



ORIGINAL

July 1, 2013

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

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LAND USE COMMISSION  
STATE OF HAWAII

**Subject: 2013 Annual Report for LUC Docket No. A89-636 (Increments I and II) Grove Farm Properties, Inc. Lihue/Puhi, Kauai, Hawaii**

Dear Mr. Orodener:

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. A copy of this report is also being submitted to the State of Hawaii Office of Planning and the County of Kauai Planning Department.

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 Amendment or Special Permit for any portion of the Property, Petitioner shall prepare a report to the appropriate County agency addressing the following areas of concern:**
  - a. **The availability of public services and facilities such as schools, sewers, parks, water, sanitation, drainage, road, refuse collection and disposal, police, and fire protection, the adequacy thereof, and an assessment as to whether the anticipated density and uses to which the Property will be put would unreasonably burden State or County agencies; and how the Petitioner intends to aid in the resolution of any identified inadequate facilities or services:**

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- b. A detailed drainage analysis of the Property, including an assessment of the downstream impacts which would result upon approval of the Petitioner's application and the mitigative measures proposed with respect to all such impacts;
- c. A description and analysis of how the Petitioner proposes to provide its requested development with sewage and wastewater treatment and disposal;
- d. A description of the Petitioner's proposed development schedule of all the land uses proposed and phasing development, which development schedule shall also include and address development of the Project's interior roadway system.

We will comply with this condition for any future application for Zoning Amendment or Special Permit.

**2. The affordable housing requirement shall be satisfied as follows:**

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

This condition may also be fulfilled, with the approval of the Housing Finance and Development Corporation, through the construction of rental units to be made available at rents 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.

This requirement has been satisfied.

This requirement was adopted into County Ordinance No. PM-206-90 with additional conditions imposed by the County. On November 30, 2007, the County acknowledged the satisfaction of this requirement.

Based on a projected density of 1,690 units for Increments I and II, an affordable housing credit requirement of 1,014 credits was imposed. The methodology to determine the housing credits was confirmed by the State Housing Finance and Development Corporation on November 22, 1994. The 1,014 credits were earned through the development of Hokulei Estates, Halelani, Halemalu, and Hookena.

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 in compliance with this condition and will comply with this condition for future development within the Project.

Master plans were developed for drainage and other infrastructure systems. Individual project reports, which are in concert with the master plans, are submitted for the State and County's review and approval prior to commencement of construction. Thereafter project specific permits, which require inspections and final approvals, ensure compliance.

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 Kaunualii Highway fronting the proposed development and funding for project-related signalization and intersection improvements as required by the DOT.**

This condition has been satisfied.

Grove Farm funded a right-of-way study for the entire Kaunualii Highway frontage of the Project (and beyond) and worked with the DOT on its

implementation. The study was submitted to DOT on February 1, 1991, and DOT approved the concept. We provided all planning studies related to the Project and do not anticipate any additional planning studies will be required.

We completed required intersection improvements, including signalization, at the Puhi Road-Kaumualii Highway intersection and Nuhou Street-Kaumualii Highway. We also dedicated land for the widening of Kaumualii Highway fronting the Project. The improvements were coordinated with DOT and funded by Grove Farm.

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.**

We are in compliance with this condition and will provide the potable water distribution systems for future development within the Project.

A Water Master Plan was approved by the County on May 4, 1992 and a First Amendment to the Water Master Plan was approved on July 16, 1993. Puhi Well No. 4 was developed and conveyed to the County. The Waiahi Surface Water Treatment Plant (Waiahi) was developed and provides water for Increments I and II as well as additional County developments. Waiahi is owned and operated by Grove Farm and per agreement will be conveyed to the County at a later date. Two water tanks and associated transmission and distribution lines were constructed and dedicated to the County.

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.**

We are in compliance with this condition and will provide wastewater infrastructure for future development within the Project.

A wastewater master plan was completed and submitted to the County on May 5, 1992. We received approval from the State and County to construct a wastewater treatment plant and the State authorized commencement of wastewater operations on June 4, 1993.

The plant has an existing capacity of 1 million gallons per day and may be expanded to up to 3 million gallons per day. The current influent is approximately 400,000 gallons per day. The plant services the Project as well as non-Project developments such as Kukui Grove Shopping Center and Kauai Community College. Transmission lines were constructed to provide service to established subdivisions Pua Loke, Ulu Mahi and Ulu Kukui in the event they convert to a wastewater system.

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

This condition has been satisfied.

Upon agreement with the Department of Education a 10-acre site for an intermediate school was initially provided. Subsequently, the site was increased to 14.276 acres pursuant to County Ordinance No. PM-325-96. The site was dedicated to the State and Chiefess Kamakehelei Middle School opened in 2000.

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.**

We are in compliance with this condition and will comply with this condition prior to construction.

Preservation plans were prepared for both sites. The plan for Halehaka Cemetery was approved by DLNR per their letter of March 2, 1992. The plan for the Manager's House was approved on August 28, 1992.

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

We are in compliance with this condition and will comply with this condition for future development within the Project.

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.**

We are in compliance with this condition and will comply with this condition for future development within the Project.

During construction, we implement appropriate mitigation measures as approved by the County through the permitting process. County inspectors ensure that the mitigation measures are implemented.

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.**

We will comply with this condition.

In April 2013, we entered into an Amended and Restated Purchase and Sale Agreement (Amended PSA) with Property Development Centers LLC (PDC) relating the purchase of a 14.686-acre, "Phase 1" portion of Parcels 19 and 20 within Increment II. In April 2009, PDC took title to all of Parcels 19 and 20, subject to a memorandum of agreement to reconvey the remaining 8.132-acre "Phase 2" portion of Parcel 20. Pursuant to the Amended PSA, PDC has the option to retain the remaining 8.132-acre Phase 2 portion of Parcel 20 within Increment II. PDC will be the developer of the Phase 1 and

to the extent retained, Phase 2 portion of the Property. We will provide an update should PDC retain Phase 2.

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.**

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.**

This report is submitted to comply with this condition for 2013.

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

We are in compliance with this condition will comply with this condition for future development within the Project.

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.**

This condition has been satisfied. We do not anticipate any additional requests.

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.**

This condition has been satisfied.

The Kauai Intermediate School, now named Chiefess Kamakahelei Middle School, opened in September 2000. Grove Farm provided infrastructure improvements for access, water, wastewater, 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."

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.**

We will comply with this condition.

Discussions were held with the various agencies and correspondence was submitted to the USFWS and Army Corps of Engineers. We will confirm the Puali Stream buffer area.

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.**

We will comply with this condition.



Discussions were held with the various agencies and correspondence was submitted to the USFWS and Army Corps of Engineers. For the undeveloped portions of the Project, we arranged for a site visit near Parcels 15, 16, and 17 of Increment II. It was determined that the area was not considered a wetland.

- 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.**

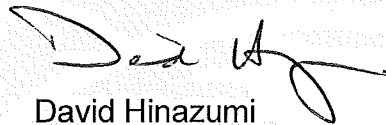
This condition has been satisfied.

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.

If there are any questions please feel free to contact the undersigned at (808) 245-3678.

Sincerely,

GROVE FARM PROPERTIES, INC.



David Hinazumi  
Vice President

cc: State of Hawaii Office of Planning  
County of Kauai Planning Department