

ORIGINAL

BRYAN J. BAPTISTE
MAYOR

IAN K. COSTA
DIRECTOR OF PLANNING



GARY K. HEU
ADMINISTRATIVE ASSISTANT

MYLES S. HIRONAKA
DEPUTY DIRECTOR OF PLANNING

COUNTY OF KAUA'I
PLANNING DEPARTMENT
4444 RICE STREET
KAPULE BUILDING, SUITE A473
LIHU'E, KAUA'I, HAWAII 96766-1326

TELEPHONE: (808) 241-6677 FAX: (808) 241-6699

September 30, 2005

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

2005 OCT 19 A 10: 03
LAND USE COMMISSION
STATE OF HAWAII

Subject: Request to Amend
Special Permit SP-2001-5
Use Permit U-2001-8
Class IV Zoning Permit Z-IV-2001-10
Tax Map Key Parcels: 2-7-001: 1, 2-8-001: 1, 2-8-001: 3, 2-8-022: 28, 2-9-001: 1,
2-9-002: 1, 2-9-002: 5, 2-9-003: 1, 2-9-03: 6, 3-4-001: 1, and 3-4-006: 1.

The Planning Commission, at its meeting held on September 27, 2005, approved the request to amend the subject permits to include and identify additional Tax Map Key Parcels: 2-7-001: 1, 2-8-001: 1, 2-8-001: 3, 2-8-022: 28, 2-9-002: 5, 2-9-003: 1, and 2-9-03: 6, for a previously approved project involving a staging area and commercial recreational activities, including guided ATV tours, water activities in the Waita Reservoir, two paint ball parks and speed ball tournament field on properties identified by TMKs: 2-9-001: Por.1, 2-9-002: Por.1, 3-4-006: Por. 1, & 3-4-001: Por. 1. Approval is subject the following conditions which amends the Planning Commission's conditions of approval of March 8, 2005 to read as follows:

1. The structures for which approval is sought and referred to in the application are approved. The use of the Waita Reservoir, involving a combined total of 128 persons per day, for the double hull canoe, sailboats, and kayak rentals, is permitted subject to the Use Plan for the reservoir proposed by Grove Farm Company, Incorporated dated March 8, 2005. The applicant's ATV tours,

consisting of single persons and multiperson vehicles, shall be limited to a maximum of 200 persons per day. The proposed Paintball Parks (Mauka and Makai Parks) shall be limited to a combined total of 100 persons per day. The proposed Speeball tournaments shall be limited to no more than four events per year with a maximum of 200 persons per tournament.

After a period of one year from commencement of operations **and every year thereafter**, the applicant shall provide the Planning Commission **and the State Land Use Commission** with a Status report of its operation. The report shall include, but not be limited to, the number tours, customers, and customer vehicles for each of the activities allowed under the subject permits. The Commission reserves the right to modify or impose additional conditions if it is found that adverse effects are being generated by the proposed operations allowed under the subject amendment request.

2. As further represented, the applicant shall provide fire extinguishers and first-aid/CPR kits on at least one of the "lead" vehicles on the tour. In addition, the applicant shall also work with the Fire Department to establish an Emergency Response Action Plan for the portions of the tour that are not public accessible

The applicant shall provide a revised Emergency Response Action Plan for the ATV Tours and Paint Ball operations to the Fire Department for review and comments.

3. The applicant shall execute a written agreement stating that due care for public safety will be provided and that the applicant agrees to indemnify, defend, and hold harmless the County of Kauai, its officers, agents, and employees from and against all claims or demands for damage, including claims for property damage, personal injury or death arising on or about the property in connection with the ATV tours.
4. As presented by the applicant, the staging area will consist of washing, maintenance, and storage of ATV vehicles used in conjunction with the tour operation. No major engine repair work or underground storage of fuel shall be allowed in the staging area.

The applicant shall resolve the requirements for the wash down area, refueling area, and individual wastewater requirements for the staging area with the Department of Health prior to any increase in ATV tour operation or commencement of the paintball operations.

5. The applicant shall resolve and comply with all applicable requirements or conditions as recommended by the State Department of Health, the State Department of Transportation, County Water, Fire, and Public Works Departments.
6. The Planning Commission reserves the authority to impose additional conditions, modify or delete conditions stated herein, or revoke the subject permits through proper procedures should the applicant fail to comply with the conditions of approval.
7. The applicant is advised that prior to and/or during construction and use, additional government agency conditions, including additional conditions of the Planning Commission, may be imposed. It shall be the applicant's responsibility to resolve those conditions with the respective agency (ies) and to resolve those additional conditions as may be imposed by the Planning Commission.
8. If historic/cultural remains such as archaeological artifacts, charcoal deposits or human burials are found during ground clearing or construction, the applicant shall stop work in the immediate area, and shall contact the State Historic Preservation Division SHPD (Ph. No. 742-7033) and the Planning Department, to determine appropriate action.

The applicant shall provide the State Historic Preservation Division with any historic interpretive material to be provided on the tour for its review and approval prior to commencement of operations approved under the subject amendment request.

9. [The applicant shall provide survey maps with metes and bounds descriptions of the paint ball parks, speed ball tournament field, and staging area to Planning Department prior to commencement of operations or any additional construction within these areas approved under the subject permit.]

The Special Permit is granted for a period of five (5) years commencing upon the issuance of the Special Permit by the Land Use Commission and is subject to extension upon favorable review by the Planning Commission and the Land Use Commission. To facilitate timely review, any application for extension shall be submitted at least three month prior to the expiration of this Special Permit.

Anthony J. H. Ching, Executive Officer
September 30, 2005
Page 4 of 4

10. The Applicant and the owner of the property, Grove Farm Company shall enter into an agreement for the maintenance of the cane haul roadways and trails used by the Applicant's tour operations. Said executed agreement shall be submitted to the Planning Department prior to commencement of operations allowed under the subject amendment request.

11. **The Applicant is advised that all buildings within the staging area shall meet building setback requirements of the Kauai County Code 1987, as amended. This requirement shall be complied with at time of building permit application.**

In accordance with the provisions under Section 205-6 of the Hawaii Revised Statutes, transmitted herewith for your consideration is the foregoing decision together with the complete record of the proceeding before the Planning Commission of the County of Kauai.



Ian K. Costa
Director of Planning

cc: Walton D. Y. Hong
Public Works
Water Dept.
State Health Dept.
State Historic Preservation Div. – DLNR
Fire Dept.
Office of Planning – State DBEDT
State Department of Agriculture
Real Property Div.