

BEFORE THE LAND USE COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Petition of )  
LANAI COMPANY, INC. )  
For a Special Permit to Establish )  
Portions of Golf Course Holes, a )  
Clubhouse and a Driving Range on )  
Approximately 38.7 Acres of Land )  
Situate Within the Rural District )  
at Koele, Lanai, Maui, Tax Map )  
Key No.: 4-9-02: Portion 1 )

DOCKET NO. SP89-372

LANAI COMPANY, INC.

**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.**

JAN 30 1990

Date

by

*[Signature]*  
Executive Officer

JAN 30 9 46 AM '90  
LAND USE COMMISSION  
STATE OF HAWAII

FINDINGS OF FACT, CONCLUSIONS OF LAW  
AND DECISION AND ORDER



hearing pursuant to a notice published in the Maui News on November 6, 1989.

3. Public testimony was presented by Duane Black, Bruno Amby, Lynn Kahoohalahala, Ron McOmber, John Gray, Joe Felipe, Kay Okamoto, and Alberta De Jetley on November 28, 1989. Written testimony was also submitted by Duane Black, Art Rego and Martha A. Evans.

4. On November 28, 1989, the Lanai Advisory Committee recommended approval of the Special Permit to the Maui Planning Commission, subject to 15 conditions as recommended by the Maui Planning Department.

5. On November 28, 1989, the Maui Planning Commission recommended approval of the Special Permit to the Commission, subject to 14 conditions, as amended. The record of the County's proceeding on the Special Permit was received by the Commission on December 4, 1989.

6. On December 14, 1989, the Maui Planning Department clarified recommended Conditions Nos. 5 and 14 that with respect to Condition No. 5, the condition should reflect the condition as recommended by the Maui Planning Commission as shown on page 13 of the transcript of the Lanai Advisory Committee and the Maui Planning Commission Joint Meeting of November 28, 1989; and that with respect to Condition No. 14, the condition is intended to reflect the current conditions of the Department of Health applicable to new golf course developments.

### Description of the Property

7. The petition area is located to the north and west of Lanai City approximately 3.2 miles from Lanai Airport and abut lands within the Koele Project District. The petition area is identified as Tax Map Key Number: 4-9-02: portion of parcel 1, Koele, Lanai, Maui (hereinafter "Property").

8. The Property is bounded by the Koele Project District to the south and southeast and grass and forest lands to the north and west. The Lodge at Koele is located approximately 1,000 feet south of the Property.

9. The Property consists of approximately 38.7 acres. The majority of the Property consists of an abandoned pineapple field and is currently covered with grass, weeds, and scrub brush.

10. The Property is owned in fee simple by Castle & Cooke, Inc. The fee owner has authorized the Petitioner to submit the Permit.

11. Soils on the Property are rated as "E22" by the Land Study Bureau indicating poor agricultural productivity potential.

12. The Property is accessible from Kaunalapua Highway, Fraser Avenue and/or Lanai Avenue and Keomuku Road. Kaunalapua Highway is a two lane state highway which provides access to Lanai City from Kaunalapau Harbor and Lanai Airport. Fraser Avenue and Lanai Avenue are two lane county roads running north-south through Lanai City and provide primary

access to the proposed site. Keomuku Road is a two lane county road which starts at the end of Lanai Road, and proceeds toward Koele Lodge to Lanai Hale.

13. According to a biological report prepared by biologist Kenneth M. Nagata, there are no indications of any rare or endangered animals, plants, or habitat associated with the Property.

14. According to an archaeological reconnaissance performed by Dr. Hallett Hammatt and Douglas Borthwick, no known historic or archaeological features are associated with the Property.

#### Description of Proposed Use

15. Petitioner proposes to develop portions of an 18-hole golf course, a driving range and a clubhouse on the Property. The driving range will be constructed northwest of the clubhouse and measures approximately 1,000 feet long by 400 feet wide. The clubhouse will be a one story structure and contain approximately 10,100 square feet of floor space. Included in the clubhouse will be a pro-shop, bag room, restaurant, locker rooms, and a covered area for golf carts. Parking will be within the Koele Project District.

