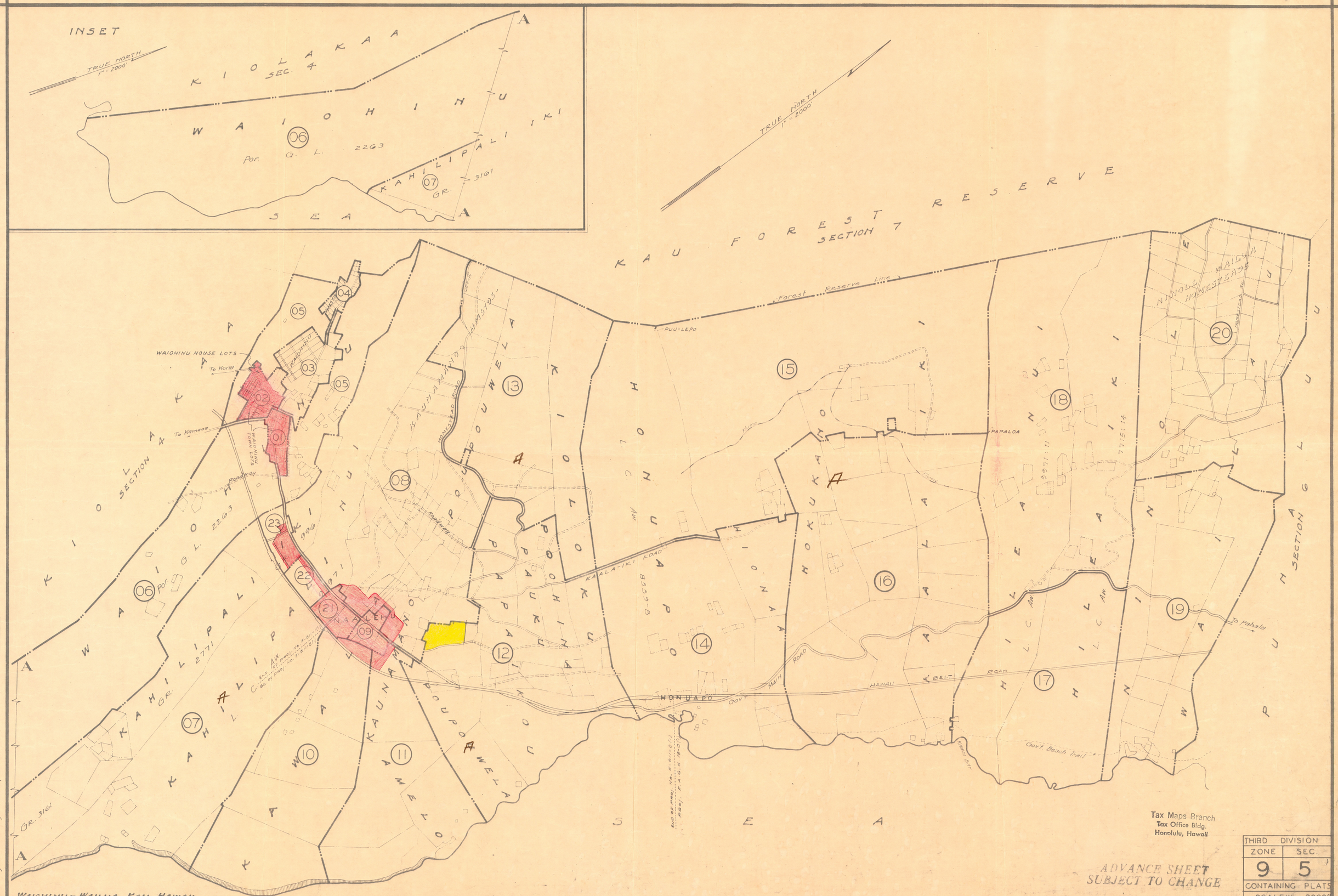
PEDRA, John G.

