

NIAU, S. & A. & CHANG, R. & K.
A(T)64-64



1 2 07

Eng. No: 288
Source: Survey
by: RB

卷之三

KIKALA-KEOKEA, HM5TDS, PUNA, HAWAII

9/4 PLAT 06
HOMESTEAD

HOMESTEADS

Elizabeth K. Young - 3/0
Hannah Elderts - 1/21
George Elder/s - 1/21
Emma E. Halemano
Hattie E. Takaki - 1/0

Tax Maps Branch
Tax Office Bldg.
Honolulu, Hawaii

ADVANCE SHEET
SUBJECT TO CHANGE

THIRD DIVISION		
ZONE	SEC.	PLAT
1	2	07
CONTAINING		PARCELS
SCALE = 1 in. = 600 ft.		

*Rough Draft
has not been reviewed
Petition withdrawn.*

STATE OF HAWAII
LAND USE COMMISSION

Board of Supervisors' Chambers
Hilo, Hawaii

3:00 P. M.
October 23, 1964

STAFF REPORT

A(T)64-64 - NIAU, S. & A. and
CHANG, R. & K.

District Classification: AGRICULTURAL

Background

Messrs. Niau and Chang have submitted a petition to amend the district boundaries from an agricultural district to a rural district for Hawaii TMK 1-2-07: 45 containing a total area of 41.5 acres. The petitioners propose to subdivide the land for vacation type residential lots. Subject property is about 5.70 miles away from Pahoa and is situated between the upper Puna Road and the Pahoa Kalapana Road. To the east of the land is the Keauohana Forest Reserve which is presently in the Conservation District. On the westerly side of the subject land is the 918 lot Black Sand Subdivision, while on the north are two ten-acre parcels which separates the subject property from the upper Puna Road. The southern portion of the property is crossed by the Kalapana - Pahoa Government Road.

The petitioners' property is presently vacant and has a heavy growth of vegetation on it consisting of ohia trees, ^{fern} hapu plants, and other types of vegetation. This land has been classified as class D and U lands by the Land Study Bureau and thereby unsuited for intensive agriculture.

Topography of the land is from 6% to 12% and the median annual rainfall is approximately 100" per year. ^{1/}

^{1/} Belt Collins Report - Puna District, pages 101 and 103.

The property itself is not within the present County water system, however, the County plans to put in an 8" waterline somewhere in the vicinity of the petitioners' land. In the meantime, governmental officials have put in a test well in the Keauohana Forest Reserve area which currently produces $\frac{1}{2}$ MGD.

Electric power lines are located about three miles from the proposed subdivision site. However, the petitioner has mentioned that the landowners of the Black Sand Beach Subdivision would extend their ^{power} line ~~onto~~ ^A the subject property.

The only type of existing utility that is available to date is a telephone line which runs along the Kalapana - Pahoa Road.

Said land lacks all types of urban services. The nearest concentration of "city-like" type of structures, streets, and urban level of services are in Pahoa town which is about 5.70 miles away.

Current development plans by the County and State shows the area to be in diversified agriculture. The Belt Collins Plan for the Puna District indicates a residential - agricultural type of zoning for portions of said land near the Kalapana - Pahoa Government road while the remaining area is to be used for diversified agriculture. ^{1/}

At their meeting on May 18, 1964, the Hawaii Planning and Traffic Commission voted to recommend approval of the petitioners' request from an agricultural district to a rural district on the basis of the following reasons:

^{1/} See County Zoning for Puna District, State General Plan, and Belt Collins Plan for Puna District.

1. The land involved is generally triangular in shape abutting the 918 lot Black Sand Subdivision on the east, a two ten-acre parcel on the north, (the two ten-acre parcels separates said land from gravel-surfaced, narrow County Road), the upper Puna Road, and the Keauohana Forest Reserve on the west. The Kalapana-Pahoa Government Road to which the said lot abuts, generally establishes the southern point.
2. The Black Sand Subdivision, granted final approval in January 15, 1963 contains 918 lots with lot size generally 7,500 square feet. Said subdivision has no County water system and the roadways are built to Section 25 Standard of Hawaii State Specifications which are not dedicable to the County for maintenance. One single-family dwelling unit exists in said subdivision.
3. Said land has heavy growth of ohia trees; and not being used for agricultural purposes.
4. Electric line runs along Kalapana-Pahoa Road.
5. Said land is proposed in the Master Plan of Puna adopted on January 10, 1964 for residential-agricultural purposes, the use of which is similar in nature with the uses permitted under the rural zone "district.

