

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of) DOCKET NO. A86-608
GROVE FARM LAND CORP.) GROVE FARM LAND CORP.
To Amend the Agricultural Land)
Use District Boundary into the)
Urban Land Use District for)
Approximately 54 Acres at Lihue,)
Island and County of Kauai, State)
of Hawaii, Tax Map Key No.:)
3-3-03: Portion of 1)

LAND USE COMMISSION
STATE OF HAWAII
FEB 12 3 47 PM '87

FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND DECISION AND ORDER

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of) DOCKET NO. A86-608
GROVE FARM LAND CORP.) GROVE FARM LAND CORP.
To Amend the Agricultural Land)
Use District Boundary into the)
Urban Land Use District for)
Approximately 54 Acres at Lihue,)
Island and County of Kauai, State)
of Hawaii, Tax Map Key No.:)
3-3-03: Portion of 1)

FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND DECISION AND ORDER

Grove Farm Land Corp., a Hawaii Corporation (hereinafter the "Petitioner"), filed this boundary amendment Petition on August 12, 1986, pursuant to Chapter 205, Hawaii Revised Statutes, and the Rules of Practice and Procedure of the Land Use Commission, State of Hawaii, to amend the land use district boundary for approximately 54 acres of land, Kauai Tax Map Key No.: 3-3-03: portion of 1, situate at Lihue, Island and County of Kauai, from the Agricultural District to the Urban District (hereinafter the "Property"). The Land Use Commission (hereinafter the "Commission"), having duly considered the record in this Docket, the report of the Hearing Officer, the Joint Findings of Facts, Conclusions of Law, and Decision and Order submitted by the parties, the recommendations of the Department of Planning and Economic Development, State of

Hawaii, and the County of Kauai Planning Department, hereby makes the following findings of fact and conclusions of law and decision and order:

FINDINGS OF FACT

PROCEDURAL MATTERS

1. The Commission's Hearings Officer held the hearing on this Petition on November 25, 1986, in Lihue, Kauai, pursuant to notice published in The Garden Island and the Honolulu Advertiser on October 1, 1986.

2. The Commission did not receive any requests to testify as public witness nor any petitions to intervene in this proceeding.

DESCRIPTION OF PROPERTY

3. The Property is situate in Lihue, Kauai, on the southerly side of Kaunualii Highway and on the westerly side of Nawiliwili Road, and is designated as Kauai Tax Map Key No. 3-3-3: portion of parcel 1, containing an area of approximately 54 acres.

4. Petitioner has an option to acquire the fee simple interest in the Property from Petitioner's parent corporation, Grove Farm Company, Incorporated, a Hawaii corporation (hereinafter "Grove Farm Company"), and has been authorized by Grove Farm Company to submit this Petition.

5. The Property is currently in sugarcane cultivation and related uses. The Property abuts the existing Kukui Grove Shopping Center on its easterly border with remaining

boundaries abutting Kaumualii Highway and the present Agricultural District.

6. The present County of Kauai General Plan designates the Property as an "Urban Mixed Use" area. Petitioner's proposal for development of the Property conforms with the County of Kauai General Plan. The General Plan amendment granted to Petitioner by the Kauai Planning Commission and County Counsel was conditioned, among other things, upon the formulation by Petitioner of a sewage development master plan, drainage development master plan and traffic study and plan and the submittal of said documents to the County Planning Department, Public Works Department, State Health Department, and State Department of Transportation for review and approval, prior to requesting any zoning amendments for the Property. The present County of Kauai zoning on the Property is "Agricultural". County of Kauai zoning will have to be amended in order to permit the proposed development.