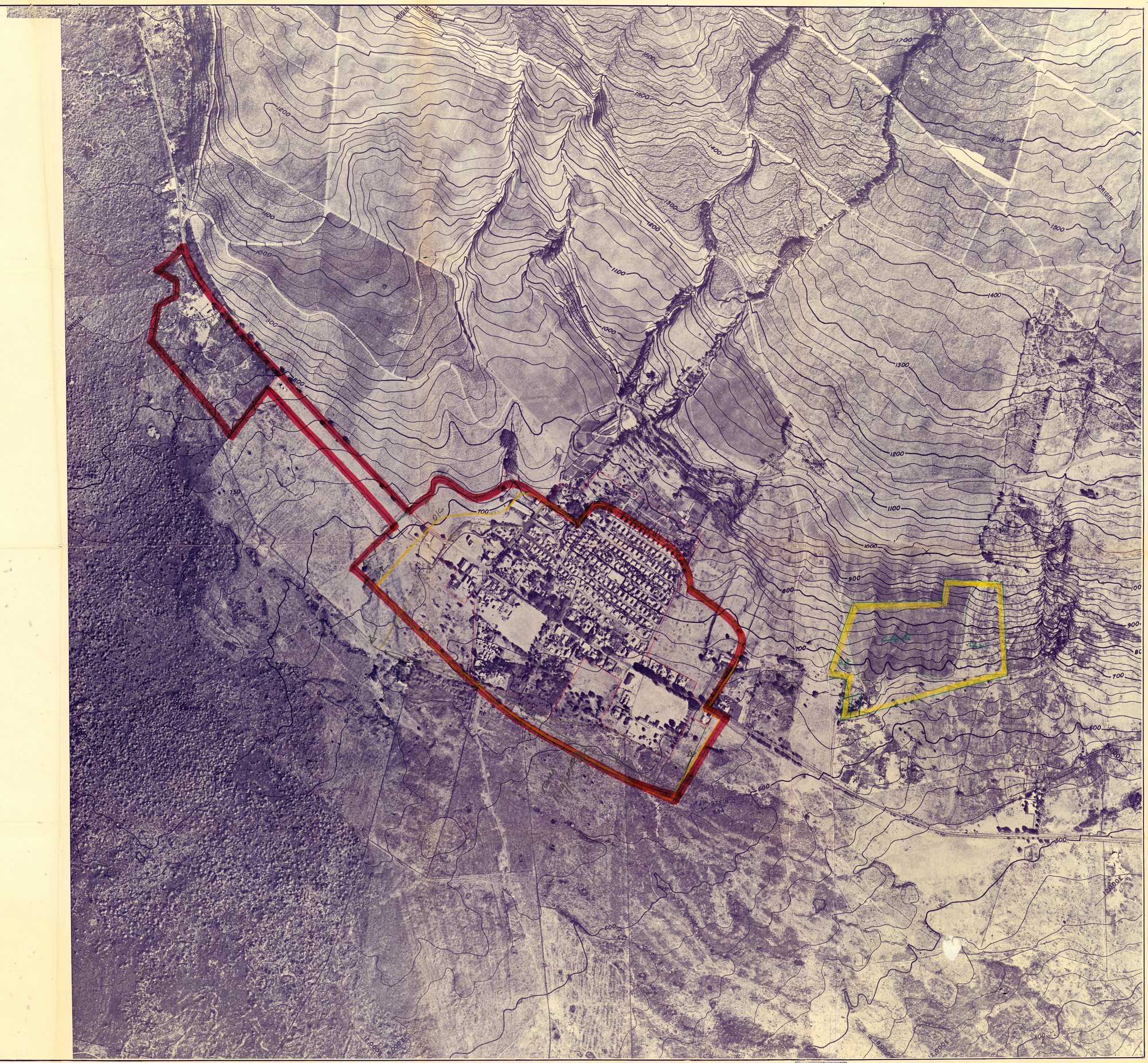
A(T)64-47



Dwg. No: 2603
Source: Tax Maps Bureau & Survey Dept.
By: S.L.C. & H.N. Jan. 1936

WAIOHINU - WAILUA, KAU, HAWAII.

EXHIBIT #2



3970
R. M. Towill
Civil Engineer & Surveyor
Honolulu, T. H.

Graphic Scale in Feet
500 0 500 1000
1" = 400'

Photo Contour Map of
HUTCHINSON SUGAR PLANTATION CO.
Kau, Hawaii, T. H.

Index to Quads.

		9
7	8	9
4	5	6
1	2	3

Scale: 1" = 400'
Contour Interval: 20'
Origin of Coordinates: Kapuna
Date of Photography: 9-12-53

