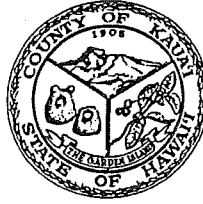


BRYAN J. BAPTISTE
MAYOR

GARY K. HEU
ADMINISTRATIVE ASSISTANT



Costa Rice
IAN K. COSTA
DIRECTOR OF PLANNING

LAND USE COMMISSION
STATE OF HAWAII
GARY L. HENNIGH
DEPUTY DIRECTOR OF PLANNING

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**COUNTY OF KAUA'I
PLANNING DEPARTMENT**

Kapule Building
4444 Rice Street, Suite A473
Lihu'e, Hawai'i, 96766-1326

TELEPHONE: 808.241.6677
FAX: 808.241.6699

August 25, 2004

Anthony Ching
Land Use Commission
P.O. Box 2359
Honolulu, Hawaii 96804-2359

SUBJECT: Annual Report for LUC Docket No. A89-636
Grove Farm Properties (Increments I & II)

We have no objections or comments to offer regarding the applicant's annual report. The information provided in the report is accurate.

Thank you for allowing us this opportunity to comment, and should you have any questions, please feel free to contact Keith Nitta of my staff at 241-6677.


IAN K. COSTA
Planning Director



STATE OF HAWAII
DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM

LAND USE COMMISSION

P.O. Box 2359
Honolulu, Hawaii 96804-2359
Telephone: 808-587-3822
Fax: 808-587-3827

June 21, 2004

Mr. Ian Costa, Director
Department of Planning
County of Kauai
4444 Rice Street, Suite 473
Lihue, Hawaii 96766

Dear Mr. Costa:

Subject: Filing of the 2004 Annual Report
LUC Docket No. A89-636/(Increments I & II)
Grove Farm Properties, Inc.
Lihue/Puhi, Kauai, Hawaii

On June 16, 2004, the Land Use Commission received the 2004 annual report from Grove Farm Properties, Inc. filed pursuant to Condition No. 13 of the Findings of Fact, Conclusions of Law, and Decision and Order issued on June 30, 1989 and December 20, 1995 respectively, for Increments I and II. As required by said conditions, we understand that the County of Kauai, Department of Planning has been served with a copy of the annual report.

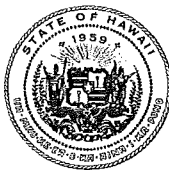
We request your assistance in reviewing the 2004 annual report and provide us with any comments you may have regarding the Grove Farm Properties' compliance with conditions.

We request that any comments that your agency may have be submitted to our office with a copy to the Grove Farm Properties, Inc. by July 21, 2004.

Please do not hesitate to contact me at 587-3822, should you require clarification or any further assistance.

Sincerely,

ANTHONY J. H. CHING
Executive Officer



STATE OF HAWAII
DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM
LAND USE COMMISSION
P.O. Box 2359
Honolulu, Hawaii 96804-2359
Telephone: 808-587-3822
Fax: 808-587-3827

June 21, 2004

Mr. Michael Furukawa, Vice President
Grove Farm Properties, Inc.
P. O. Box 662069
Puhi Rural Branch
Lihue, Hawaii 96766-7069

Dear Mr. Furukawa:

Subject: Filing of the 2004 Annual Report
LUC Docket No. A89-636/(Increments I & II)
Grove Farm Properties, Inc.
Lihue/Puhi, Kauai, Hawaii

This is to acknowledge receipt of your 2004 Annual Report for the subject docket as transmitted by your letter dated June 15, 2004. Upon completion of our review of the annual report we will submit our comments to you, if necessary.

Please note that we have requested the County of Kauai, Planning Department to review and comment on the annual report. Any comments that they may have will be provided to you.

Thank you for your cooperation in this annual reporting requirement. Please do not hesitate to call me at 587-3822, should you require clarification or any further assistance.

Sincerely,

ANTHONY J. H. CHING
Executive Officer

Grove Farm Properties, Inc.