PROPOSAL FOR DEVELOPMENT

7. Petitioner proposes to develop an extension of the adjacent Kukui Grove Commercial Village, to include additional office and restaurant space, a bowling alley, and a combination golf driving range and multi-use park. Petitioner proposes to develop a general commercial area upon a portion of the Property identified as parcel 5/6 on Petitioner's Lihue/Puhi Project District Plan, Figure 1-1 in the FEIS (the "Plan"), based upon a concept similar to the existing Kukui Grove

Commercial Village and geared toward service-oriented establishments as opposed to retail outlets. The remaining portions of the Property, identified as parcel 8 and parcel 9 on the Plan, will be developed concurrently with a bowling alley and lighted golf driving range on parcel 8 and a contiguous multi-use park on the six-acre parcel 9.

8. The commercial area portion of the Property will be essentially an extension of the adjacent Kukui Grove Commercial Village, with a focus toward service-oriented establishments. Only a limited number of spaces remain available in the existing Commercial Village, and Petitioner is currently negotiating with numerous individuals and business entities desiring to either purchase or lease space within the Commercial Village. Based upon these current negotiations and the numerous additional inquiries to Petitioner regarding the purchase or lease of additional space within the Commercial Village, there exists a demand for additional commercial space in close proximity to the existing Commercial Village complex.

9. Parcel 5/6 will be developed into not more than 144 lots ready for the construction of commercial improvements and will then be offered to lease to commercial users on terms subject to negotiation. Although the actual configuration of the development may vary, Petitioner does not expect that any commercial lot created will be smaller than 8,000 square feet in size. The minimum annual cost per square foot of the land lease will be set at market at the date of development. Each

user will be required to construct improvements to the lots which are approved by Petitioner. Ground floor retail operations, such as restaurants and similar uses, may occur at the development. Generally, however, the location of the development will dictate service oriented uses.

10. The bowling alley and lighted golf driving range will be constructed upon the portion of the Property identified as parcel 8. As with the commercial area, Petitioner will offer lots (with infra-structure improvements in place) for lease. Petitioner will set the ground lease rent for the premises at market rates. It is anticipated that Petitioner will develop the driving range, with Petitioner leasing that portion of the Property to a local group for the operation of the driving range.

11. At the present time, Kauai lacks a bowling alley and there is no lighted driving range in Lihue. Such family-oriented facilities as a bowling alley and golf driving range will fill a void currently existing on Kauai in this area. This development will be beneficial to both the local and visitor population and is currently needed.

12. A multi-purpose park, contiguous to the golf driving range, will occupy a six-acre portion of the Property identified as parcel 9. It is anticipated that the park will be appropriate and available at a fee for farmers' fairs, circuses, 4-H shows, Kam Day parades, carnivals and related uses. Petitioner has been approached by numerous community

groups, including the Kauai Farm Bureau, regarding the availability of the Property for Kauai's annual Farm Fair. The Farm Bureau has long considered expansion of the Farm Fair format, but the lack of adequate space has prevented such expansion. The proposed development plan anticipates the periodic closure of the golf driving range to facilitate large events scheduled for the park, such as the Farm Fair and carnivals. For such events, the grassy area of the golf driving range will be used to either expand the park's activity area or to provide space for additional vehicle parking. Petitioner proposes to utilize the multi-purpose park as an adjunct to its Kukui Grove Center and will not be offering it for lease or sale.

13. Construction of the proposed development may be undertaken in phases. The construction and completion date of the project (and each phase, if constructed in phases) is dependent, to a substantial degree, upon the applicable state and/or county land use, zoning and permit approval processes. Construction planning may be initiated immediately, and Petitioner estimates a planning period of approximately eight months. It is anticipated that the physical construction of the improvements will require an additional seven or eight months. As a result, construction of the bowling alley, the driving range and the commercial lots is not expected to commence prior to March 1988, with completion of such facilities expected no sooner than October 1988. The

properties may be leased concurrently with their construction and as a result, construction of improvements on the commercial area lots could also commence in 1988.

14. The estimated cost to construct the commercial area lots (together with the associated cost of expanding the existing private sewage treatment facility, if required) is approximately \$3,540,000.00. The cost to improve the park is estimated to be approximately \$160,000.00 and the cost to improve the lots at parcel 8 and the construction of the driving range is \$800,000.00.