3839

9 5 12

PLAT 14

H O N U A P O

K I O L O K U

P O O H I N A H A U K A H O M E S T E A D S

K A U H A M A N O

K A H I L I P A L I

K A H I L I P A U

PLAT 13

PLAT 05

PLAT 11

PLAT 21

PLAT 22

PLAT 23

PLAT 03

-INSET-

KAU Section 7 R25

L. C. Aw. 9371 Apana 1

L. C. Aw. 10831:11

L. C. Aw. 7712:1

L. C. Aw. 10445:1

L. C. Aw. 7712:3

L. C. Aw. 10445:2

L. C. Aw. 8521:3

L. C. Aw. 8521:4

L. C. Aw. 8521:5

L. C. Aw. 8521:6

L. C. Aw. 8521:7

L. C. Aw. 8521:8

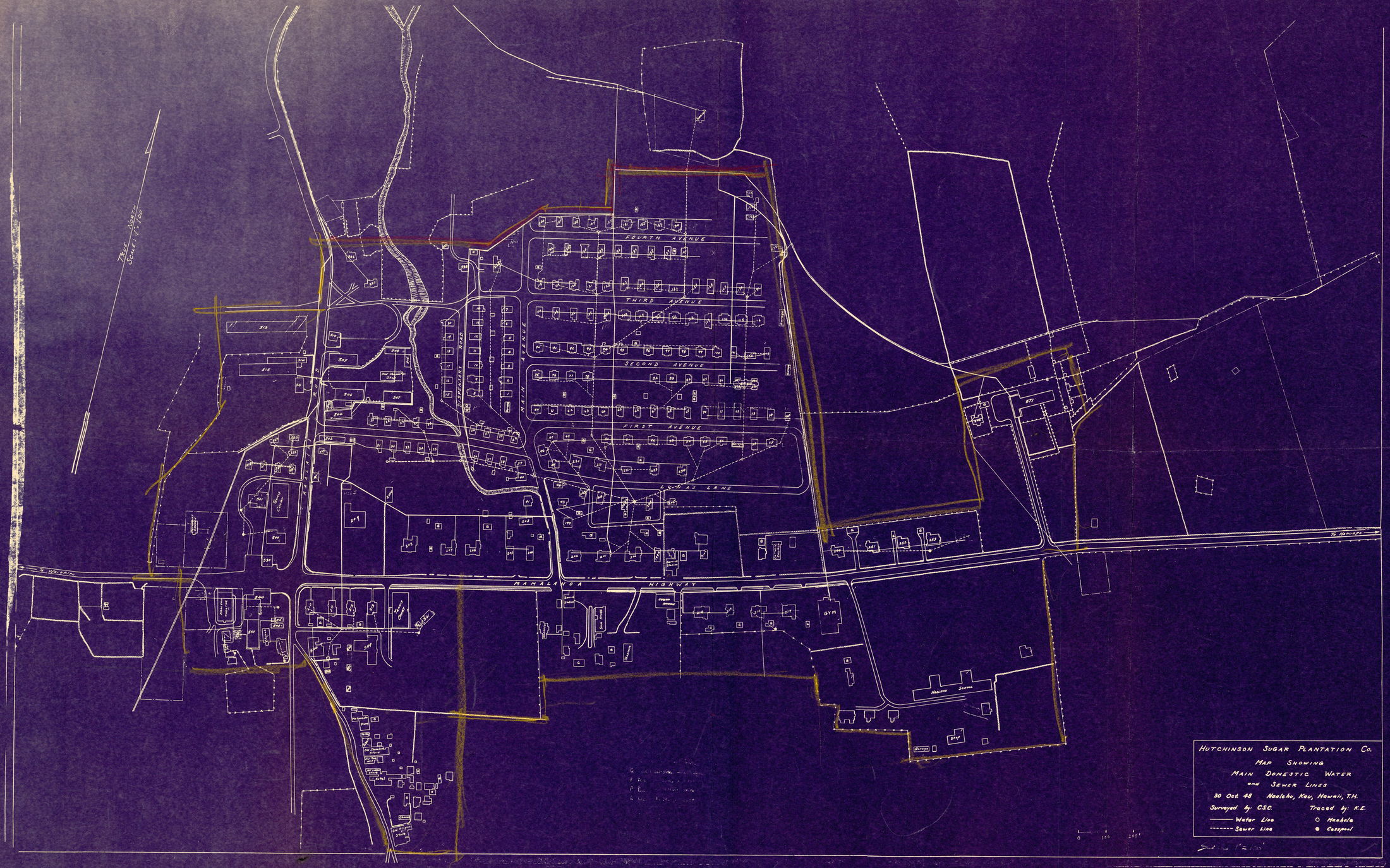
L. C. Aw. 8521:9

L. C. Aw. 8521:10

L. C. Aw. 8521:11

L. C. Aw. 8521:12

L. C. Aw.


True North
Scale 1" = 100'
FOURTH AVENUE
THIRD AVENUE
SECOND AVENUE
FIRST AVENUE
LUKAS LANE
MAIN AVENUE
DISPENSARY ROAD
KAALAKEAKUA ROAD
MANALAWOA HIGHWAY
To Waiakau
To Honoipu
GYM
Hollow Silo
Hollow Silos
Barrel Cleaner
Barrel Cleaning
Oil Storage
Oil Storage 25000 Gals
Oil Storage 50000 Gals
Oil Storage 25000 Gals
Oil Storage 50000 Gals
Oil Storage 25000 Gals
Oil Storage 50000 Gals

STATE OF HAWAII

LAND USE COMMISSION

VOTE RECORD

ITEM A64-67 John G. Pedro

DATE December 18, 1964

PLACE OP & ED Hearing Room

TIME

NAMES	YES	NO	ABSTAIN	ABSENT
WUNG, L.	✓			
INABA, G.	✓			
OTA, C.	✓			
WENKAM, R.	✓			
BURNS, C.E.S.	✓			
NISHIMURA, S.	✓			
MARK, S.				✓
FERRY, J.				✓
THOMPSON, M.	✓			

COMMENTS: Comm. Wenkam moved that the staff initiate studies on rural areas in vicinity of Pedro Lot.
Com. Wung seconded.
The motion was carried.

