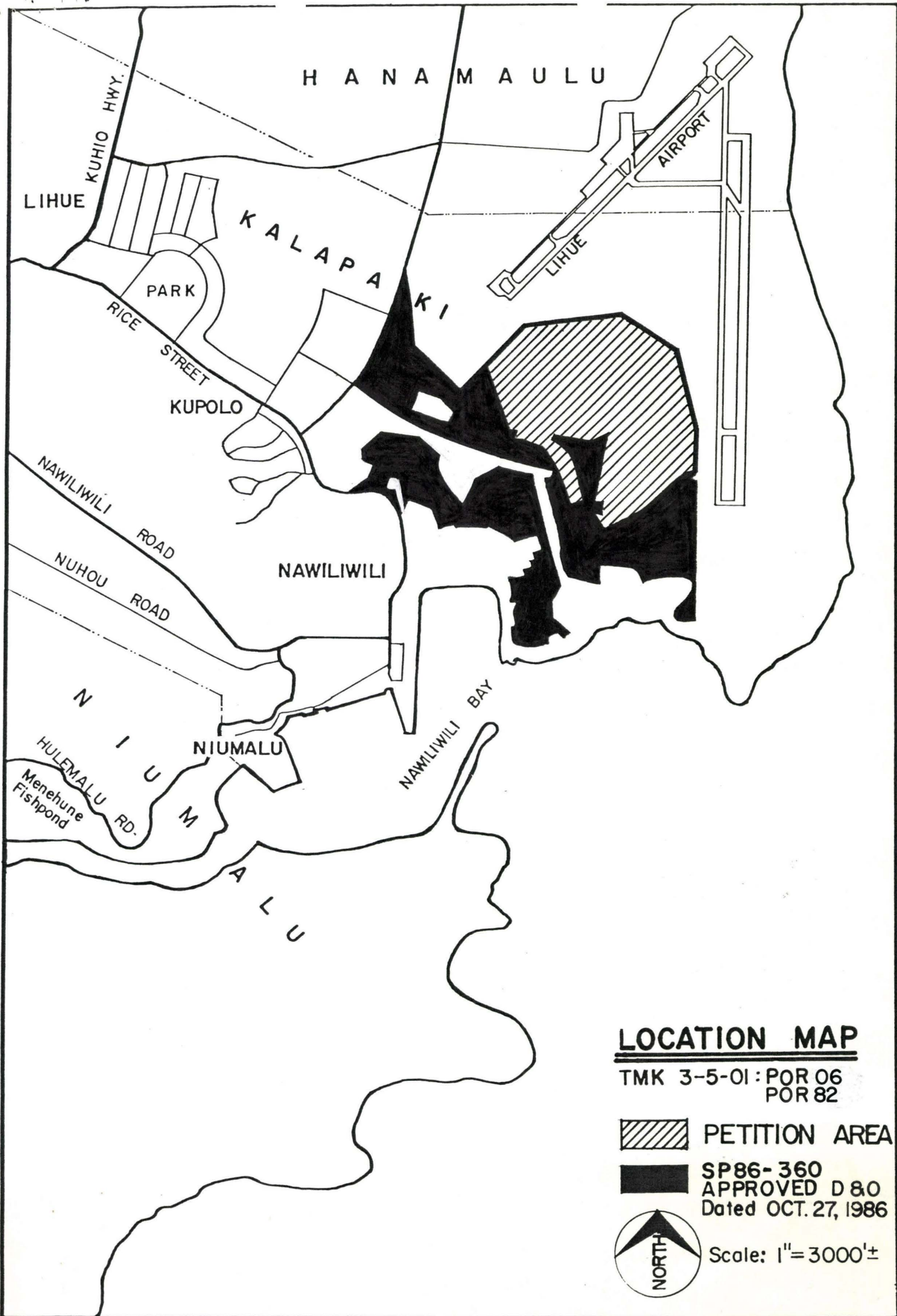
The Land Use Commission Office received the record of the Special Use Permit application from the County of Kauai Planning Department on October 16, 1986.