Analysis

Under Act 205, Section 98H-4, "the petitioner has submitted proof that the land is usable and adaptable for the use it is proposed to be classified." In support of the above statement, the petitioners have submitted the following statements:

"1. The landowners have attempted to sell the land for agricultural use. Prospective purchasers have cited the lack of soil and the Black Sand Beach subdivision (tax Keys 1-2-07, parcels 42 and 44) as impediments to agricultural use. This land, located in the Kikala-Keokea Homesteads in Puna, Hawaii, is primarily suitable for vacation type residential use. The construction of the road through the Puna area to the Chain of Craters road will generate further demands for vacation type lots in this area.

2. (a) The presence of the Black Sand Beach Subdivision next door, with its 900 lots of 5,000 to 9,000 square feet is a favorable factor of the usability and adaptability of this land for vacation type use. A fresh water well has been dug in the adjoining lot and development of this water source appears imminent. Electrical power is yet about 2.8 miles away, but the landowners are informed that the adjoining subdividers will extend the line to their subdivision, thus making it more accessible to the land of petitioner's clients."

In determining the boundaries for a Rural District, the following standards as found in 2.10 of the Land Use District Regulations must apply before any amendments can be granted:

"(a) Areas consisting of small farms shall be included in this District." Field investigation of the subject area indicates the lack of small farms in the vicinity. Except for one single-family dwelling on the 918 lots, Black Sand Subdivision (5,000 - 9,000 square feet), the lands are vacant.

"(b) It shall include activities or uses as characterized by low density residential lots of not more than one-half ($\frac{1}{2}$) acre and a density of not more than one-single family dwelling per one-half ($\frac{1}{2}$) acre." A review of the general area in which the subject land is situated showed very few residential lots in which to determine density. The lack of existing residential lots in the area may lead one to determine that there is no residential density at all since the lands are vacant.

"(c) Generally, parcels of land not more than five (5) acres shall be included in this District." A review of the TMK showed that almost all parcels of land in the area have lot sizes ranging from approximately 10 to 250 acres. The major exception to this is the Black Sand Beach Subdivision which has an average lot size of 7,500 square feet. However, this subdivision is almost completely vacant being that there is only one dwelling unit on the entire subdivision. The individual living in this dwelling unit is the local representative for the landowners.

"(d) Notwithstanding subsection "c" above, parcels of land larger than five (5) acres may be included in this District." The general character of the land is not rural since a majority of the lots are much larger than five acres. A rural district permits a few parcels larger than five acres, however, in this instance, many of the parcels in the area fall ^{because of their lot sizes,} more naturally in the agricultural district.

"(e) It shall include parcels of land where "city-like" concentration of people, structures, streets and urban level of services are absent." This section applies equally to both an agricultural

district or a rural district. In this instance, the agricultural district classification is more appropriate since the area is completely absent of "city-like" concentration of people, structures, streets and urban level of services....'

"(f) It may include parcels of land that are not suitable for agricultural uses." The Land Study Bureau has classified this land as unsuited for intensive agriculture due to the poor soil conditions. Under paragraph (f) of Section 2.8 of the Land Use District Regulations, lands that are not suited for agricultural activities may be included in an agricultural district. Also, in Section 2.8, lands with limited potential for agricultural purposes or which require extensive development to reach a reasonable level of productivity may be included in the agricultural district depending on the location of the land in relation to other agricultural or rural lands. A study of the petitioners' land in relation to other nearby lands indicate that the predominant characteristic is that of large tracts of land used either for agricultural purposes or left vacant for future developments. Other than the Conservation district of the Keauohana Forest Reserve, the majority of the lands in the vicinity of the petitioners' land has been classified as agriculture by the Land Use Commission.

The last two standards used to determine qualification for a rural district in 2.10 of the State Land Use District Regulations are not applicable in this instance.