16. Petitioner indicates that the proposed golf course will provide lakes at strategic locations to function as water features and rain catchment/storm retention ponds and silting basins as part of its drainage and erosion control plan.



17. Potable water is proposed to be used for golf course irrigation. A maximum of 400,000 gallons per day is estimated to be required for irrigation during dry periods.

18. The proposed Permit is required to establish portions of the proposed Koele Golf Course within the Rural District. A portion of the golf course is within the Agricultural District and appears to be a permissible use. Another portion is within the Conservation District and this area is currently proposed for amendment to the Agricultural District under Land Use Commission Docket Number A89-647/Lanai Resort Partners. The Property is also proposed for amendment to the Agricultural District under the same boundary amendment petition.

19. Petitioner indicates that it plans to retain the existing Cavendish Golf Course and develop an 18-hole golf course, clubhouse, and driving range as part of the recreational amenities of the Koele Lodge. The special permit process is being utilized in order to establish the proposed uses more efficiently.

20. Petitioner is proposing to complete the construction of the proposed golf course in approximately one year.

State and County Plans and Programs

21. The Property is designated within the State Land Use Rural District as indicated on Land Use District Boundary Map Lanai. Remaining portions of the proposed golf course are

designated within Agricultural, Conservation, and Urban Districts.

22. The County of Maui, Lanai Community Plan, designates the Property as Rural.

23. County zoning designates the Property as Rural.

24. The Property is not located within the County's Special Management Area.

25. The Property is located mauka of the Department of Health's Underground Injection Control Line.

Summary of Agency Comments

26. The State Department of Agriculture, in its letter dated November 15, 1989, offered the following comments:

"According to the material submitted with the application, the applicant is seeking to develop portions of two holes of an 18-hole golf course along with the other subject amenities. The subject site is within the State Rural District.

"We recently commented on a State Land Use Rural to Agricultural District boundary amendment petition (see attached copy, memorandum to the Office of State Planning, dated October 16, 1989). This action would accomplish the same function as that of the proposed Special Use Permit, insofar as the subject golf course and accessory uses are permissible within Land Study Bureau "C"-, "D"- and "E"-rated lands.

"The concerns found in our memorandum on the boundary amendment remain applicable to the subject application. In pertinent part, they include the following.

- The possibility that the golf course, which is being designed for storm water retention and rain catchment, will enhance the recharge potential for the area. This may accelerate the movement of pesticides already moving through the soil column.

- In order to determine the impact on water quality, the movement of pesticides applied to the soil as well as those potentially added to manage the golf course should be considered.
- Historical use of pesticides should be compiled along with monitoring of the type of pesticides and frequency of application for use on the proposed golf course.

"The foregoing comments notwithstanding, the use of portions of the golf course for storm water retention and rain catchment is compatible with good land use planning. As stated in the application, the majority of the project site is an abandoned pineapple field. We have no objection to issuance of the special permit in this case."

27. The County Department of Public Works, in its memorandum dated November 15, 1989, offered the following comments:

- "1. That the developer provide information (i.e. road rights-of-way, pavement structure, etc.) and construct roadway improvements, to include but not be limited to pavement, curb, gutter and sidewalk and installation of utilities underground.
- "2. That the drainage system be designed to address possible chemical reaction due to use of fertilizers and biocides.
- "3. That the County cannot insure that the sewerage system capacity will be available to service this project. A fee may be imposed to cover costs to expand or improve the Lanai Wastewater Treatment Plant to accommodate the additional sewage flows. The developer is requested to contact the Waste Management Division for additional information.
- "4. That parking, appropriate landscaping and fencing be provided per the County's Off-Street Parking and Loading Ordinance."



28. The State Department of Land and Natural Resources and the County Department of Water Supply had no objections to the Permit.

Conformance With Special Permit Tests

29. The County Planning Department provided the following in evaluating the proposed project:

- "a. Such uses shall not be contrary to the objectives sought to be accomplished by the Land Use Law and Regulations.