IMPACTS UPON ENVIRONMENTAL, AGRICULTURAL,
RECREATIONAL, OR HISTORICAL RESOURCES

15. Petitioner does not anticipate any significant detrimental effects upon the environmental, agricultural, recreational, or historical resources of the area as a result of the proposed development on the Property.

16. The Property's terrain is gently sloping land, with no visible rock outcrops or distinguishing characteristics. The majority of the soils on the Property consist of Lihue Silty Clays (LhB), characterized by moderately rapid permeability, slow runoff and only slight erosion hazard. Engineering interpretations for this type of soil indicate no unusual conditions which would affect construction. As with many Hawaiian soils, shrink-swell potential is indicated as moderate. The Property's topography is generally level with a slight three percent (3%) slope in an easterly direction.

17. The primary impact of the proposed development will be to remove the Property from sugarcane cultivation by placing it in commercial and related uses. The impact that the proposed development will have on the agriculture industry of Kauai will be felt in two related areas. The first is the withdrawal from cane of approximately 54 acres of "B" productivity rated land. The second is the impact on the Lihue Plantation Co., Ltd.'s mill operations, which will result from the withdrawal of the Property from cane production.

18. In 1974, when Grove Farm Company withdrew from sugar production, after over 100 years in that business, it leased 2800 acres of its lands to Lihue Plantation. That lease is for a term of 21 years, having commenced in January 1974. As part of the leasing process, an additional 870 acres, approximately, in the Aakukui area of Kauai was offered by Grove Farm Company to Lihue Plantation as part of the lease but Lihue Plantation declined to lease this area. Notwithstanding this fact, the disposition by Petitioner of its former sugar lands has strengthened the operations of Lihue Plantation.

19. The lease from Grove Farm Company to Lihue Plantation provides for optional, yearly withdrawals (on a cumulative basis) of any 25 acres of leased cane land by the Petitioner. To date, less than 75 acres have been withdrawn from sugar production under this provision. Currently, Grove Farm Company (and Petitioner pursuant to its option) has the right to withdraw up to 275 acres of cane land (including roads

and ditches). Under the lease, Grove Farm Company has an unlimited right to withdraw non-cane land, such as gulches and wasteland. Grove Farm Company and Petitioner intend to exercise this right of withdrawal in an orderly manner such that Lihue Plantation may continue the sugar production on surrounding lands, which will remain unaffected.

20. In 1967 Class A, B and C agricultural lands on Kauai totalled 68,981 acres (as calculated by the Land Study Bureau). The withdrawal of the 54 acres under consideration will mean the loss of .078% (i.e. 78/1000th of one percent) of the better agricultural lands on Kauai to the proposed development. Any decrease in sugar production which may result from the withdrawal of the Property for the proposed development can be restored by the use of improved farming methods which are now available to increase sugar yields per acre of land. As a result, the proposed withdrawal of the Property from sugarcane cultivation will have a negligible effect upon the agricultural industry of Kauai and Lihue Plantation.

21. The proposed development is not expected to significantly increase the use of existing State or county recreational facilities. Rather, the proposed development of a bowling alley, a golf driving range, and a multi-purpose park upon the Property will respond to the present need for increased recreational facilities in the Lihue area. The

facilities are intended to be used by the public and will be beneficial to both the local and visitor population.

22. The Lihue Development Plan indicates that there are no historic sites on the Property. None are listed on the State's Register of Historic Places or other publications on the subject of which the parties are aware. The entire area has been under intensive sugarcane cultivation for over 100 years. There is no evidence of any sites of a historic or archaeological significant nature on the Property.

23. The existing vegetation on the site consists entirely of cultivated sugarcane. The cane will be removed and replaced by landscaping appropriate to the proposed development.

24. The known fauna consists of rodents and five mammalian species consisting of black rat, Hawaiian rat, Norway rat, house mouse, and feral cat within the predominantly sugarcane habitat. No significant adverse affect on the known fauna is expected as a result of the Project.