The petitioner has maintained that the land is suitable for vacation type residential lots due to the "favorable factor of the usability and adaptability of this land for vacation type use." During the field survey, the staff asked the only resident of the Black Sand Beach Subdivision if there were other people living on the 918 lots in the subdivision. The answer was negative, however, this individual mentioned that many lots were sold to mainland people. The staff primarily feels that perhaps there may be additional future residents in the area since the subdivision is relatively new. ^{1/}

In regards to the petitioners' comment on the demand for vacation type lots in the area, the staff feels that there are ample amounts of "vacation type residential lots". There are approximately 7,000 ^{2/} acres of raw land that have been subdivided in recent years from Kalapana up to and including the Orchid Isle Land Company's subdivision which is adjacent to the Nanawale Forest Reserve. Of the 7,000 acres of subdivided land, only a handful of homes have been constructed on these subdivisions. The staff contends that the current demand for residential type vacation lots have been exceeded by the number of vacant residential type lots available on the market. Any further subdivision of land for such purposes would incur added burden on the County Government and on the State of Hawaii.

Recommendation

Staff recommends the Land Use Commission to deny the petitioners' request to amend the district boundaries for TMK 1-2-07: 45, 41.5 acres from an

^{1/} Final approval for said subdivision was given on January 15, 1963,

^{2/} See Belt Collins Report, A Plan For The Metropolitan Area of Hilo, Page 81.

agricultural district classification to a rural district classification on the basis of the following findings:

1. The State Land Use District Regulations require that certain rural rural standards shall apply before an area can be designated as a rural district. A study of the petitioners' request indicates that the subject land does not conform to Section 2.10 of the regulations.
2. The granting of this petition would constitute spot zoning unless it is to be also made to all similar future petitions in the area. Since the land does not have a rural characteristic, a rural designation would be contrary to Act 205 and also to sound planning practices.
3. The petitioner has not submitted the necessary proof that the land is required for the use being petitioned for in accordance with the requirement of Act 205.

Edgar Lum processed necessary forms
for withdrawal of Petition of Hiau, S. + A.
+ Chang, R + K by Ernest Kubota
AT(64-64, W.I.O., Hawaii. SWV-43
Date - 9/28/64

Check to be mailed directly to
Ernest Kubota

9/28/64
AW/aa

ERNEST KUBOTA
COUNSELOR AT LAW
ROOMS 5 - 7 - 8, HILO DRUG BUILDING
HILO, HAWAII

September 23, 1964

1413
TELEPHONES: 3877
3254

RECEIVED

SEP 25 1964

State of Hawaii
LAND USE COMMISSION

Mr. Raymond Yamashita
Executive Officer
Land Use Commission
426 Queen Street
Honolulu, Hawaii 96813

Dear Mr. Yamashita:

In re: LUC 413

Please return the applicants' filing fee and their petition. My clients have decided to take the option as mentioned in your letter of July 21, 1964.

Very truly yours,



Ernest Kubota

EK:hm

Ref. No. LUC 413

July 21, 1964

Mr. Ernest Kubota
Counselor at Law
Rooms 5, 7 & 8
Hilo Drug Building
Hilo, Hawaii

Dear Mr. Kubota:

This letter is an answer to your letter of inquiry, dated July 11, 1964, for information concerning the status of the petition for a boundary change submitted for Solomon and Audrey Niau and Raymond W. K. and Kazue Chang.

Act 205 states that "After 100 days but within 210 days of the original receipt of a petition the commission shall advertise a public hearing to be held on the appropriate island in accordance with the requirements of section 98H-3." At present, no action can be taken because of the time stipulation in the law. On a tentative basis, a notice of a public hearing on your petition is scheduled to be released about October 3, 1964 and the hearing itself scheduled for October 23 in Hilo. Also, you may be interested in knowing that your petition was considered as a protest against the proposed land use district boundaries. Prior to the adoption of the final boundaries on June 27, your issue, as a protest, was considered but disapproved by the Land Use Commission. In reviewing your letter of April 17, 1964, it is possible that this less formal protest procedure was what you had initially intended in submitting your petition. If this is the case, you may withdraw your petition and the \$50.00 filing fee will be returned--should withdrawal occur before our publishing the notice on your petition hearing. Of course, you may also decide to continue the processing of your petition for a boundary change, as submitted. Unless we hear from you in the early future, we will continue to process your petition.