STATE OF HAWAII
LAND USE COMMISSION

Minutes of Meeting

LUC Hearing Room

Honolulu, Hawaii

10:30 A.M. - December 18, 1964

Commissioners Present:	Myron B. Thompson C.E.S. Burns Jim P. Ferry Shelley M. Mark Charles S. Ota Goro Inaba Shiro Nishimura Robert G. Wenkam Leslie E. L. Wung
Staff Present:	Raymond S. Yamashita, Executive Officer Roy Takeyama, Legal Counsel Richard Mar, Assistant Planner Amy Namihira, Stenographer

Chairman Thompson called the meeting to order and gave an opening prayer. The Chairman announced that other business would be discussed before taking action on petitions for boundary changes and special permits.

PROPOSED LAND USE COMMISSION BUDGET

Item A. Personnel (Page 1)

The Executive Officer stated that this section of the budget included an added staff position of Senior Planner. There were several bases. First, the Land Use Law was unique in the nation. Therefore, there are little precedences and criteria to follow. Considerable research and analysis are required to develop such criteria for comprehensive state zoning. While the assistant planner position does contribute to present staff productivity, the qualifications of that position are inadequate to serve the higher specific need. In addition, the public's interest can better be protected in cases where the petitioner can afford considerable professional assistance, and in cases where the petitioner can afford the filing fee only. In both cases, the public's interest would be better protected by additional competent staff capacity. Further, more proper attention can be given to the Land Use Commission's concern for a more active public relations program and, incidentally, provide the Land Use Commission with a more flexible staff from an administrative viewpoint.

Commissioner Ota asked if another assistant planner might not meet the need. Commissioner Nishimura felt that the Land Use Commission needed more clerical assistance, instead.

Chairman Thompson felt that the comments were probably related to the question of whether or not the request for the proposed position would be able to get through the legislature. Commissioner Burns stated that the senior planner should have knowledge of land and public relations. Chairman Thompson stated that the duties should be set up for this position. The alternative would be to select a planner who had experience or aptitude in that direction. Another expression was that the assistant planner position is easier to obtain, and therefore that position should be requested. The assistant planner could then be trained to take the responsibilities of a senior planner.

The staff indicated that the request was based on a need for a specific level and type of performance, that there were established job series in Civil Service and that it would take years for an assistant planner to reach the required level of competence.

Commissioner Ota moved to accept Item A (Page 1) of the budget as circulated, and Commissioner Burns seconded the motion.

During discussion on the motion, Commissioner Wenkam felt that since the budget is low, the Land Use Commission should use the money on public relations and education rather than a senior planner.

Upon a call for the question, the Chairman instructed the Executive Officer to poll the Commission. The motion was carried on the following vote:

Approved: Commissioners Wung, Inaba, Ota, Burns, and Chairman Thompson.
Disapproved: Commissioners Wenkam and Nishimura.
Absent: Commissioners Mark and Ferry.

Item B. Supplies (Page 2)

The item of the $5,000 for consultant fees was discussed by the Commission. The staff stated that this item was related to the expressed concern of the Land Use Commission that certain alleged "agricultural" subdivisions were subverting the Law by shifting prime agricultural lands into non-revenue producing residential uses, and promoting scattered developments. In order for the Land Use Commission to take further action, research and study of the problem is necessary before reasonable action can be taken. One of the principal issues related to this concern is the determination of a reasonable minimum lot for a bona fide agricultural subdivision. To resolve this concern, the services of a competent agriculturist would be most helpful.

The commission queried staff as to the feasibility of requesting assistance from, say, one of the agencies related to the University of Hawaii. Staff indicated that this was the intent. However, no inquiry has yet been made. Since reimbursement to any agency for such time may be required, or the hiring of a part time consultant would be required if any agency does not have adequate time or manpower, the estimated sum of $5,000 is being requested.

The remaining items were briefly examined and generally found to be more standard in nature.

Commissioner Burns then moved to accept Item B (Page 2) of the budget. Commissioner Nishimura seconded the motion. There being no discussion, the Chairman directed the Executive Officer to poll the Commission. The motion was approved on the following vote:

Approved: Commissioners Wung, Inaba, Ota, Burns, Nishimura and Chairman Thompson.
Disapproved: Commissioner Wenkam.
Absent: Commissioners Ferry and Mark.