A copy of the entire record received from the County is attached for your information and includes the following:

- letter dated October 10, 1986 from the Kauai Planning Commission
- Special Use Permit Application dated September 29, 1986
- Kauai Planning Department Staff Report and agency comments
- letter dated August 8, 1986 from Lihue Plantation Co., Ltd. to Avery Youn
- Kauai Planning Department Staff Evaluation

- Planning and Engineering Report for the Proposed Second Westin Kauai Golf Course prepared by Belt Collins and Associates dated August, 1986
- minutes of the September 24, 1986 Kauai Planning Commission public hearing
- transcript of the October 8, 1986 Planning Commission meeting

Also attached is Exhibit A depicting the Petition area





TONY T. KUNIMURA  
MAYOR



AVERY H. YOUN  
PLANNING DIRECTOR

TOM H. SHIGEMOTO  
DEPUTY PLANNING DIRECTOR

TELEPHONE (808) 245-3919

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

October 10, 1986

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

OCT 16 1 44 PM '86  
LAND USE COMMISSION  
STATE OF HAWAII

Subject: Application for Special Permit  
Our File No. SP-87-3  
Hemmeter/VMS Kauai Company III  
TMK: 3-5-01:Por. 6 Nawiliwili, Kauai

The Planning Commission at its meeting held on October 8, 1986, voted 7 to 0 to recommend approval of the above Special Permit for the development of a second 18-hole golf course and driving range, subject to the following conditions:

1. Requirements and concerns of the State Health Department, County Public Works, Water and Fire Departments shall be met and resolved with the respective agencies.
2. Applicant shall apply for the necessary permits to establish such use within one (1) year from the date of Land Use Commission review and approval, and complete construction of the golf course within three (3) years from the date of Land Use Commission review and approval.
3. The Planning Commission may impose additional conditions, restrictions, or requirements on the permits approved herein should unanticipated or unforeseen circumstances arise which require such additional conditions to insure compliance with the standards contained in the Comprehensive Zoning Ordinance or the State Land Use District Rules and Regulations.



State Land Use Commission  
Page 2  
October 10. 1986

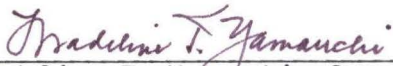
In accordance with provisions under Section 205-6, HRS, we herewith transmit for your consideration the foregoing application, together with all pertinent information.



EVERY H. YOUN  
Planning Director

cc: Applicant  
Mayor  
Pub. Works Dept.  
Water Dept.  
Health Dept.  
Fire Dept.  
DOT, Airports Div.  
Real Property Div.

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



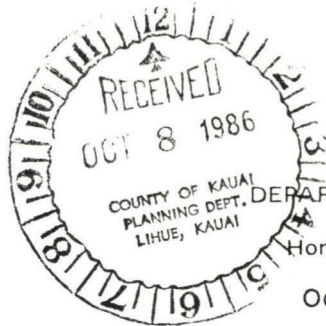
Madeline T. Yamauchi, Secretary

GEORGE R. ARIYOSHI  
GOVERNOR



JACK K. SUWA  
CHAIRPERSON, BOARD OF AGRICULTURE

SUZANNE D. PETERSON  
DEPUTY TO THE CHAIRPERSON



State of Hawaii  
DEPARTMENT OF AGRICULTURE  
1428 So. King Street  
Honolulu, Hawaii 96814-2512

Mailing Address:  
P. O. Box 22159  
Honolulu, Hawaii 96822-0159

October 3, 1986

MEMORANDUM

To: Mr. Thomas P. Contrades, Chairman  
Kauai Planning Commission

Subject: Special Permit for Second Golf Course and Driving  
Range Hemmeter/VMS Kauai Company III  
TMK: 3-5-01: Por. 6 Nawiliwili, Kauai  
Acres: Approximately 200

The Department of Agriculture received on September 29, 1986, a Notice of Continuation of Public Hearing for the subject application, and offers the following comments.