As added information, the usual policy of the Land Use Commission is to schedule as many hearings as is possible on an island within the time limits. The reason for this policy is to make more reasonable and efficient use of the time and money with which the Land Use Commission may operate with. There are nine Commissioners representing and residing in the various senatorial districts, a legal counsel and staff who participate in the public hearings. The cost to the taxpayer for each public hearing is therefore quite substantial and ranges from about \$500 to \$1,000 per hearing.

In scheduling action on petitions, some are acted upon nearer the minimum time and some nearer the maximum time stipulated in the law.

Mr. Ernest Kubota
Page Two
July 21, 1964

This added information is offered only so you may better understand the situation and in the event that the time before any action is taken on your petition appears excessive.

Should you have any questions at all, please do not hesitate contacting us.

Very truly yours,

RAYMOND S. YAMASHITA
Executive Officer

cc: Myron Thompson

1336

ERNEST KUBOTA
COUNSELOR AT LAW
ROOMS 5 - 7 - 8, HILO DRUG BUILDING
HILO, HAWAII

July 11, 1964

TELEPHONES: 3877
3284

RECEIVED

JUL 13 1964

State of Hawaii
LAND USE COMMISSION

Mr. Raymond S. Yamashita
Executive Officer
Land Use Commission
426 Queen Street
Honolulu, Hawaii 96813

Dear Mr. Yamashita:

In re: Ref. No. LUC 248

Information is respectfully requested concerning the application of Solomon and Audrey Niau and Raymond W. K. and Kazue Chang.

Thanking you in advance for your kind consideration, I am

Very truly yours,


Ernest Kubota

EK:gdl

COUNTY OF HAWAII

PLANNING AND TRAFFIC COMMISSION

RECEIVED

MAY 27 1964 1254

State of Hawaii
LAND USE COMMISSION

AMENDMENT OF ZONE DISTRICT BOUNDARY

The Planning and Traffic Commission of the County of Hawaii pursuant to consideration required by the provisions of Act 204, SLH 1963, hereby transmit the petition, comments, and recommendations of the above request for amendment of zone district boundary of the following described property:

Tax Map Key, 3rd Taxation Division: 1-2-07-45, 41.5 acres.

from its present classification in a(n) Agricultural Zone district
into a(n) Rural Zone district.

The Commission decided to recommend: Approval

on the basis of the following findings:

1. The land involved is generally triangular in shape abutting the 918-lot Black Sand Subdivision on the east, a two ten-acre parcel on the north, (the two ten-acre parcels separates said land from gravel-surfaced, narrow County Road), the upper Puna Road, and the Keauohana Forest Reserve on the west. The Kalapana-Pahoa Government Road to which the said lot abuts, generally establishes the southern point.
2. The Black Sand Subdivision, granted final approval in January 15, 1963 contains 918 lots with lot size generally 7,500 square feet. Said subdivision has no County water system and the roadways are built to Section 25 Standard of Hawaii State Specifications which are not dedicable to the County for maintenance. One single-family dwelling unit exists in said subdivision.
3. Said land has heavy growth of ohia trees; and not being used for agricultural purposes.
4. Electric line runs along Kalapana-Pahoa Road.
5. Said land is proposed in the Master Plan of Puna adopted on January 10, 1964 for residential-agricultural purposes, the use of which is similar in nature with the uses permitted under the rural zone district.

Protect
Denies

Class
of u
(State G.P.)

(Signed) Eugene G. Hammon
Director, Planning and Traffic Commission

Ref. No. LUC 264

April 20, 1964

JS

Planning and Traffic Commission
County of Hawaii
Hilo, Hawaii

Attention: Mr. Edgar A. Hamasu, Planning Director

Gentlemen:

Pursuant to Section 98H-4, RLH 1955, as amended, a copy of
the Petition for Amendment of Temporary District Boundary
submitted by Mr. Ernest Kubota on behalf of Solomon and
Audrey Niau, and Raymond W. K. and Kazue Chang is forwarded
for your comments and recommendations.