25. Air quality, generally, will be affected by construction activities on the Property related to the proposed development and by increased automobile traffic in the area. During construction, dust and exhaust from equipment will be emitted. Dust will be controlled by watering and other appropriate methods. The construction equipment to be utilized is essentially the same in terms of air quality impacts as cane cultivation and harvesting equipment. As a result, no additional impact from construction is perceived.

26. Improvement of the Property is expected to return the site drainage pattern to the natural runoff system. Very little effect is anticipated on existing water quality in the area even after construction of the proposed development is completed. During construction, siltation measures will be practiced as required by the Kauai County Public Works Department.

27. The Property is not susceptible to natural hazards such as flooding and is removed from the zone of tsunami inundation.

ADEQUACY OF ROADS AND OTHER PUBLIC FACILITIES

28. Development of the Property as proposed will have minimal non-significant impacts on morning and afternoon peak period traffic. No significant adverse impact is expected as a result of traffic attributable to this development. It is expected that ingress to and egress from the proposed development will be via existing intersections to the adjacent Kukui Grove Shopping Center and, that in the future, a new road intersecting Kaunualii Highway, adjacent to the existing cane road, may be constructed, if approved by appropriate governmental agencies, and will service the development area.

29. The present public services and facilities, such as schools, water, electrical power, sanitation, health care, police, and fire protection are adequate for the proposed development and public agencies providing such services and

facilities will not be unreasonably burdened by the proposed development.

30. No public sewage system is currently available or planned in the project area. All facilities related to the proposed development of the commercial area, bowling alley and facilities at the golf driving range will be connected to the existing private Sewage Treatment Plant servicing Kukui Grove Shopping Center. Arrangements will be made to permit connection to the treatment plant. It is not expected that a booster pump facility will be required. The evidence indicates that the existing Plant is capable of providing adequate sewer service to the Project. Although unanticipated, the Plant, if required, is capable of being expanded to satisfy any increased need of the Project.

31. The Kauai Water Department has indicated it expects that adequate water sources to accommodate the proposed development will be available. However, the Water Department does not guarantee availability until County zoning is approved. Current water storage facilities will be adequate for the existing development. No detrimental impact on water storage facilities and supply is anticipated.

32. Refuse and garbage disposal services will be provided by contract with local private concerns.

33. Local utility supply is adequate to respond to the anticipated demand to be generated by the proposed development. The supply will be furnished by Kauai Electric, a

division of Citizens Utilities Company, through Hawaiian Telephone Company, and the local gas company, where appropriate.

34. Police service to the proposed development area is provided by the Lihue Station, located approximately 1.8 miles from the Property. Fire protection service to the proposed development area is provided by the Lihue Fire Station, located approximately 2.0 miles from the Property. Adequate fire fighting water at the proposed development will be available from a hydrant system to be constructed as part of the development, and connected to the county water system.

35. The proposed development area will be served by Wilcox Hospital, located approximately 2.0 miles from the Property.

36. Dust and any noise problem created by the cane haul road just west of the project site can be mitigated by growing a buffer of vegetation.

CONFORMANCE TO APPLICABLE DISTRICT STANDARDS

37. The Property is situated adjacent and contiguous to an existing State Land Use Urban District. The Property is directly adjacent to Kukui Grove Commercial Village and the Kukui Grove Shopping Center, the major commercial center on Kauai. The proposed development is a logical extension of the adjacent areas and the reclassification of the Property as proposed would result in a contiguous Urban District. The proposed classification would not result in scattered or disaggregate urban growth.

38. The contiguous urban area is also a center for employment. The proposed development will generate both short-term and long-term employment opportunities and employment income for Kauai residents, providing numerous temporary jobs in construction-related occupations and several permanent positions within the bowling alley, the golf driving range and the multi-purpose park, upon completion. The development of Parcel 5/6 will also result in the creation of magnitude of employment opportunities for Kauai residents and entrepreneurs. It is anticipated that nearly all of such employment opportunities will be filled by residents of Kauai. It is not expected that any jobs will be lost by the withdrawal of the Property from sugarcane cultivation.