We understand that a special permit for an existing golf course and related uses (SP86-360) was approved by the State Land Use Commission on September 23, 1986, at which time the County of Kauai was requested to inform agencies such as ours of the time and place of subsequent special permit hearings, in accordance with Section 205-6, Hawaii Revised Statutes.

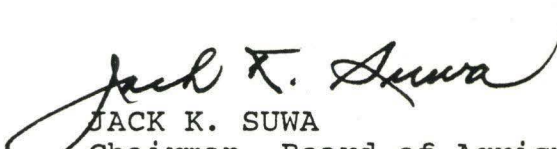
Inasmuch as the continued hearing for the subject application will take place on October 8, 1986, we have had no opportunity to review the application and plans for the proposed development, which in any case have not been forwarded to us. However, we do understand that the major portion of the subject property is Class B land (as classified by the Land Study Bureau) in sugarcane production by Lihue Plantation, and is also used for disposal of mill waste water. We understand that there may be reasons to preserve the site (situated between the two runways of Lihue Airport) as open space in the State Agricultural District, while allowing the golf course by special permit.

In general, this Department's position is to discourage approval of special permits for large-scale uses of an urban nature which should more properly be classified in the State Urban District. A related concern is that a special permit application should not be used as a "foot in the door" to gain accelerated consideration of a subsequent boundary amendment petition. Conversion of large tracts of prime agricultural land to non-agricultural use should be carefully evaluated in accordance with the established procedures and policy guidelines

Mr. Thomas P. Contrades  
October 3, 1986  
Page 2

provided for in the land use district boundary amendment process.

In the absence of any documented substantive information on the present application, we cannot comment further at this time. We understand that the Kauai Planning Department is working out procedures whereby, in the future, we will be provided with copies of special permit applications in a timely manner for comment prior to the public hearing. We would welcome the opportunity to work more closely with the County of Kauai on land use matters of mutual concern.

  
JACK K. SUWA  
Chairman, Board of Agriculture

cc: LUC  
DPED  
Kauai Planning Department



COUNTY OF KAUAI  
PLANNING DEPARTMENT  
LIHUE, KAUAI

ZONING PERMIT APPLICATION (X)  
USE PERMIT APPLICATION (X)  
VARIANCE PERMIT APPLICATION ( )  
SPECIAL PERMIT APPLICATION (X)  
SMA PERMIT APPLICATION ( )

LAND USE COMMISSION  
STATE OF HAWAII

OCT 16 1 45 PM '86

For Planning Department Use Only

Zoning Permit No. Z-IV-87-12  
Use Permit No. U-87-11  
Variance Permit No. \_\_\_\_\_  
Special Permit No. SP-87-3  
SMA Permit No. \_\_\_\_\_  
Zoning Permit Class IV  
Date Received August 29, 1986  
Date Approved \_\_\_\_\_  
Plans By Belt, Collins & Associates

APPLICANT Hemmeter/VMS Kauai Company III

ADDRESS 2424 Kalakaua Avenue

Honolulu, Hawaii 96815

PHONE NO. (808)922-5522 TAX MAP KEY 3-5-1: por. of 6 LOT NO. \_\_\_\_\_ LOT SIZE 200+ Acres

APPLICANT IS: (check one) ZONING DISTRICT AG EXISTING LAND USE Golf Course  
Cane Fields

- A. Owner of Property X As defined by Ordinance No. 317.  
B. Lessee of Property \_\_\_\_\_ \*Number of Years Leased \_\_\_\_\_ From \_\_\_\_\_ to \_\_\_\_\_  
C. Authorized Agent \_\_\_\_\_ Attach Letter of Authorization.

NOTE: \*Lessee must have an unexpired and recorded lease of five (5) years or more from date of filing this application.

DESCRIPTION OF PROPOSED USE, IMPROVEMENT, ALTERATION, AND/OR CONSTRUCTION: (specify exact use, number of units, etc.) 18 Hole Golf Course & Driving Range

See attached report for details.