LAND USE COMMISSION
STATE OF HAWAII

June 15, 2004

2004 JUN 16 A 8:51

Mr. Anthony Ching
Executive Officer
Land Use Commission
State of Hawaii
Department of Business, Economic Development and Tourism
P.O. Box 2359
Honolulu, HI 96804-2359

Dear Mr. Ching:

Subject: 2004 Annual Report for LUC Docket No. A89-636 (Increments I and II) Grove Farm Properties, Inc. Lihue/Puhi, Kauai, Hawaii

In compliance with Condition No. 13 of the referenced Land Use Commission's Decision and Orders dated June 30, 1989 and December 20, 1995, respectively, for Increments I and II, we submit one original and two copies of this annual report. Copies of this report are also being submitted to the Office of Planning, State of Hawaii and the Planning Department, County of Kauai.

Per our request and your response of January 12, 1998, the annual reports for Increment I, due on June 30 and Increment II, due on December 20, have been combined into a single annual report. Conditions 1 through 14 for both Increments are identical in substance while Increment II added an additional five conditions. Where appropriate, to differentiate between Increments I and II, conditions to Increments I and II have been listed separately. Also, per your request, where appropriate, responses to the conditions are differentiated according to Increments.

Following is a review of the conditions, with conditions noted in bold type and responses beneath.

1. **In connection with any application for zoning application for any portion of the property, Petitioner shall prepare a report to the appropriate agency addressing the following areas of concern:**

In connection with any application for zoning application for any portion of the Increment II lands, Petitioner shall prepare a report to the appropriate agency addressing the following areas of concern:

- a. **The availability of public services and facilities such as schools, sewers,**

A subsidiary of



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P.O. Box 2069 Puhi Rural Branch Lihue, Hawaii 96766-7069
Phone (808) 245-3678 FAX (808) 246-9470

- b. parks, water, sanitation, drainage, road, refuse collection and disposal,
- c. police, and fire protection, the adequacy thereof, and an assessment as to whether the anticipated density and uses to which the Property will be put would unreasonably burden State or County agencies; and how the Petitioner intends to aid in the resolution of any identified inadequate facilities or services.

The availability of public services and facilities such as schools, sewers, parks, water, sanitation, drainage, road, refuse collection and disposal, police, and fire protection, the adequacy thereof, and an assessment as to whether the anticipated density and uses to which the Increment II lands will be put would unreasonably burden State or County agencies; and how the Petitioner intends to aid in the resolution of any identified inadequate facilities or services.

1. Schools - After initial discussions with the Department of Education, a 10-acre site for the new intermediate school was selected and incorporated into the plan as part of the Increment II lands. A minimum 5-acre park was planned immediately adjacent to the school site. Subsequently, condition no. 3 of our Increment II Zoning (Ord. PM-325-96 condition no. 3), allowed the area for the school site to be increased to up to 14.5 acres under certain circumstances and the park site was increased to 7 acres. In addition, the school and park sites were swapped, where the school site was placed away from Kaumualii Highway to preserve view corridors. Tentative subdivision approval for the school/park site was received from the County Planning Department on June 12, 1997. The final area for the school site was determined to be 14.276 acres and Grove Farm reached agreement with the State on the acquisition of the additional 4.276 acres. Final Subdivision status was granted by the County of Kauai on April 23, 1998. The school parcel has subsequently been conveyed to the State. Construction of the school began in January 1999 and the school, named Chiefess Kamakahahei Middle School, opened in September, 2000.
2. Sewers - The County has approved our private sewerage concept. After receipt of the appropriate permits, the first increment of the plant, having a capacity of one MGD, was built and is now in operation. This capacity far exceeds the current influent of about 400,000 gallons per day. The plant currently services the following areas of the Lihue/Puhi Master Plan: Puako Subdivision, Kukui Grove Shopping Center Expansion Area, Hokulei Estates, Halelani Villages and Chiefess Kamakahahei Middle School. Other non-Project areas now being served by the plant include Kukui Grove Shopping Center, Kukui Grove Commercial Village, Kukui Grove Village West, Puhi Industrial Park, Ulu Ko Subdivision, Kauai Community College and Island

School. Transmission lines have been installed to accommodate the established subdivisions of Pua Loke, Ulu Mahi and Ulu Kukui should they be converted to a sewage system in the future. The preliminary infrastructure (basins and conduit) for the remaining phases of the WWTP has been constructed. Further improvements, including lining of the treatment basins, and installation of aeration equipment, grating and clarifiers, will be constructed as necessary to meet future demands.