39. The proposed development is not unique or unusual for the area. It will not alter the characteristics of the immediate area of the community. The proposed development represents a logical step in the transition of the development area from agricultural to urban classification.

40. The Property does not fall within the Kauai County Coastal Zone Special Management Area. Accordingly, the Coastal Zone Management Act, 205A, HRS, as amended, does not apply to the development and/or reclassification of the Property.

41. Lihue is the commercial and governmental core of the County of Kauai. With the continuing increase in the County's population and the probable expansion of governmental

services, there is a present and continuing need for additional quality commercial and recreational sites and facilities in the Lihue area. The development will be beneficial to both the local and visitor population. The Commission finds that the reclassification of the Property to permit the proposed development is reasonably necessary.

42. Based upon the facts, data, exhibits, information, and testimony presented at the hearing, the proposed development is consistent with the State Land Use Commission District Regulations, Part II, section 2-2(1)(1) through (h), inclusive, to the extent that such regulations may be applicable. Briefly reiterated, the proposed development is consistent with the relevant Land Use Commission District Regulations in that:

(a) The proposed development will be within an area consisting of lands characterized by "city-like" concentrations of people, structures, streets, and an urban level of services and other related land uses.

(b) The Property is in close proximity to Kauai's major trading, employment, governmental and social centers.

(c) The economic feasibility of the proposed development has been substantiated by Petitioner.

(d) Basic services such as electricity, gas, sewer, water, sanitation, schools, parks, and police and fire protection are available or can be provided to the Property at a reasonable cost.

(e) The Property is classified by the County for "Urban Mixed Use". This districting permits planned mix or urban uses.

(f) The topography of the Property is amenable to urban development. The Property is free of unstable soil conditions and the proposed development will have no significant adverse effects upon the environment.

(g) The Property is contiguous to an existing Urban District and is in an appropriate location for a logical and reasonable extension of the Urban District for future growth. The Property is also within an area classified as "Urban Mixed Use" in the County General Plan. The proposed development of the Property will not contribute to scattered urbanization, nor will it require an unreasonable investment in public facilities or services.

CONFORMANCE WITH HAWAII STATE PLAN

43. Based upon the facts, data, exhibits, and information presented at the hearing, the proposed development is consistent with the Hawaii State Plan as set forth in Chapter 226, HRS, as amended. The proposed development will assist both the short-term and long-term growth of the area's economy. In addition to increasing the number of jobs directly available to Kauai County residents, the proposed development will encourage businesses that have favorable financial effects within Hawaii's economy. The proposed development will also promote and protect intangible resources in Hawaii, through the

construction of additional recreational facilities for Kauai residents, which are vital to a healthy economy.

44. An environmental impact statement is not required pursuant to the provisions of Chapter 343 of the Hawaii Revised Statutes.

CONCLUSIONS OF LAW

Pursuant to Chapter 205, Hawaii Revised Statutes, the Rules of Practice and Procedure and Section 6-1 of the District Regulations of the Land Use Commission, the Commission concludes that the reclassification of the subject Property, consisting of approximately 54 acres of land situate at Lihue, Kauai, State of Hawaii, from the Agricultural District to the Urban District and the amendment of the State Land Use District Boundaries to permit the proposed development is reasonable, non-violative of Section 205-2, Hawaii Revised Statutes, and is consistent with the Hawaii State Plan as set forth in Chapter 226, Hawaii Revised Statutes, as amended, and the District Regulations of the Commission.

ORDER

IT IS HEREBY ORDERED that the Property, which is the subject of this Petition in Docket No. A86-608 filed by Grove Farm Land Corp., consisting approximately 54 acres, identified by Kauai Tax Map Key No.: 3-3-03: portion of parcel 1, situate at Lihue, County of Kauai, State of Hawaii, and more approximately shown on Exhibit A attached hereto and incorporated by reference herein, shall be and the same is

hereby reclassified from the Agricultural District to the Urban District, and the District Boundaries are amended accordingly, subject to the following conditions:

1. Petitioner shall comply with the regulations of the State Department of Health and other appropriate agencies in the utilization of Petitioner's sewage treatment facility proposed to service the Property.