PUBLIC RELATION PROGRAM

Chairman Thompson stated that this program discussion will be taken up at a later date since Mr. Goodfader is leaving for Washington and no one has yet been assigned to the Commission.

Commissioner Wenkam suggested that the Notice of Public Hearing be revised so that the public will be able to understand it more clearly. This is to be followed up by the Executive Officer and Legal Counsel.

SCHEDULE OF HEARINGS

Commissioner Ota suggested that the Land Use Commission should hold one meeting per month. After noting the effect of the time limitations related to the processing of petitions, the Commission agreed to meet about once a month as may be dictated by the timing required for the expeditious processing of pending petitions. The Commission decided to meet next on January 22, 1965 in Hilo.

ADOPTION OF MINUTES

The minutes of November 5, 1964 meeting held in Lihue, Kauai were adopted as corrected (see corrections on file).

PETITION BY MARYANN KAMAHELE (A(T)64-66), FOR AMENDMENT TO THE LAND USE DISTRICT BOUNDARIES FROM AGRICULTURAL TO RURAL TO SUBDIVIDE 5.52 ACRES INTO FOUR 1.220 ACRE LOTS TO BE GIVEN TO HER FOUR DAUGHTERS: Described as TMK 1-5-10: 15, Makuu, Puna, Hawaii

The Executive Officer presented a brief review and summary of the petition, and outlined the area on a map. The County had recommended approval of this petition on the following findings:

"1. The applicant is desirous to subdivide a 4.881-acre parcel into four 1.220-acre lots. The minimum density in the County of Hawaii of agricultural zoned areas is one house per 3 acres.

"2. Despite its appearance of "spot zoning," the land use character of rural and agricultural districts is not radically different; hence, the placement of this area into rural zone district will not be materially detrimental to adjacent land which is currently unused, undeveloped land.

"3. Access is available through an unimproved County road; water system nor electricity is available."

Staff recommended disapproval of this petition on the following summarized bases:

1. The petitioner has not submitted adequate "proof" as required by law.

2. The approval of this petition would be contrary to the intent and purpose of the Land Use Law and as interpreted by the Standards for Determining District Boundaries. The parcel is now appropriately in the Agricultural District.

The Executive Officer stated that approval of this petition would, in addition, be similar to spot zoning.

Commissioner Ota moved to deny the petition on the basis of staff recommendations. Commissioner Wenkam seconded the motion.

The Chairman then directed the Executive Officer to poll the Commission. The motion to deny the petition was carried on the following vote:

Approved: Commissioners Inaba, Ota, Wenkam, Burns, Nishimura and Chairman Thompson.
Disapproved: Commissioner Wung.
Absent: Commissioners Ferry and Mark.

PETITION BY JOHN G. PEDRA (A(T)64-67), FOR AMENDMENT TO THE LAND USE DISTRICT BOUNDARIES FROM AGRICULTURAL TO RURAL FOR THE PURPOSE OF SUBDIVIDING A PORTION OF PARCEL 11 INTO TWO ONE-HALF (½) ACRE LOTS: Described as TMK 9-5-12: Portion of 11 containing 1.00 acre, Naalehu, Kau, Hawaii

The Executive Officer presented a review and summary of the petition and outlined the area on a map. This petition is to amend the District Boundaries so that the land use classification of one (1) acre of TMK 9-5-12: 11, Third Division, is changed from Agricultural to Rural. The Hawaii Planning and Traffic Commission voted to recommend approval of the petitioner's request on the following bases:

"1. The parcels to be created are to be given to the immediate blood relation of the parcel owner.

"2. Said parcels are located in an area being used for the front yard of the existing structure; as such they never were used for agricultural purposes.

"3. The land use character between rural and agricultural districts is very similar; consequently despite what may be termed "spot zoning", the rezoning will not incur detrimental effect on adjacent land, in this case used for grazing.

"4. An existing County road provides access to the lot in question; electricity and water system are available."

Staff recommended denial of this petition on the following summarized bases:

1. There is inadequate proof that the land is "needed for a use other than that for which the district in which it is situated is classified" and that conditions and trends of development have so changed since the adoption of the present classification, that the proposed classification is reasonable.

2. Spot zoning of a one acre site would be contrary to the intent and purpose of State zoning.

3. According to the Standards for Determining District Boundaries, an Agricultural classification of the site is most appropriate.

Commissioner Wenkam felt that he would deny this petition but suggested that the Commission hold a public hearing and reclassify the whole area Rural.

Commissioner Wung moved to approve the petition. Commissioner Burns seconded the motion.

The Chairman then directed the Executive Officer to poll the Commission. The petition was denied on basis of the following vote:

Approved: Commissioners Wung, Inaba, Ota and Nishimura.
Disapproved: Commissioners Wenkam, Burns and Chairman Thompson.
Absent: Commissioners Ferry and Mark.