FOR VARIANCE OR USE PERMITS ONLY

CONDITIONS JUSTIFYING VARIANCE OR USE PERMIT APPLICATION: (use additional sheets as required)

See attached report for details.

\* The construction, work, use, or activity approved in this permit shall be subject to inspection by the Planning Inspector or authorized personnel of the Planning Department, County of Kauai. The applicant is advised that inspection will occur prior to or during construction and use to ascertain compliance with the provisions of Ordinance No. 164, as amended, (Comprehensive Zoning Ordinance, County of Kauai) and/or other laws which are enforced by the Planning Department. \*

Signature [Signature]  
Owner/Applicant

Permit Fee \$ 50.00  
Received By Taf  
Date Rec'd. 8/29/86



COUNTY OF KAUAI  
PLANNING DEPARTMENT

FROM: Avery H. Youn, Planning Director (ML)

DATE: August 29, 1986

SUBJECT: Zoning Permit Z-IV-87-12, Use Permit U-87-11 and Special Permit SP-87-3,  
HEMMETER/VMS KAUAI COMPANY III

TO: (XX) Public Works Dept.  
(XX) Water Dept.  
(XX) State Health Dept.  
( ) State Highways Div.  
(XX) Fire Dept.  
( ) Sam Lee (DLNR)  
( ) State Dept. of Agriculture  
( ) Police Dept.  
( )  
(XX) DOT - Airports



FOR YOUR COMMENTS (pertaining to your department):

September 18, 1986

We have no objections to this Zoning, Special and Use Permit Application provided the applicant is made aware that approval of any requests for additional water meters or increase in meter size will be dependent on the adequacy of the source, storage and transmission facilities existing at that time.

At the present time, the meter size and location of any requests for water service by the developer will determine the adequacy of these facilities.

Signature

*Raymond H. Youn*

Please return one (1) copy by September 15, 1986. Thank you.

COUNTY OF KAUAI  
PLANNING DEPARTMENT  
LIHUE, KAUAI

Hearing date Sept. 24, 1986  
Action deadline Nov. 23, 1986  
Add.hearing dates \_\_\_\_\_

ZA Deadline for Council  
Transmittal \_\_\_\_\_

STAFF REPORT

PROJECT: USE PERMIT U-87-11  
SPECIAL PERMIT SP-87-3  
CLASS IV ZONING PERMIT Z-IV-87-12

APPLICANT: Hemmeter/VMS Kauai Company III

FINDINGS

LOCATION: Nawiliwili, Kauai, on land located between the Westin Kauai Resort and the airport.

TAX MAP KEY: 3-5-01: p.6 AREA: 200 + acres ZONING: Agriculture  
STATE LUC: Agriculture GENERAL PLAN: Agriculture EXIST.USE: ag,golf course

ACTIONS REQUIRED: SPECIAL PERMIT is required since the applicant proposes to establish certain uses within the State Land Use "Agriculture" District that are not agriculturally related...USE PERMIT is necessary to establish a golf course use within the County's "Agriculture" District...CLASS IV ZONING permit is a procedural requirement since a Use Permit is being requested.

PROJECT DESCRIPTION AND USE: Applicant proposes to develop a second 18-hole Westin Kauai Resort golf course and driving range.

LEGAL REQUIREMENTS: Notification requirements of Ordinance No. 402 have been satisfied.

APPLICANT'S REASONS/JUSTIFICATION: The requested permits are in order to improve the level of amenity at the Westin Kauai Resort by the construction of a second golf course for the recreational golfer.

LAND USE COMMISSION  
STATE OF HAWAII  
OCT 16 1 44 PM '86

FINDINGS (cont'd):

In 1985, the State Legislature enacted Act 298 which found golf course and golf driving range activities as permissible and compatible recreational uses within the State's "Agriculture" Land Use District, provided that they are not located within agricultural district lands with an "A" or "B" productivity rating.