3. Parks - Initially, a total of 7.0 acres had been designated for County park purposes, including the 5.0 acres mentioned in 1.a.1. above and 2.0 acres within the affordable housing project area. As noted above, the total requirement was amended to 9.0 acres when the 5.0-acre site adjacent to the school site was increased to 7.0 acres. Final area for this park, after Final Subdivision, is 7.133 acres. In May 2000 park dedication documents were submitted to the County for approval and acceptance. Recordation of the dedication deed occurred on December 28, 2000. Project park area may continue to be adjusted, based on the County's Park Ordinance and actual uses put in place.
4. Water - A Water Master Plan was approved by the County on May 4, 1992 and the First Amendment to the Water Master Plan was approved on July 16, 1993. We continue engineering design and construction for water sources. Two water wells have been developed in conjunction with the Project. The first well, Puhi Well No. 4, has been certified by the County Department of Water for final yield and is now on line. The well and related hardware and easements have been dedicated to the County. In addition, two (2) one million-gallon water tanks and associated transmission lines to connect the facilities to the County water system have been constructed and dedicated to the County. These storage and transmission facilities complete Grove Farm's requirements for storage and transmission for Increments I and II.

The second well, Haiku Mauka No. 1, after being further deepened from its original depth, has demonstrated a lower than expected yield. Full development of this well alone is not feasible at this time. However, future development in conjunction with other water projects in this area may be feasible and this remains an option.

Due to the uncertainty and high costs experienced with well development in the Lihue-Puhi area we are pursuing surface water as a source of domestic water for our project. At this time we have initiated development of a surface water treatment plant (SWTP). A pilot study, employing the intended technology and equipment on the proposed water source, was completed in January 2001 on Grove Farm land. Results of the test were very encouraging. In 2001 the new owner of Grove Farm (see item 11 below) acquired the lands of the former Lihue Plantation Company. It was decided that, due to the

superior water systems in the newly acquired LPCo. lands, the surface water treatment plant would be installed there instead of the Grove Farm lands. In addition, a different membrane manufacturer was selected. Accordingly, a new pilot test was conducted on the new water system. That test was completed in July, 2002. Due to improper equipment setup a repeat test was conducted in January 2003 per the suggestion of the Safe Drinking Water Branch of the State Department of Health (SDWB). Unfortunately, results of this test indicated a high probability of laboratory error, with the presence of two totally unexpected compounds in the finish water but not in the source water. A meeting was held in early June, 2003 with the SDWB to discuss the possibility of further testing. It was decided that a modified retest was necessary to ensure source and equipment compliance with EPA and Department of Health standards. Such retesting was completed in June, 2003. In a letter dated February 9, 2004 the Department of Health approved Grove Farm's SWTP project.

5. Drainage - See Condition 1.b. discussion below.
6. Roads - Kaneka Street and the portion of Nuhou Street between Kaneka and Pikake Streets, a total of a mile of roadways, were completed and open to the public in 2003, vastly improving traffic flow on Kaumualii Highway. With the completion of these vital roadways the only collector road in the project area that remains to be built is a roughly 2000-foot section of Nuhou that exits on Nawiliwili Road. Construction of Pikake Street, and Nuhou Street Phase I had been completed earlier, along with all streets within Puako subdivision. Construction of the portion of Nuhou Street that fronts the Chiefess Kamakahelei Middle School parcel, and the corresponding Kaumualii Highway intersection improvements were completed in June, 1999. The planning and construction of this project were coordinated with the State Department of Transportation and County Department of Public Works. Design and construction plans for other roads will be undertaken as market demands dictate the development of future subdivisions served by the roads.
7. Refuse Collection/Disposal - We have fulfilled this requirement of the County of Kauai regarding our participation in solid waste disposal, by payment of \$717,600.39 for our share of the construction costs of the County's Lihue Refuse Transfer Station.
8. Police/Fire - No special requirements or conditions have been imposed; the project is included in the County's future growth projections.

- d. **A detailed drainage analysis of the Property, including an assessment of the downstream impacts that would result upon approval of the Petitioner's application and the mitigative measures proposed with**

respect to all such impacts.

A detailed drainage analysis of the Increment II lands, including an assessment of the downstream impacts which would result upon approval of the Petitioner's application and the mitigative measures proposed with respect to all such impacts.