Referring to Commissioner Wenkam's statement, Chairman Thompson stated that the Commission has the prerogative to rezone the area as a Rural District. Commissioner Wenkam moved that the staff initiate studies to determine the feasibility of rezoning the vicinity of Pedra's lot into a Rural District. Commissioner Wung seconded the motion.

Upon instruction from the Chairman, the Executive Officer polled the Commission. The motion was carried on the basis of the following vote:

Approved: Commissioners Wung, Inaba, Ota, Wenkam, Burns, Nishimura and Chairman Thompson.
Disapproved: None.
Absent: Commissioners Ferry and Mark.

The staff was further instructed by the Commission to inform the petitioner that the Commission is considering the possibilities of redistricting the area into a Rural classification.

PETITION BY DONALD G. KENDALL (A(T)64-68), FOR AMENDMENT TO THE LAND USE DISTRICT BOUNDARIES FROM AGRICULTURAL TO URBAN OF 352 ACRES: Described as TMK 1-4-03: 19 and 20, Puna, Hawaii.

The Executive Officer presented a review of the issues and outlined the area on a map. This petition is to amend the district boundaries, from an Agricultural to an Urban District, for Hawaii TMK 1-4-03: 19 and 20 which include 352 acres. The Hawaii Planning & Traffic Commission recommended the disapproval of this petition on the basis of the following findings:

"1. Under Act 205, the establishment of urban district is guided by those lands now in urban use and sufficient reserve for foreseeable growth; hence, the above application is for an area not now in urban use despite the thousands of lots now in existence and furthermore, the applicant did not submit sufficient evidence of the urgent need for additional lots to be used for urban purposes.

"2. The adjacent subdivision - Hawaii Beaches and Hawaiian Parks - has no water system nor other urban utilities and there is no evidence of urban development within said subdivision.

"3. An urban-sized lot subdivision of 352 acres without sufficient evidence of demand and without assurance of minimum urban-type improvements such as water system, electricity and County standard roadways, will incur added burden on the County Government for public services such as fire and police protection, and school bus transportation among other demands."

The testimony of Mr. Donald G. Kendall, presented at the public hearing, was recalled and reviewed.

Staff recommended disapproval of this petition on the following summarized bases:

1. The petitioner has not submitted adequate "proof" as required by law.

2. The approval of this petition would be contrary to the intent and purpose of the Land Use Law as interpreted by the Standards for Determining District Boundaries.

Commissioner Burns moved to deny the petition based on the recommendations of the staff and Commissioner Wenkam seconded the motion.

The Chairman then directed the Executive Officer to poll the Commission. The motion to deny the petition was carried on the basis of the following vote:

Approved: Commissioners Wung, Inaba, Ota, Wenkam, Burns, Nishimura, and Chairman Thompson.
Disapproved: None.
Absent: Commissioners Ferry and Mark.

APPLICATION OF KIYOSHI AND FRANCES MIZUTANI (SP64-1), FOR SPECIAL PERMIT FOR CONSTRUCTION OF A 12-UNIT TWO STORY MOTEL BUILDING IN NAWILIWILI, KAUAI: Described as TMK 3-2-03: 9 and 28, Fourth Division

Action on this petition had been deferred to this meeting. The reason for the deferral was to provide the County with an opportunity to submit any additional information. The County did not submit any additional information.

The Executive Officer presented a review of the petition and outlined the area on a map. The Kauai Planning and Traffic Commission has transmitted its unanimous approval of a special permit to Mr. & Mrs. Kiyoshi Mizutani to use TMK 3-2-03: 9 and 28, Fourth Division, with a gross area of approximately 2.06 acres, for the construction of a 12 unit two story motel building. Staff recommended denial of this petition.

Commissioner Ferry stated that Mr. Wong, Kauai Planning and Traffic Commission Director, advised him that strong measures on the part of the County would be made to preserve whatever investment any owner would make there. He also stated that he was encouraged after talking with Mr. Wong because at least Kauai County seems interested enough to give some weight to flood plain zone problems. He further stated that there are a few residences in the area and felt the Land Use Commission might have "miszoned" the area. He felt that this area might have been included in the Urban District.

Commissioner Wenkam stated that to grant the petition would not be satisfying the situation. To grant the special permit under these circumstances would be contrary to good planning and administrative procedures. He stated that planning should be of benefit to the community and not for specific reasons. He felt that if this petition was granted, it would be spot zoning. This area, under the present circumstances, as it exists today, is hardly suited for the purposes that is requested. Further, the petitioner's property is subject to flood damage. To build on this area without proper planning would be detrimental to the community itself. He stated that the water, sewage and roadway are inadequate. He felt that the Land Use Commission should deny the petition, but initiate hearings to provide for urban zoning of the area mauka of the road for a suitable distance in order to give the County room and permit them to initiate the necessary improvements for flood protection, roads and other activities.