Since the soils on the subject property are of the "B" classification, a Special Permit is being sought pursuant to Section 5-1, Special Permits, of the State Land Use Commission Rules of Practice and Procedure and District Regulations.

AGENCY COMMENTS: (See attachments.)

By   
Michael Laureta  
Planner

9/17/86



COUNTY OF KAUAI  
PLANNING DEPARTMENT

FROM: Avery H. Youn, Planning Director (ML)

DATE: August 29, 1986

SUBJECT: Zoning Permit Z-IV-87-12, Use Permit U-87-11 and Special Permit SP-87-3, :  
HEMMETER/VMS KAUAI COMPANY III

TO: (X) Public Works Dept.  
(X) Water Dept.  
(X) State Health Dept.  
( ) State Highways Div.  
(X) Fire Dept.  
( ) Sam Lee (DLNR)  
( ) State Dept. of Agriculture  
( ) Police Dept.  
( )  
(X) DOT - Airports

FOR YOUR COMMENTS (pertaining to your department): September 12, 1986

## Sewers

Lihue Treatment Plant effluent is presently disposed by irrigation of the cane lands to be eliminated by the proposed golf course. Admittedly a golf course will provide an alternative means for effluent disposal, however, because of access by the public, prevention of plant upsets become significantly more critical.

While an agreement must still be entered into for the use of the effluent by the developer, we recommend that conditions be placed upon the applicant to hold the County harmless from the effects of such upsets and other complaints such as odor and adverse visual impacts of the treatment plant.

At present, we have an agreement with Lihue Plantation to dispose of the effluent in their canefields. The applicant should be required to resolve the effluent disposal problem, including the above noted agreement, as a condition for approval.

Also, we presently have an easement (open ditch) from Lihue Plantation that runs from the treatment plant to the ocean that is intended to be utilized for a future ocean outfall if ever required. The easement should be retained and relocated by the applicant as necessary to preclude future construction problems within the easement.

Signature

STEVEN KYONO, County Engineer

Please return one (1) copy by September 15, 1986. Thank you.

HF/sb



AUG 29 1986

COUNTY OF KAUAI  
PLANNING DEPARTMENT

FROM: Avery H. Youn, Planning Director (ML)

DATE: August 29, 1986

SUBJECT: Zoning Permit Z-IV-87-12, Use Permit U-87-11 and Special Permit SP-87-3,  
HEMMETER/VMS KAUAI COMPANY III

TO: (X) Public Works Dept.  
(X) Water Dept.  
(X) State Health Dept.  
( ) State Highways Div.  
(X) Fire Dept.  
( ) Sam Lee (DLNR)  
( ) State Dept. of Agriculture  
( ) Police Dept.  
( )  
(X) DOT - Airports

FOR YOUR COMMENTS (pertaining to your department):

10 Sept. 86

Our environmental health concerns are as follows:

1. Implementation of the Hemmeter/VMS-Lihue Plantation Co. agreement for two major modifications to its mill wastewater system should be a condition of approval of the Zoning Permit Application. These modifications involving a belt conveyor to transport cane and pump and pipeline for hydro-separator effluent should solve the historic water pollution problems for Nawiliwili Stream and Kalapaki Beach, mosquito problems and also eliminate the need of having the proposed golf course area in cane for mill water land application.

2. The developer shall provide effective dust and soil erosion control provisions during the golf course construction as provided in the report.

Due to the general nature of the plans submitted, we reserve the right to impose further environmental health restrictions on this project when more detailed plans are submitted.

TI:HFE/plo

Signature

Theodore Inouye, Chief Sanitarian, Kauai

Please return one (1) copy by September 15, 1986. Thank you.