Very truly yours,

RAYMOND S. YAMASHITA
Executive Officer

Enclosure

ERNEST KUBOTA
COUNSELOR AT LAW
ROOMS 5 - 7 - 8, HILO DRUG BUILDING
HILO, HAWAII

TELEPHONES: 9877
3254

April 17, 1964

Land Use Commission
Dept. of Planning and Economic Development
426 Queen Street
Honolulu, Hawaii 96813

RECEIVED

Attention: Mr. Raymond S. Yamashita
Executive Officer

APR 20 1964

Gentlemen:

State of Hawaii
LAND USE COMMISSION

Receipt of your letter dated April 15 is hereby acknowledged. The omission of the \$50 filing fee was due to information from Raymond Suefaji, acting head of the Planning Commission, County of Hawaii, that it was not required inasmuch as the recent public hearing held the Friday before this requested change was submitted was at the request of your commission. Mr. Suefaji felt that inasmuch as this petition was made in response to your commission's request, that the filing fee would not be required.

Enclosed herewith you will find a check for \$50 made in my order and endorsed to you.

Very truly yours,

Ernest Kubota
Ernest Kubota

EK:gdl

Enclosure

State Form B14

STATE OF HAWAII

LAND USE Commission
426 Queen St., Honolulu, Hawaii

Department, Bureau or Commission

OFFICIAL
RECEIPT

Nº

82

April 20, 1964

RECEIVED from

Henry M. Y. Chang to and Kubota

DOLLARS

For payment hearing by Land Use Commission
for boundary change from Agricultural to Rural for
lands in Waianae County.

\$50.00

Albert E. Tan

Public Accountant

2nd Ch#176

Ref. No. LUC 248

April 15, 1964

Mr. Ernest Kubota
Counselor at Law
Hilo Drug Building
Hilo, Hawaii

Dear Mr. Kubota:

This is in reference to your letter dated April 9, 1964.

Section 1.24 of the State Land Use Commission's Rules of Practice and Procedure (which is enclosed) states that all petitions requiring a public hearing shall be accompanied by a fee of \$50.00 to cover the cost of public hearings and publications. Your petition for amendment of the temporary district boundary (which was received on April 13, 1964) was not accompanied by this fee, and we, therefore, cannot process your petition for a boundary change until we have received this fee. In addition, a map from you describing your subject property would be appreciated. We have enclosed copies of our land use legislations for your information.

Should you have any further questions regarding this matter, please feel free to contact this office.

Very truly yours,

RAYMOND S. YAMASHITA
Executive Officer

Enclosures

ERNEST KUBOTA
COUNSELOR AT LAW
ROOMS 5 - 7 - 8, HILO DRUG BUILDING
HILO, HAWAII

April 9, 1964

TELEPHONES: 9877
3254

RECEIVED

APR 13 1964

State of Hawaii
LAND USE COMMISSION

Land Use Commission
Dept. of Planning and Economic Development
426 Queen Street
Honolulu, Hawaii 96813

Attention: Mr. Raymond S. Yamashita
Executive Officer

Gentlemen:

Enclosed herewith is a Petition for Amendment of
Temporary District Boundary filed on behalf of Solomon
and Audrey Niau and Raymond W. K. and Kazue Chang.

Sincerely yours,

Ernest Kubota
Ernest Kubota

EK:hm

Enclosure

RECEIVED

This space for LUC use APR 20 1964

STATE OF HAWAII
LAND USE COMMISSION

426 Queen Street
Honolulu, Hawaii

Date Petition and Fee received
by LUC _____ State of Hawaii
LAND USE COMMISSION

Date forwarded to County
for recommendation 4/20/64

Date Petition, and County
recommendation received
by LUC _____

PETITION FOR AMENDMENT OF TEMPORARY DISTRICT BOUNDARY

(I) (We) hereby request an amendment of Land Use Commission Temporary District Boundary respecting the County of Hawaii, Island of Hawaii, map number and/or name H-L to change the district designation of the following described property from its present classification in a(n) agricultural district into a(n) rural district.

Description of property:

Tax Map Key, 3rd Taxation Division: 1-2-07-45, 41.5 acres

Petitioner's interest in subject property:

Attorney for landowners, Solomon and Audrey Niau, 848 6th Ave., Honolulu, and Raymond W. K. and Kazue Chang, 1673-A Kino St., Honolulu

Petitioner's reason(s) for requesting boundary change:

Lack of soil makes this land unsuitable for agricultural use. Adjoining subdivision precludes use for animal husbandry.