Although the subject request is not related to agricultural production, it does not significantly impact the objectives sought to be accomplished by the Land Use Law and Regulations, since the petitioner does not intend to utilize the project site for any further agricultural production because of its poor soil quality.

- "b. That the desired uses would not adversely affect surrounding property.

The proposed uses will not be significantly different from the surrounding uses.

- "c. Such uses would not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, and school improvements, and police and fire protection.

All infrastructural improvements will be the responsibility of the applicant. Furthermore, the proposed uses will not require increased infrastructure and public service.

- "d. Unusual conditions, trends and needs have arisen since the district boundaries and regulations were established.

Unusual conditions, trends and needs in the form of the Koele Project District have arisen since the district boundaries and regulations were established. The proposed uses will not significantly alter the property or intensity of use.

"e. That the land upon which the proposed uses are sought is unsuited for the uses permitted within the district.

Although the land may be suitable for some agricultural production, the property has been vacant for some time. The proposed uses will not materially alter the current physical condition of land."

30. In addition, Petitioner indicates that although the project will increase traffic volumes, the impact will have little affect on the existing road capacity in Lanai City and that traffic studies indicate that no mitigating actions are required.

31. Furthermore, Petitioner indicates that with respect to the use of potable water for golf course irrigation, there is only potable water available for irrigation. Although Well No. 1 is an available brackish water source, Petitioner's consultant was concerned that the use of brackish water may contaminate the high level groundwater aquifer from which potable water is drawn. Due to Lanai's limited potable water source, Petitioner hopes to reduce its average potable water use of 250,000 gallons per day to zero within five years by replacing the potable water with sewage effluent providing there is an adequate population base.

Planning Commission Recommendation

32. At its meeting of November 28, 1989, the Maui Planning Commission recommended approval of the Special Permit, subject to the following conditions:

1. That the Special Use Permit in the Rural District shall be valid for a period of one (1) year from the date of granting of this permit, however, further extension's may be granted upon a favorable review and approval by the Planning Commission.

2. That full compliance with the eight (8) conditions applicable to new golf course developments from the Department of Health, State of Hawaii, shall be rendered.

3. That full compliance with other requirements of the Department of Health shall be rendered.

4. That full compliance with the comments of the Department of Public Works, as identified by their memo, dated November 15, 1989, shall be rendered.

5. That the Petitioner shall be limited in use of potable water for its golf course irrigation, and shall eliminate this use of potable groundwater within five (5) years.

6. That the Petitioner shall submit to the Planning Department an extension request forty-five (45) days prior to the expiration of the subject permit.

7. That the Petitioner shall apply for a Community Plan Amendment for inclusion of the project site and the remaining golf course not included in the project district, into the existing Koele Project District; said request shall be no later than thirty (30) days after date of action of the Planning Commission for the subject Special Use Permit.

8. That the conditions of this Special Use Permit shall be self enforcing and, accordingly, upon due notice by the Planning Commission that there is prima facie evidence that a breach has occurred the permit shall be automatically suspended pending a hearing on the continuity of such Special Use Permit, provided that written request for such a hearing is filed with the department within ten (10) days of the date of receipt of such notice of alleged breach. If no request for hearing is filed within said ten (10) day period, the Planning Commission may revoke said Special Use Permit.

9. That subject Special Use Permit shall not be transferred without the prior written approval of the Planning Commission. However, in the event that a contested case hearing preceded issuance of said Special Use Permit, a public hearing shall be held upon due published notice, including actual written notice to the last known address of parties to said contested case and their counsel.

10. That the applicant, its successors and permitted assigns shall exercise reasonable due care as to third parties with respect to all areas affected by subject Special Use Permit and shall hold the County of Maui harmless from and against any loss, liability, claim or demand arising out of this permit.

11. Full compliance with all applicable governmental requirements shall be rendered.



12. That appropriate measures shall be taken during construction to mitigate the short-term impacts of the project relative to soil erosion from wind and water, ambient noise levels, and traffic disruptions.