SEP 2 1986

TMK 3-5-1:Por of 6

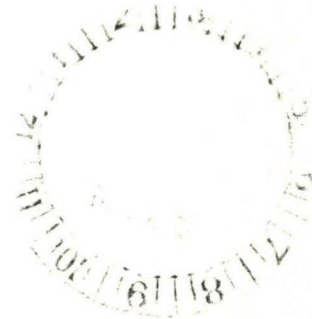
COUNTY OF KAUAI  
PLANNING DEPARTMENT

FROM: Avery H. Youn, Planning Director (ML)

DATE: August 29, 1986

SUBJECT: Zoning Permit Z-IV-87-12, Use Permit U-87-11 and Special Permit SP-87-3,  
HEMMETER/VMS KAUAI COMPANY III

TO: (XX) Public Works Dept.  
(XX) Water Dept.  
(XX) State Health Dept.  
( ) State Highways Div.  
(XX) Fire Dept.  
( ) Sam Lee (DLNR)  
( ) State Dept. of Agriculture  
( ) Police Dept.  
( )  
(XX) DOT - Airports



FOR YOUR COMMENTS (pertaining to your department):

The fire department has no objections to the proposed permit application, but reserves the right to make further comments during the building permit review.

Signature

*W. H. Youn* 9/11/86

Please return one (1) copy by September 15, 1986. Thank you.

OCT 16 1 44 PM '86

RE: Special Permit SP-87-3  
Use Permit U-87-11  
Class IV Zoning Permit Z-IV-87-12

APPLICANT: Hemmeter/VMS Kauai Company III

EVALUATION:

Applicant proposes to establish a second 18-hole golf course, with ponds and miscellaneous accessory uses (carriage paths, landscaping, etc.) This project will be a part of the Westin Kauai Resort, and is intended to enhance the amenities available to the guests of the Westin Kauai Resort and the future 750-room hotel.

In applying the five-point test for a Special Permit, as specified in the Land Use Commission's District Regulations, the following are noted:

1. Although portions of the land in question are presently in golf course and sugar cane cultivation, we do not believe that the requested second golf course use will be contrary to the Land Use Law since:
  - a. Lihue Plantation considers this area (approximately 1% of their ag land operations) as a minor portion of their land holdings, and will have minimal impacts to their agricultural operations if removed. Lihue Plantation is utilizing the drip irrigation process in order to increase per acreage yields in some areas as well as utilizing marginal lands in other areas for cane operations.
  - b. Options for continued agricultural use have been affected due to the expansion and inclusion of the Lihue Airport into the Urban District, and the improvements of the Kauai Surf/Westin Resort project site.
  - c. Act 298, SLH 1986, established as an outright permitted use, golf course and driving ranges on SLUC "Agriculture" districted lands provided they are not located on Class A or B soils. Since the site is on B class soils, the requested use is not considered an outright permitted use, thereby necessitating this Special Permit review.

The original Kauai Surf golf course also exists on B class soils; the Phase III permits recently approved by the Planning And Land Use Commissions have approved the re-design of the original golf course through the Special Permit process. In terms of consistency, we believe the second golf course should also be approved through the Special Permit process, and not the boundary amendment process.

2. The proposal would not generate excessive noise, odors, emissions or traffic which could adversely impact upon the properties that surround the subject site.



3. The proposal will not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage and school improvements, and police and fire protection. All public service functions are available and where they are not, appropriate upgrades and improvements will be made by the applicant, as required by the affected government agencies.
4. Unusual conditions, trends, and needs have arisen since the district boundaries and regulations were established:
  - a. The proposed use and improvements are in response to trends and needs within the tourism industry to provide recreational options that make optimum use of existing and available resources. The use of the property as a golf course is a traditional approach to the development of resort areas. The golf course is considered an extension of the primary hotel/resort function of the property and functionally more a part of that than an agricultural activity.
  - b. The subject site is currently utilized as a disposal site for the Lihue Sewage Treatment Plant and Lihue Plantation mill wastewater. The removal of ag lands for the expansion of the Lihue Airport has intensified the problem of saturation within the disposal area since more wastewater is being disposed of than the land area can absorb. This results in standing and ponding water, mosquitos, and odor problems which have adversely affected the Lihue District. Should this application be approved, the applicant will be providing the necessary capital and improvements to eliminate the odor, mosquito, and saturation and wastewater disposal concerns of the County and Lihue Plantation.
5. Some land currently in cane cultivation will be converted to golf course use, but this change is not expected to be detrimental to Lihue Plantation's agricultural operations.