The overall drainage strategy agreed to with the County Department of Public Works is to control storm water within the project by way of detention basins, primarily contained within the golf course area. Our drainage master plan encompassed both Increments and was completed and submitted for County review on April 9, 1992. The County approved the plan on June 4, 1992. Individual project drainage reports, which support the principles of the overall drainage master plan, continue to be prepared, with County review and approval, as development progresses within the Lihue/Puhi Project. In addition, the County has required that should there be changes to the development plan, modifications to the drainage master plan be submitted for their approval.

- e. **A description and analysis of how the Petitioner proposes to provide its requested development with sewage and wastewater treatment and disposal.**

We received approval from the State Department of Health and County of Kauai to construct a wastewater treatment plant (WWTP) on a 13.8-acre parcel. The area is somewhat larger than originally anticipated in order to accommodate a lagoon system and some non-project flows, as requested by the County. The system is designed and sized to handle the entire project incrementally. Treated effluent is recycled to irrigate the golf course and surrounding agricultural lands. The wastewater treatment facility project was approved by the County Planning Commission on May 23, 1991 under Special Permit SP-91-9, Use Permit U-91-25 and Class IV Zoning Permit Z-IV-91-33. A project-wide sewerage master plan was submitted to the County on May 5, 1992. In a letter dated June 4, 1993 the State Department of Health authorized commencement of sewer operations. Current inflow is about 35 percent of installed capacity.

The eastern portion of the WWTP site was not originally included in the "Urban" State Land Use District, although it was approved under the referenced permits noted above. In an effort to make the County Zoning, General Plan and State "Urban" Land Use districts reflect actual or approved uses, Grove Farm submitted a "Housekeeping" application to the County. This application changed, in part, the State Land Use designation of 10.18 acres of the eastern portion of the WWTP from "Agricultural" to "Urban", County General Plan from "Open" to "Urban Mixed Use", and County Zoning from "Agriculture" to "Open". The Kauai County Planning Commission approved this Housekeeping application on February 22, 1996, followed by Kauai County Council approval on June

10, 1996. The Mayor signed the bill for Ordinance Nos. PM-328-97, PM-329-97 and PM-330-97 on June 13, 1996, approving the Housekeeping amendments.

- d. **A description of the Petitioner's proposed development schedule of all the land uses proposed and phasing development, which development schedule shall also include and address development of the Project's interior roadway system.**

Development Schedule - The development schedule and phasing plan were transmitted to the State Land Use Commission as an enclosure to our letter of October 9, 1990. A major downturn in the local economy, primarily due to Hurricane Iniki in 1992, affected the original development timetable. Economic conditions on Kauai were improving prior to the September 11, 2001 national tragedy. The visitor industry was impacted but has since recovered but it is difficult to determine the long-term effects of world strife on the island's economy and development in particular. It is Grove Farm's intent to develop future phases of our project according to market demands. In this way upfront costs can be minimized, with assurances of more immediate recoupment of the investment. At this time, as previously described, Grove Farm has conveyed the school parcel to the State and the park parcel to the County. Construction of infrastructure improvements servicing them has been completed. On April 3, 2002 we dedicated to the County various roadway lots that were created in conjunction with previous phases of the project. These include the Pikake Street segment between Kalepa and Nuhou Streets, Nuhou Street from Pikake Street to Puako subdivision and the Puako interior roadways. Conveyance documents for Kaneka Street and the portion of Nuhou Street that were completed in 2003 have been submitted to the County for acceptance.

2. a. **The affordable housing requirement shall be satisfied as follows: Petitioner shall provide housing opportunities for low, low-moderate and moderate income Hawaii residents by offering for sale at least thirty percent (30%) of the units at prices which families with an income range of 80 to 120 percent of Kauai County's median income can afford and thirty percent (30%) of the units which families with an income range of 120 to 140 percent of Kauai County's median income can afford. This condition may be fulfilled through projects, under such terms as may be mutually agreeable, between Petitioner and the Housing Finance and Development Corporation of the State, or other appropriate governmental agency.**

This condition may also be fulfilled, with the approval of the Housing Finance and Development Corporation, through the construction of rental units to be made available at rents that families in the specified income ranges can afford.