13. That the Petitioner shall submit to the Planning Director and make available to the Lanai Community a detailed site plan identifying the hiking and riding trails that are to be open for public use, and that the historical cemeteries shall be protected and maintained in perpetuity.

14. That the Petitioner shall also submit a letter to the Planning Department describing its conformance with the eight (8) conditions applicable to new golf course developments from the Department of Health, State of Hawaii.

#### CONCLUSIONS OF LAW

The Special Permit request to establish a portion of an 18-hole golf course, a clubhouse and a driving range is an "unusual and reasonable" use as defined in Section 205-6, Hawaii Revised Statutes, and the proposed use, subject to conditions in the Order, is not contrary to the objectives sought to be accomplished by the State Land Use Law to preserve, protect and encourage development of lands in the State for those uses to which they are best suited in the interest of the public health and welfare.

#### ORDER

IT IS HEREBY ORDERED that Special Permit Docket No. 89-372/Lanai Company, Inc. to allow the establishment of a



portion of an 18-hole golf course, a clubhouse and driving range, on approximately 38.7 acres of land, designated within the State Land Use Rural District, Maui Tax Map Key No.: 4-9-02: portion of parcel 1, and approximately identified on Exhibit "A" attached hereto and incorporated by reference herein, is hereby approved, subject to the following conditions:

1. That the Special Use Permit in the Rural District shall be valid for a period of one (1) year from the date of granting of this permit, however, further extension's may be granted upon a favorable review and approval by the Planning Commission.

2. That full compliance with the eight (8) conditions applicable to new golf course developments from the Department of Health, State of Hawaii, shall be rendered.

3. That full compliance with other requirements of the Department of Health shall be rendered.

4. That full compliance with the comments of the Department of Public Works, as identified by their memo, dated November 15, 1989, shall be rendered.

5. That the Petitioner shall be limited in use of potable water for its golf course irrigation, and shall eliminate this use of potable groundwater within five (5) years.

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10. That the applicant, its successors and permitted assigns shall exercise reasonable due care as to third parties with respect to all areas affected by subject Special Use

Permit and shall hold the County of Maui harmless from and against any loss, liability, claim or demand arising out of this permit.

11. Full compliance with all applicable governmental requirements shall be rendered.

12. That appropriate measures shall be taken during construction to mitigate the short-term impacts of the project relative to soil erosion from wind and water, ambient noise levels, and traffic disruptions.

13. That the Petitioner shall submit to the Planning Director and make available to the Lanai Community a detailed site plan identifying the hiking and riding trails that are to be open for public use, and that the historical cemeteries shall be protected and maintained in perpetuity.

14. That the Petitioner shall also submit a letter to the Planning Department describing its conformance with the eight (8) conditions applicable to new golf course developments from the Department of Health, State of Health.

DOCKET NO. SP89-372 - LANAI COMPANY, INC.

Done at Honolulu, Hawaii, this 30th day of January 1990,  
per motions on December 14, 1989 and January 23, 1990.