Since the land area involved with this Special Permit exceeds 15 acres, review and approval by the Land Use Commission will be necessary. At the time Phases I and III were reviewed and approved by the Planning Commission, a condition of approval was imposed that would require the applicant to submit a Land Use District Boundary Amendment application (from Agriculture to Urban) to the Land Use Commission for all of the lands in the Agriculture District subject to the permits approved.

However, upon closer examination, and in consultation with the Planning Commission and County Attorney, it has been determined that the SLUC "Agriculture" District designation and Special Permit review is:

1. more appropriate for a golf course use since it does not remove planning options to re-establish agricultural use should the



project fail. The establishment of an SLUC "Urban" District for the golf course effectively removes the future planning options for possible agricultural use;

2. more compatible to the County's existing General Plan designation of "Agriculture" for the site, as compared to "Urban," which would then necessitate General Plan and Zoning Amendment applications. An Urban District designation contains the potential for future urban-type growth and development, this in an area not planned for urban-type uses or growth;
3. more appropriate given the proximity of the airport. A preliminary noise study conducted by the applicant and reviewed by the Department of Transportation, Airports Division, reflect the varying levels of airport noise impacts to surrounding properties. In our opinion, based on the noise contour levels reflected in the report, the area should remain in the SLUC "Agriculture" District in order to prevent any potential for the spread of urban-type uses so close to the airport operations.

Relative to the Use Permit standards of the Comprehensive Zoning Ordinance No. 164, the golf course use will not be detrimental to health, safety, peace, morals, comfort and general welfare of persons residing or working in the neighborhood; will not be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the community, and will not cause any substantial harmful environmental consequences on the land or on other lands or waters, and will not be inconsistent with the intent of the Comprehensive Zoning Ordinance and General Plan.

#### CONCLUSION:

Based on the foregoing findings and evaluation, it is concluded that the project conforms to the requirements of Part V of the State Land Use Commission Rules and Practice and Procedure and District Regulations relative to the five-point test for the issuance of Special Permits, and that it is a compatible use and does not conflict with the standards for the issuance of a Use Permit, as reflected in Section 8.05-A of the Comprehensive Zoning Ordinance.

It is further concluded that the Special Permit is the more appropriate and preferred vehicle in which to review and approve the requested golf course use, as compared to a district boundary amendment to "Urban," due to the following:

1. airport noise impacts to the property, which are more conducive to an Agriculture District as compared to an Urban District; and
2. an Agriculture District designation does not foreclose future planning options for agricultural use, whereas an Urban District designation does.

RECOMMENDATION:

Based on the foregoing findings, evaluation and conclusion, it is hereby recommended that Special Permit SP-87-3, Use Permit U-87-11 and Class IV Zoning Permit Z-IV-87-12 be approved, subject to the following conditions:

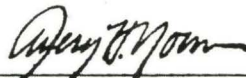
1. Requirements and concerns of the State Health Department, County Public Works, Water and Fire Departments shall be met and resolved with the respective agencies.
2. Applicant shall apply for the necessary permits to establish such use within one (1) year from the date of Land Use Commission review and approval, and complete construction of the golf course within three (3) years from the date of Land Use Commission review and approval.
3. The Planning Commission may impose additional conditions, restrictions, or requirements on the permits approved herein should unanticipated or unforeseen circumstances arise which require such additional conditions to insure compliance with the standards contained in the Comprehensive Zoning Ordinance or the State Land Use District Rules and Regulations.

By



Michael Laureta  
Planner

Approved & Recommended to Commission:



Avery H. Youn  
Planning Director

THE LIHUE PLANTATION CO., LTD.