- b. **The Affordable housing requirements may also be satisfied in a manner that meets with the approval of the County of Kauai and the State Housing Finance and Development Corporation. Said requirements shall take into consideration affordable on-site (with the subject petition area) or off-site housing units or cash payments that satisfy the then current housing needs, or other necessary or desirable community facilities.**

Based on a project density of 1,690 units, affordable housing requirements were imposed at 60 percent, or 1,014 required credits. Grove Farm entered into an agreement with Schuler Homes, Inc. to provide some affordable housing. The Schuler projects consist of single and multi-family dwellings. The Hokulei Estates project consists of 209 single-family units targeted at the 120 to 140 percent group, all of which have been sold. For this, Grove Farm received a total of 422.77 credits towards fulfilling its affordable housing requirements. Halelani Villages is a phased 504-unit multi-family project that is targeted to the 80 to 120 percent group. (Please note that County approvals and project fine-tuning have resulted in numbers slightly different from those discussed in earlier annual reports). Three of the five planned phases, representing 292 residential units, have been built and sold. By way of a letter dated November 22, 1994 from HFDC to Grove Farm (copy to Land Use Commission), HFDC confirmed the methodology by which we calculated the above affordable housing credits. Thus, to date, Grove Farm has earned a total of 749.64 of the required 1,014 affordable housing credits.

By way of PM-306-95, enacted on March 24, 1995, an amendment was made to allow the 20 self-help units required in PM-206-90 to be built by Schuler and sold to the below 80 percent target group. This condition has been fulfilled and the credits included in the above figures.

In 1999, due to the changed housing market, Schuler and Grove Farm requested to amend the 60 percent requirement by modifying the remaining two phases in Halelani to allow single family and duplex units instead of the planned multifamily. The resulting credits would be added to those already earned and our affordable requirements would have been fulfilled. In September, 1999 both the State HCDC and County of Kauai concurred and Schuler is now implementing the modified plan, with their new "Halemalu" project. Completion of the modified plan should result in an approximately 56 percent affordable housing component.

Despite satisfaction of the affordable requirements as described above, it is likely that certain future residential projects would augment the total affordable because of market pricing. Such a project is "Puhi Palms," on 15-acre parcel in the Puhi area. On November 25, 1994, the State Land Use District Boundary, County General Plan and Zoning Amendments

(Ordinance Nos. PM-301-94, PM-302-94 & PM-303-94, respectively) for this project were signed into law. A Project Development Use Permit, U-95-44 and Class IV Zoning Permit, Z-IV-95-50, were approved by the Planning Commission on August 10, 1995. Tentative Subdivision approval for this 132-unit cluster-type development was granted by the Planning Commission on November 9, 1995. The project, however, was not initiated due to lack of financing. Recently, with the upturn in market conditions, there has been renewed interest in the parcel. Mauka Makai Land Company, a mainland developer, has proposed to develop 104 duplex units on this parcel and is currently pursuing subdivision of the parcel.

3. **Petitioner shall coordinate with the State of Hawaii and/or County of Kauai, as appropriate, to ensure that drainage, as well as other infrastructural and service systems, are compatible and developed in a timely fashion to prevent degradation of groundwater and coastal ecosystems. Such infrastructure shall be funded by the Petitioner.**

We are implementing our drainage master plan in phases with the approval of the County of Kauai. Individual project drainage reports, which are in concert with the overall drainage master plan, are submitted for the County's review and approval prior to commencement of construction and/or final subdivision approval. Thereafter, project specific County-issued grading permits ensure compliance. Finally, during construction County inspectors ensure that construction proceeds according to the plans.

4. **Petitioner shall participate in or otherwise provide all additional planning studies related to the Project as required by the State Department of Transportation (DOT). Petitioner shall also participate in the funding and construction of on-site and off-site transportation improvements associated with the proposed development and in designs and schedules required, accepted and coordinated with the DOT. Petitioner shall also provide appropriate dedication of land for the widening of Kaumualii Highway fronting the proposed development and funding for project-related signalization and intersection improvements as required by the DOT.**

Grove Farm funded a right-of-way study for the entire Kaumualii Highway frontage of the Project (and beyond) and is working with the DOT on its implementation. The study was submitted to DOT on February 1, 1991, and DOT has approved the concept. We have completed the required intersection improvements, including signalization, at the intersection of Puhi Road and Kaumualii Highway. In conjunction with the school/park subdivision Grove Farm completed similar improvements at the Nuhou Street and Kaumualii Highway intersection and will dedicate a strip of land for widening of Kaumualii Highway fronting the project area. As stated earlier, Grove Farm coordinated and funded this portion of the Kaumualii Highway improvements with the State Highways Division.