LAND USE COMMISSION  
STATE OF HAWAII

By *Renton L. K. Nip*  
RENTON L. K. NIP  
Chairman and Commissioner

By *Lawrence F. Chun*  
LAWRENCE F. CHUN  
Vice Chairman and Commissioner

By (absent)  
SHARON R. HIMENO  
Commissioner

By *Allen K. Hoe*  
ALLEN K. HOE  
Commissioner

By (conflict)  
ALLEN Y. KAJIOKA  
Commissioner

By *Eusebio Lapenia, Jr.*  
EUSEBIO LAPENIA, JR.  
Commissioner

By *James M. Shinno*  
JAMES M. SHINNO  
Commissioner

Filed and effective on  
January 30, 1990

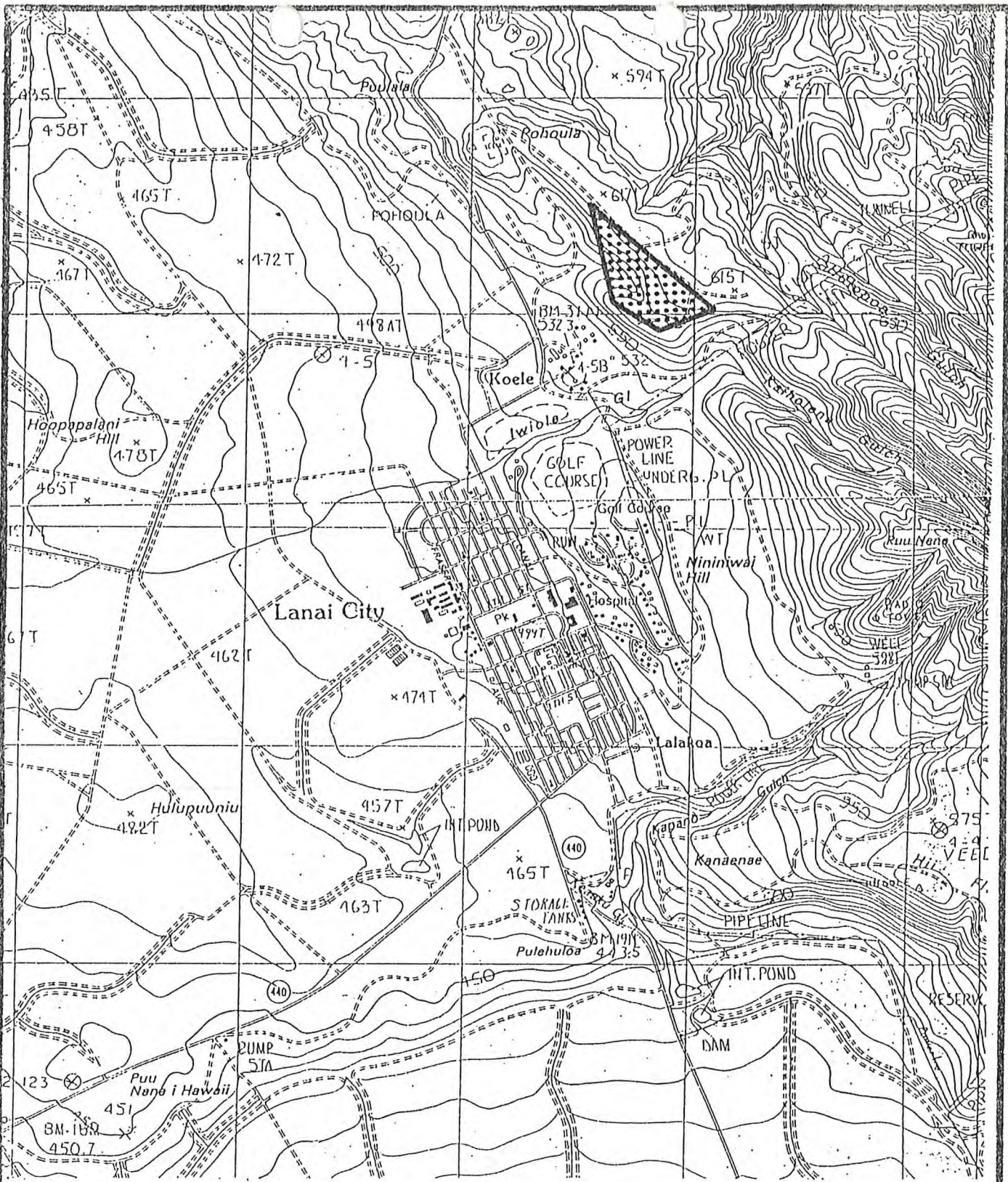
Certified by:

*Esther Lund*  
Executive Officer

By *Elton Wada*  
ELTON WADA  
Commissioner

By (absent)  
FREDERICK P. WHITTEMORE  
Commissioner





LOCATION MAP

DOCKET NO. SP89-372/Lanai Company, Inc.  
 T.M.K. : 4 - 9 - 2 : portion of 1  
 KOELE, LANAI CITY, LANAI  
 SCALE: 1 : 25,000



APPROVED AREA