AN **Amfac** COMPANY

P.O. BOX 751  
LIHUE, HAWAII 96766

Aug. 8, 1986

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

Dear Mr. Youn:


Re: TMK 4-3-5-1:06

This letter is to authorize Hemmeter/VMS Kauai Co. III to submit permit applications for Special, Use and/or other required permits for the approval of a second golf course at the Hemmeter/VMS Kauai Co. III resort on subject parcel owned by Lihue Plantation Company, Limited.

Very truly yours,

Lihue Plantation Company, Limited

By

  
Lefty H. Kawazoe  
President and Manager

cc: T. Takahashi  
R. B. Tsujimura  
J. R. Bell  
H. Shigekane



KAUAI PLANNING COMMISSION  
PUBLIC HEARING  
SEPTEMBER 24, 1987

LAND USE COMMISSION  
STATE OF HAWAII

NOV 10 1 44 PM '87

A public hearing of the Planning Commission of the County of Kauai was held on Wednesday, September 24, 1986, in the Council Chambers at the County Building, Lihue. Following Commissioners were present:

Mr. Thomas Contrades, Chairman  
Mrs. Sunshyne Costa  
Miss Gwen Hamabata  
Mrs. Betty Matsumura  
Mr. Hisao Munechika  
Mrs. Rebecca Sialana

Absent & Excused:  
Mr. Ronald Harker

Chairman Thomas Contrades opened the hearing to the public at 2:00 p.m. and the following are statements, in effect, of the proceedings:

Special Permit SP-87-3, Use Permit U-87-11 & Class IV Zoning Permit Z-IV 87-12 (18-Hole Golf Course & Driving Range, Nawiliwili) = Hemmeter/VMS Kauai Company III

MR. MICHAEL LAURETA, Staff: I'd like to clarify for the Commission all the permits that have been approved and applied for. The area in blue is the existing Urban area; the area in black is covered by Phase I, parking, existing hotel and improvements, Pali Kai cottages, parking area, chapel, and the approved restaurant. Applicant's Phase III which was just recently approved included all areas between the black and the blue. Golf course, lagoon, parking, up until this yellow portion. The area that was approved for Special Permit yesterday by the Land Use Commission involved these areas in white, this is Phase III. The project that is before us now is the second 18-hole golf course this is outlined in yellow.

Staff, presented findings (on file).

PLANNING DIRECTOR AVERY YOUN: Because there was a technical question raised by the Land Use Commission yesterday, we came back this morning and checked the Land Use Commission's Rules and Regulations. They stated that we were supposed to have notified the Land Use Commission of any hearing requirement for a Special Permit. We checked the Regulations and we couldn't find anything. We checked the Statutes and it is in the Statutes that we were supposed to notify the Land Use Commission; it doesn't say whether it should be written or verbal. We did notify them verbally yesterday that the hearing was today. I believe our counsel is recommending that we send notice anyway and continue this hearing to October 8, 1986. The Land Use Commission also suggested that we send hearing notices to the Department of Agriculture and the Department of Planning and Economic Development. What we would like to do is send notices immediately stating that action will be taken on October 8, 1986, and should they have any comments to get it to us before that date.

MRS. BETTY MATSUMURA: Department of Transportation?

DIRECTOR YOUN: We could send a notice to the Department of Transportation also.

MRS. MATSUMURA: I think since they are an abutting neighbor, they should be sent a notice.

DIRECTOR YOUN: At this stage we would rather continue the hearing, otherwise, we would have to publish a notice for October 8.

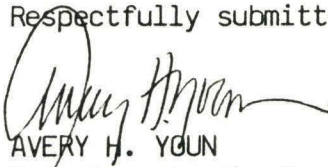
CHAIRMAN CONTRADES: The hearing will be continued to October 8; so, there will be no action taken today on this matter.



No one spoke for or against the application.

This portion of the public hearing was closed at 2:08 p.m.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Avery H. Youn", written in a cursive style.

AVERY H. YOUN  
Secretary to the Commission

ek