5. **Petitioner shall fund and develop, as required by the County of Kauai and/or State, as appropriate, the necessary measures required to obtain adequate supplies of water. Petitioner shall also fund and develop as necessary water storage and distribution systems for the proposed development. Petitioner shall obtain such permits as may be required by the State of Hawaii relating to Petitioner's development.**

See response 1.a.4. above.

6. **Petitioner shall comply with the requirements of the County of Kauai and the Department of Health of the State of Hawaii to expand existing on-site and off-site wastewater collection, treatment, and disposal infrastructure facilities and shall include the proposed project as part of the Petitioner's master plan for a wastewater system.**

See response to conditions 1.a.2. and 1.c. above

7. **Petitioner shall pay its pro rata share for expansion of educational facilities by way of dedicating a site for such activities at a location within the Project area and containing an area to be mutually agreed upon by the State Department of Education, but no more than 10 acres, provided the State Department of Education elects to obtain such a site prior to the zoning of the Property.**

Petitioner shall pay its prorata share for expansion of educational facilities by way of dedicating a site for such activities at a location within the project area and containing an area to be mutually agreed upon by the State Department of Education, but not more than 10 acres, provided the State Department of Education elects to obtain such a site prior to the zoning of the Increment II lands.

See response 1.a.1. above.

8. **Petitioner shall provide a detailed preservation plan for the two (2) identified historical sites to be prepared and submitted for review and approval by the State's Historic Sites Section and the County of Kauai's Historic Preservation Commission. These agencies shall also verify the successful execution of this plan. This plan must be executed prior to construction. Should any new historical sites be identified during project construction Petitioner shall provide a preservation or data recovery plan as required by the DLNR.**

Should any archaeological resources such as artifacts, shell, bone, or charcoal deposits, human burial, rock or coral alignments, pavings or walls be encountered during the project's development, Petitioner shall

immediately stop work and contact the State Historic Sites Section.

Preservation plans have been prepared for both sites. The plan for Halehaka Cemetery, dated October 1991, was approved by DLNR per their letter of March 2, 1992. The plan for the Manager's House was submitted July 23, 1991. DLNR commented on September 9, 1991 and revisions were incorporated into a revised plan, which was approved on August 28, 1992. Renovation and expansion work on the Manager's residence has been discussed with DLNR's State Historic Preservation Division. Specific plans will be submitted when complete, the timetable to be determined by market-driven development schedules.

- 8. Petitioner shall provide notification to all prospective occupants of the Property of the potential odor, noise, and dust pollution resulting from surrounding Agricultural District lands, and that the Hawaii Right-To-Farm Act, Chapter 165, HRS, limits the circumstances under which pre-existing farming activities may be deemed a nuisance.**

Petitioner shall provide notification to all prospective occupants of the Increment II lands of the potential odor, noise, and dust pollution resulting from surrounding Agricultural District lands, and that the Hawaii Right-to-Farm Act, Chapter 165, HRS, limits the circumstances under which pre-existing farming activities may be deemed a nuisance.

All occupants are notified of the potential odor, noise and dust pollution by way of disclosure and covenant statements prior to sale. This notification is also included in the deed of all lots sold in the Project.

- 10. Petitioner shall implement appropriate mitigation measures, as recommended by the County of Kauai to limit air and water soil erosion during construction phases that could potentially impact coastal areas.**

During construction activities, we will implement and adhere to all mitigation measures as recommended by the County of Kauai. Typically, grading permits issued by the County include air and water erosion mitigative measures. In addition, an overall drainage master plan for the entire project, that includes mitigative measures such as retention and detention basins to prevent possible soil erosion from detrimentally impacting to coastal areas, was approved by the County on June 4, 1992. As the project proceeds, individual drainage studies and grading permits are required for individual projects, usually at the time of subdivision. These individual studies and grading plans must show that the specific phase of development contemplated is consistent with the overall drainage master plan, and these studies and plans are reviewed and approved by the County. Finally, during construction, County inspectors ensure that terms of the applicable permits and plans are adhered to.