(1) The petitioner will attach evidence in support of the following statement:

The subject property is needed for a use other than that for which the district in which it is located is classified.

(2) The petitioner will attach evidence in support of either of the following statements (cross out one):

(a) The land is usable and adaptable for the use it is proposed to be classified.

(b) ~~Conditions and trends of development have so changed since adoption of the present classification, that the proposed classification is reasonable.~~

Signature(s) Solomon & Audrey Niau

Raymond W.K. & Kazue Chang

Emerson Carlson
by their attorney
Hilo Drug Building

Address: Hilo, Hawaii

Telephone: 3254

1. The landowners have attempted to sell the land for agricultural use. Prospective purchasers have cited the lack of soil and the Black Sand Beach subdivision (tax Keys 1-2-07, parcels 42 and 44) as impediments to agricultural use. This land, located in the Kikala-Keokea Homesteads in Puna, Hawaii, is primarily suitable for vacation type residential use. The construction of the road through the Puna area to the Chain of Craters road will generate further demands for vacation type lots in this area.
2. (a) The presence of the Black Sand Beach Subdivision next door, with its 900 lots of 5 - 9,000 square feet is a favorable factor of the usability and adaptability of this land for vacation type use. A fresh water well has been dug in the adjoining lot and development of this water source appears imminent. Electrical power is yet about 2.8 miles away, but the landowners are informed that the adjoining subdivider will extend the line to their subdivision, thus making it more accessible to the land of petitioner's clients.

RECEIVED

This space for LUC use APR 20 1964

STATE OF HAWAII
LAND USE COMMISSION

426 Queen Street
Honolulu, Hawaii

Date Petition and Fee received State of Hawaii
by LUC LAND USE COMMISSION

Date forwarded to County 4/20/64
for recommendation

Date Petition, and County
recommendation received
by LUC

PETITION FOR AMENDMENT OF TEMPORARY DISTRICT BOUNDARY

(I) (We) hereby request an amendment of Land Use Commission Temporary
District Boundary respecting the County of Hawaii, Island of Hawaii,
map number and/or name H-L to change the district
designation of the following described property from its present classification in
a(n) agricultural district into a(n) rural district.

Description of property:

Tax Map Key, 3rd Taxation Division: 1-2-07-45, 41.5 acres

Petitioner's interest in subject property:

Attorney for landowners, Solomon and Audrey Niau, 848 6th Ave., Honolulu,
and Raymond W. K. and Kazue Chang, 1673-A Kino St., Honolulu

Petitioner's reason(s) for requesting boundary change:

Lack of soil makes this land unsuitable for agricultural use.
Adjoining subdivision precludes use for animal husbandry.

(1) The petitioner will attach evidence in support of the following statement:

The subject property is needed for a use other than that for which the
district in which it is located is classified.

(2) The petitioner will attach evidence in support of either of the following
statements (cross out one):

(a) The land is usable and adaptable for the use it is proposed to
be classified.

(b) Conditions and trends of development have so changed since adoption
of the present classification, that the proposed classification is
reasonable.

Signature(s) Solomon & Audrey Niau

Raymond W.K. & Kazue Chang

Ernest Kalosa

by their attorney
Hilo Drug Building

Hilo, Hawaii

3254

Address:

Telephone:

1. The landowners have attempted to sell the land for agricultural use. Prospective purchasers have cited the lack of soil and the Black Sand Beach subdivision (tax Keys 1-2-07, parcels 42 and 44) as impediments to agricultural use. This land, located in the Kikala-Keokea Homesteads in Puna, Hawaii, is primarily suitable for vacation type residential use. The construction of the road through the Puna area to the Chain of Craters road will generate further demands for vacation type lots in this area.
2. (a) The presence of the Black Sand Beach Subdivision next door, with its 900 lots of 5 - 9,000 square feet is a favorable factor of the usability and adaptability of this land for vacation type use. A fresh water well has been dug in the adjoining lot and development of this water source appears imminent. Electrical power is yet about 2.8 miles away, but the landowners are informed that the adjoining subdivider will extend the line to their subdivision, thus making it more accessible to the land of petitioner's clients.