2. Petitioner shall fund the design and construction of highway improvements for access to the Property and other improvements to that portion of Kaumualii Highway fronting the Property as may be required by the State Department of Transportation.

3. Petitioner shall provide notification to the future lessees or occupants of the odor, noise, and dust pollution resulting from the surrounding agricultural operations.

4. In the event that any previously unidentified sites or remains such as artifacts, shells, bones, charcoal deposits, human burials, rock or coral alignments, pavings, or walls are encountered on the Property, the Petitioner shall stop work and contact the Department of Land and Natural Resources Historic Sites Section upon the discovery of the same.

5. 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 assurance of satisfaction of these conditions by the Petitioner.

DOCKET NO. A86-608 - GROVE FARM LAND CORP.

Done at Honolulu, Hawaii, this 12th day of February 1987,
per motions on January 27, 1987 and February 10, 1987.

LAND USE COMMISSION
STATE OF HAWAII

By *J.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 *Lawrence F. Chun*
LAWRENCE F. CHUN
Commissioner

By *Richard B. F. Choy*
RICHARD B. F. CHOY
Commissioner

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

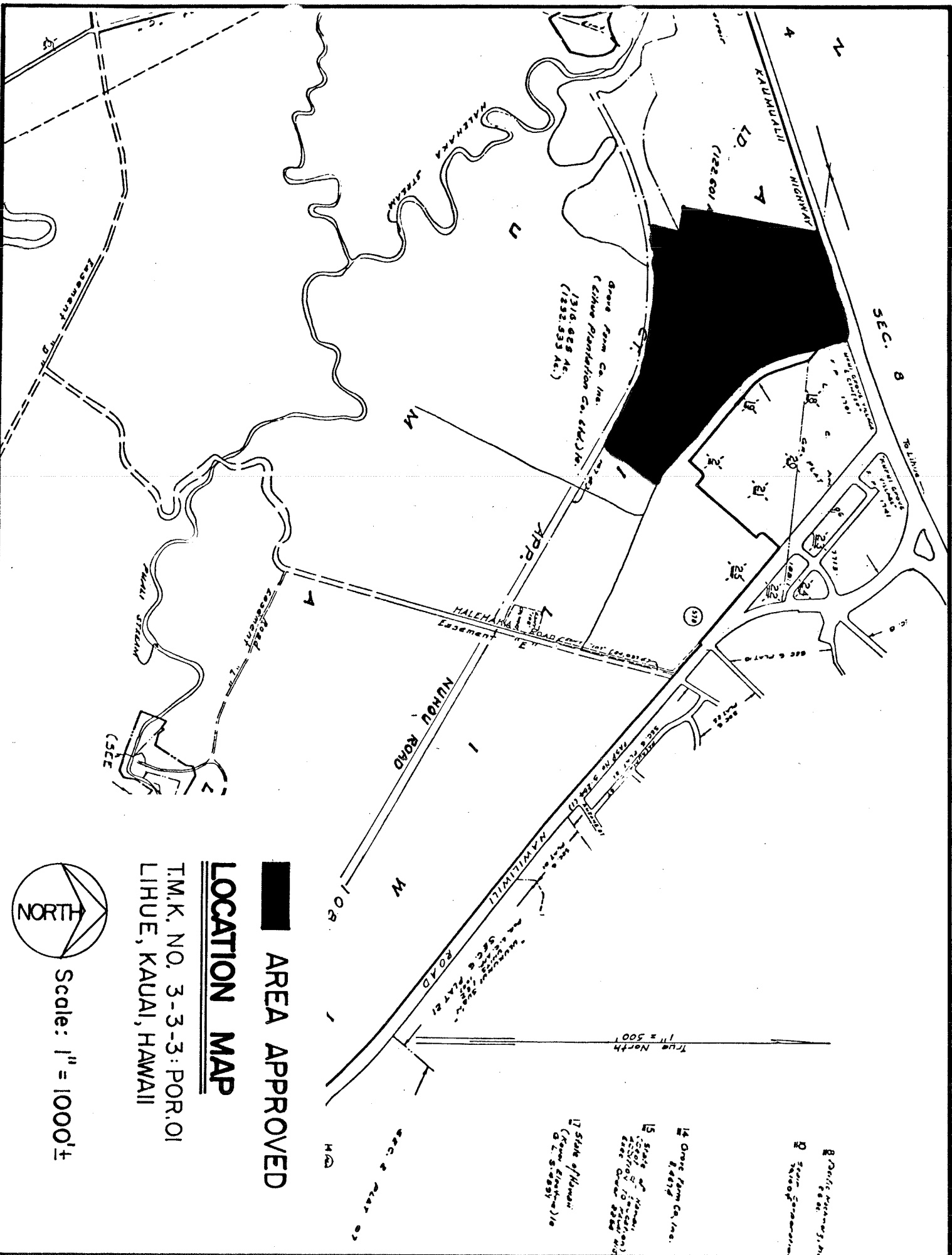


EXHIBIT A

AREA APPROVED

LOCATION MAP

T.M.K. NO. 3-3-3:POR.OI
 LIHUE, KAUAI, HAWAII



Scale: 1" = 1000'

- 1 Grove Farm Co. Inc.
 (1316.828 Ac.)
 (1232.533 Ac.)
- 2 State of Hawaii
 (From E. 1st-1) 10
 0-1-5-0495
- 3 State of Hawaii
 (From E. 1st-1) 10
 0-1-5-0495
- 4 Grove Farm Co. Inc.
 (1316.828 Ac.)
 (1232.533 Ac.)