- 11. Petitioner shall give notice to the Land Use Commission of any intent to sell,**

lease, assign, place in trust or otherwise voluntarily alter the ownership interest in the property prior to the development of the Property; provided, however, that entering into a joint venture for the development of portions of the affordable housing projects shall not require prior notice to the Land Use Commission.

Petitioner shall give notice to the Land Use Commission of any intent to sell, lease, assign, place in trust or otherwise voluntarily alter the ownership interest in the Increment II lands prior to the development of the Increment II lands; provided, however, that entering into a joint venture for the development of portions of the affordable housing projects shall not require prior notice to the Land Use Commission.

The Land Use Commission will be given notice of any intention to alter ownership interest in the zoned property prior to development. On May 3, 1990 we notified you by letter of our intent to sell a portion of the Project to James Schuler & Associates (not Schuler Homes, Inc.) for affordable housing development in accordance with the condition of approval. The Schuler project is located in Puhi on Increment I lands. As stated earlier, Grove Farm agreed with the State of Hawaii on the terms of sale of the additional 4.276 acres to be incorporated into the new school site. The conveyance document for this area and the original 10.00 acres dedicated were recorded with the Bureau of Conveyances on August 30, 1998.

On January 22, 1998 Grove Farm Properties entered into an option agreement with Regency Associates of Hawaii (since renamed Regency Pacific, Inc.) on the possible sale of parcel 8, zoned for multifamily use, for the purpose of developing an assisted living project. This project is consistent with the parcel's zoning and intended use. The first 5.603-acre phase has been subdivided out of the original 21-acre parcel and conveyed to Regency. Regency has since completed the construction of the project, named "Regency at Puakea." Negotiations are currently under way with Regency for the conveyance of the remaining 15.714 acres for full build out of the project.

As stated earlier, dedication documents for the 7.133-acre park were submitted to the County and subsequently accepted by the County. The school, assisted living and park parcels are located on Increment II lands. Formal notification of the Land Use Commission of these transactions was by way of a letter dated June 15, 1998. The Land Use Commission will be notified of other similar transactions as they occur.

In a letter dated December 12, 2000 we informed the Land Use Commission of the acquisition of Grove Farm Company, of which Grove Farm Properties is a subsidiary, by ALPS Investment LLC, a Virginia limited liability company.

In July 2002 a purchase agreement for the sale of the 15-acre Puhi Palms parcel to Mauka Makai Land Company was executed. It is Parkside's intent to develop 104 duplex units on this parcel.

12. **The Commission may fully or partially release these conditions as to all or any portion of the Property upon timely motion, and upon the provision of adequate assurances of satisfaction of these conditions by the Petitioner.**

The Commission may fully or partially release these conditions as to all or any portion of the Increment II lands upon timely motion, and upon the provision of adequate assurances of satisfaction of these conditions by the Petitioner

This condition is acknowledged.

13. **Petitioner shall provide annual reports to the Land Use Commission, The Office of State Planning and the County of Kauai Planning Department in connection with the status of the project and Petitioner's progress in complying with the conditions imposed. The annual report shall be in a format as prescribed by the Executive Officer of the Land Use Commission.**

Petitioner shall comply with this requirement.

14. **Petitioner shall develop the property in substantial compliance with representations made to the Land Use Commission in obtaining the reclassification of these lands.**

Petitioner shall develop the Increment II lands in substantial compliance with representations made to the Land Use Commission in obtaining the reclassification of these lands.

Petitioner will develop the Project in substantial compliance with representations made to the Land Use Commission, or inform the Commission if otherwise. In a letter dated September 9, 1997 we informed you of our intent to develop the Puakea Golf Course in two phases rather than one. Subsequently, on November 18, 1997, with 10 of the planned 18 holes completed, the course was open to the public. Ongoing efforts to fine-tune the master plan to best accommodate current needs and market trends continue. Last year we obtained County approval to rezone a 4.5-acre parcel adjacent to Puako Subdivision, then zoned multifamily, to single family, for the purpose of creating house lots for sale. Subdivision of this parcel was completed and lot sales began in late 2003. Also in 2003 we obtained County approval for certain minor zoning amendments related to the golf course layout and residential and roadway configurations. On October 1, 2001 petitioner met with LUC Executive Director Anthony Ching to discuss the changes and review the project status. If substantial changes to the Project are contemplated, we will consult with and receive necessary approvals from the Land Use Commission and other appropriate government agencies prior to implementation.