Commissioner Nishimura stated that compared to other areas, such as Waimea, Hanalei, and Wailua River, this particular area was not flooded as bad as the other areas.

The Executive Officer stated that no evidence in justifying the change in zoning has been received. If approved, it would frustrate the intent in the development of orderly planning. He stated that the proposed use would be in conflict with the County and State General Plans. It is also in conflict with proposed County zoning. He pointed out the flood problems in the Puali and Nawiliwili Stream areas. He stated that the

mouth of streams was an important control point for flood flows and this was the area where most of the major stream improvements are made.

Commissioner Nishimura moved to approve the special permit on the basis that the area is contiguous to an urban area and because of the time element involved for constructing it. Commissioner Inaba seconded the motion.

The Chairman then instructed the Executive Officer to poll the Commission. The motion to approve was carried on the basis of the following vote:

> Approved: Commissioners Wung, Inaba, Ota, Nishimura and Ferry.
> Disapproved: Commissioners Wenkam, Mark and Chairman Thompson.
> Absent: Commissioner Burns.

APPLICATION OF DEPARTMENT OF LAND AND NATURAL RESOURCES (SP64-12), FOR SPECIAL PERMIT FOR ALLOWING THE CONTINUATION OF THE EXISTING HALE MANU CRAFT SHOP AND TO PROVIDE IMPROVEMENT AND/OR ADDITION TO IT LOCATED IN WAIAKEA, SOUTH HILO: Described as TMK 2-4-04: portion of 41 containing approximately three acres.

The Executive Officer presented the staff report and outlined the area on a map. The Planning and Traffic Commission of the County of Hawaii transmitted its approval of a special permit to the Department of Land and Natural Resources for the purpose of allowing the continuation and to provide for the improvement and/or addition of the existing Hale Manu Craft Shop in Waiakea, South Hilo, TMK 2-4-04: portion of 41 containing approximately three acres. He pointed out the guidelines of the Regulations and the comments of the staff. Staff recommended disapproval of this petition for special permit on the basis that the use, in the specific location, would not promote the effectiveness and objectives of the Land Use Law. Basically, the existing use is a non-conforming use. The intent is to eliminate such uses as expeditiously as possible. There is nothing unique at the site which is necessary for the operations - that is, the use should then be eventually located in an appropriately zoned area. (For detail, see filed copy of staff report on this petition.)

Commissioner Nishimura stated that lauhala industry is agricultural. He asked, "Are we going to discourage people from abandoning operations such as this? It is an agricultural product. Are we going to discourage people from improving or expanding their operation?"

Commissioner Wenkam felt that this is a manufacturing and retailing operation and not an agricultural operation because the materials that they use do not come from the area that they are located and, therefore, they would be more appropriately located in a more appropriately zoned district. He also felt that this substandard operation should not be encouraged. It is a purely commercial venture.

Dr. Mark asked if the State had any industrial land near the area. He was answered in the affirmative. Dr. Mark then felt that this operation should be in that area where such land was available.

The Executive Officer stated that the lease is coming to an end. In the Lease Agreement, a minimum $10,000 improvement must be made. However, the terms of any proposed agreement are not a basis for decision.

Mr. Mar stated that if this building was demolished, Mrs. Park would not be able to afford another operation such as this. He also stated that the 15 people who are now employed by Mrs. Park would have to apply for welfare should this operation be abandoned. The question was whether it was an unusual and reasonable use. Mr. Mar further stated that Mrs. Park plans to plant the mature lauhala trees from the nearby forests on the premises.

Commissioner Ota moved to approve the petition submitted by the Department of Land and Natural Resources on the basis that it is an agricultural use and there is reasonable regulatory restrictions provided by the Department of Land and Natural Resources. Commissioner Nishimura seconded the motion.

During the discussion, the Executive Officer questioned the legality of the basis for approving the petition. He stated that when the Land Use Commission grant a petition, the basis should be one in the Law or the Regulations.

After further discussion, Commissioner Ota withdrew his motion and Commissioner Nishimura withdrew his second to the motion.

Commissioner Wenkam then moved to deny the petition on the basis of the staff report. Commissioner Inaba seconded the motion.

The Chairman instructed the Executive Officer to poll the Commission. The motion to deny the petition was carried on the basis of the following vote:

Approved: Commissioners Inaba, Ota, Wenkam, Mark and Chairman Thompson.
Disapproved: Commissioners Wung and Nishimura.
Absent: Commissioners Burns and Ferry.

The meeting then adjourned at 5:30 p.m.