- 5 State of Hawaii
 (From E. 1st-1) 10
 0-1-5-0495
- 6 State of Hawaii
 (From E. 1st-1) 10
 0-1-5-0495
- 7 State of Hawaii
 (From E. 1st-1) 10
 0-1-5-0495
- 8 State of Hawaii
 (From E. 1st-1) 10
 0-1-5-0495

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)	DOCKET NO: A86-608
)	
GROVE FARM LAND CORPORATION)	GROVE FARM LAND CORPORATION
)	
To amend the Agricultural Land Use)	
Boundary into the Urban Land Use)	
District for approximately 54)	
acres at Lihue, Kauai, Hawaii,)	
Tax Map Key: 3-3-03:Portion of 1)	

CERTIFICATE OF SERVICE


I hereby certify that a copy of the 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:

ROGER A. ULVELING, Director
Department of Planning and Economic Development
State of Hawaii
250 South King Street
Honolulu, Hawaii 96813

AVERY H. YOUN, Director
Department of Planning
County of Kauai
4396 Rice Street
Lihue, Kauai, Hawaii 96766

DENNIS M. LOMBARDI, ESQ., Attorney for Petitioner
Case, Kay & Lynch
Grosvenor Center, Suite 2500 & 2600
733 Bishop Street
Honolulu, Hawaii 96813

Dated: Honolulu, Hawaii, this 12th day of February 1987.



ESTHER UEDA, Executive Officer

DOCKET NO. A86-608 - GROVE FARM LAND CORP.

A copy of the Land Use Commission's Decision and Order was served upon the following by regular mail on February 12, 1987.

EVERETT KANESHIGE, Deputy Attorney General
Department of the Attorney General
465 South King Street, Room 200
Honolulu, Hawaii 96813

OFFICE OF THE COUNTY ATTORNEY
County of Kauai
4396 Rice Street
Lihue, Kauai, Hawaii 96766

LIHUE PLANTATION CO., LTD.
P. O. Box 751
Lihue, Hawaii 96766

BENJAMIN MATSUBARA, Hearing Officer
8th Fl., Kendall Building
888 Mililani Street
Honolulu, Hawaii 96813