15. **Petitioner shall file an amendment to its Declaration of Land Use**

Commission Conditions (filed June 14, 1990 with the Bureau of Conveyances as Document No. 90-088395) with the Bureau of Conveyances or Land Court of the State of Hawaii, as applicable. Said amendment shall reflect the 4.5 acres reclassified by the Decision and Order filed on June 9, 1994 and specify that said acreage shall also be subject to the conditions stated in the Commission's Decision and Order filed on June 30, 1989 in this docket.

This condition has been satisfied. The First Amendment to the Declaration of Land Use Commission Conditions was recorded with the Land Court of the State of Hawaii on October 5, 1994 as Document No. 2185539. A recorded copy was forwarded to the Land Use Commission by letter dated October 14, 1994.

- 16. Petitioner shall fund and install the necessary number of emergency sirens (including infrastructure) within Increments I or II, to the satisfaction of the State Department of Defense.**

Petitioner shall comply with this condition.

- 17. Petitioner shall cooperate with the Department of Education and Department of Accounting and General Services, Public Works Division, to provide timely infrastructure improvements for the opening of Kauai Intermediate School now scheduled for September 1998.**

As discussed earlier, the new Kauai intermediate school, now named Chiefess Kamakahelei Middle School, opened in September 2000. Grove Farm provided infrastructure improvements, including access, water, sewerage and other utilities, to the school site. These improvements were completed in June, 1999 by way of two Grove Farm construction projects, "Nuhou Street-Kaumualii Highway Improvements" and "Kaneka Street 16-Inch Water Main and Partial Relocation of Kokolau Tunnel Waterline." Sewage from the school is processed at Petitioner's Lihue-Puhi Wastewater Treatment Plant. Petitioner was intimately involved with the State in the school project, from participating in the design of the school to conveyance of the parcel and provision of infrastructure.

- 18. Petitioner shall cooperate with the Commission on Water Resource Management and the U.S. Fish and Wildlife Service for the designation of a Puali Stream buffer area.**

Preliminary and follow-up discussions have been held with government agencies. Following meetings on June 23, 1998, an action plan was agreed upon. Working with the appropriate agencies, Petitioner will identify the buffer and wetland areas and submit a map and statement outlining the limits of development to ensure encroachment into these areas is avoided. If it is necessary for construction to occur in these areas Petitioner will obtain appropriate permits prior to commencing any construction there. As of this writing we are awaiting a response from USFWS and Army Corps of Engineers as to the validity of current

boundaries of wetland areas for Puali Stream. Upon completion we will provide you with a map of the agreed upon buffer areas as well as a statement of development policy regarding these areas.

19. **Petitioner shall consult with the U.S. Fish and Wildlife Service and the U.S. Army Corps of Engineers to determine whether the petition area contains any wetland, and, if necessary, implement mitigation measures to the satisfaction of the U.S. Fish and Wildlife Service and the U.S. Army Corps of engineers.**

See response to 18 above.

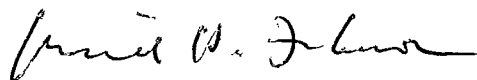
20. **Petitioner shall file a Declaration of Conditions with the Bureau of Conveyances or Land Court of the State of Hawaii, as applicable, reflecting that the approximately 103.570 acres reclassified by this Decision and Order are subject to the foregoing conditions, pursuant to section 15-15-92, Hawaii Administrative Rules.**

This condition has been satisfied. The Second Amendment to the Declaration was filed as Document No. 2302461 with the Bureau of Conveyances on April 17, 1996. A certified copy was forwarded to the Land Use Commission by letter dated April 24, 1996.

We trust that the foregoing adequately addresses Condition no. 13 of LUC Docket No. A89-636. The next annual report will be updated and due in June 2004. If there are any questions please feel free to contact the undersigned at (808) 245-3678.

Sincerely,

GROVE FARM PROPERTIES, INC.



Michael H. Furukawa
Vice President

C: State Office of Planning
Planning Department, County of Kauai