STATE OF HAWAII
LAND USE COMMISSION

Minutes of Public Hearing

Board of Supervisors' Chambers

Hilo, Hawaii

3:15 P.M. - October 23, 1964

Commissioners Present:	Charles S. Ota, Chairman (pro tempore) Jim P. Ferry Goro Inaba Shiro Nishimura Shelley M. Mark Robert G. Wenkam Leslie E. L. Wung
Absent:	Myron B. Thompson C.E.S. Burns, Jr.
Staff Present:	Raymond S. Yamashita, Executive Officer Roy Y. Takeyama, Legal Counsel Richard E. Mar, Field Officer Amy Namihira, Stenographer

Chairman Ota called the public hearing to order followed by a short prayer. He introduced the Commission and staff members.

At the request of the Chairman, the Executive Officer outlined the procedures to be followed during the hearing.

Chairman Ota swore-in all persons who were going to testify during the hearing.

PETITION BY DONALD G. KENDALL (A(T)64-68), FOR AMENDMENT TO THE LAND USE DISTRICT BOUNDARIES FROM AGRICULTURAL TO URBAN OF 352 ACRES: Described as TMK 1-4-03: 19 and 20, Puna, Hawaii.

The Executive Officer presented the background on this petition and outlined the area on a map (see staff report).

Mr. Kendall: We are trying to make a development down there which people who are interested in land can be proud of. One subdivision is about to go in. The power is there, the roads are there, the lots are spaced and the street signs are up. If you want to build your house tomorrow, you can do so. We are trying to encourage building and development in there and invite all of you to come down to look at it. The Real Estate Commission of California was over here looking over respective subdivisions. As you know California has adopted an attitude that they don't want any lands outside of the State sold to its citizens. They want to keep their own money and invest it in their own subdivisions. If that attitude was taken in the beginning, California would not be here today, because it was the out of State investors that made California. If they hadn't come in to buy land, develop marshes, beaches, deserts, forests, etc., people would not have come in. People have come and today the lands that may have been bad investments have worked out in Orange County, where land is worth approximately $40 to $50 an acre. This is what I am working for Hawaii. You will be surprised in the next few years of the many developments that will occur on the Big Island. We foresee it, and we feel that there should be properly developed working areas where people can get a reasonably priced lot, build a reasonably priced home and have a place to live. I realize that the State cannot afford this, however, I know there are thousands and thousands of map plots. There is a difference between a map plot that you couldn't find if you had to, and a lot development that you could drive right up to and put your foot on, and start building your house the next day.

Looking at your map, our Nanawale Estate Development lies right here. We have no beach frontage, but we are trying to get your permission to extend the road up here. We hope to connect these two and make them as if they were one development. You will also notice that although it is zoned into an urban area (Kendall thought all the yellow areas on the map of the Puna subdivisions are in the urban classification), we are just a little isolated piece of land right in here next to a piece of land owned by the State, known as Nanawale National Forest Park. It will always be there as a greenbelt developed area, yet we are trapped between there - a piece of land obviously not fit for agricultural and never could under any scope of the imagination to be used for agriculture, yet it has a beautiful beach front there where people can build nice homes. It might be that we may be scarring the mountains, but what we might consider is the luxurious part of Nanawale development. This is why we bought this land and reason why we are developing down here. In other

words people have come to us and said that they want something closer to the ocean, they rather build a nicer home, put higher restrictions here and have a higher class development. This part of the land along the ocean here is not shown as your old Honolulu Landing and as your natural development. While you can't develop a beach too much there, you can certainly develop it to your highest target area, where you can have swimming, develop a black sand beach, put a very nice resort hotel down there and a development around it. This is what we want on Hawaii. You really don't want another development similar to the Waikiki area as referred in the Honolulu newspapers as a Concrete Jungle. But if we could at various places, say every few miles, have a nice development along the shore as proposed in the Belt-Collins plan called the Kalapana-Pohoiki resort area. This is an area in Puna, and these men were employed by the State to make this foreseeable plans for development of picturesque areas where you eventually could have your resort hotels. In my opinion there is no more a beautiful stretch of coastline than this Puna coast down here. Originally the area comprised of 250,000 Hawaiians. No mention has been made of this 80 foot highway that is projected to go in there. It is supposed to come down from Hilo, around the coast and eventually connect with the Chain of Craters highway. I heard that this is in the plans and is to be developed in the next few years. If it is, it will go right through this property and it is only natural that this property should then have an urban development. It is a beautiful development and people have access to it and whether anybody wants it or not, it is going to be opened up for that kind of development. That's why we want it and want to develop it. Also at the present time, it is mentioned here that there is no water system. I have heard but have not seen it myself, but imagine it is true, that the gentleman developing this beach here, the Hawaiian Parks and Beaches, has a water melon patch and is intending to extend it down to his subdivision. And if that is the case, there is supposed to be a very good well that would be available. He also has brought a paved road right down to the highway, which is a very good road, and is bringing in electricity. When it gets there it is a natural hook up for the adjacent land to develop. We probably would have to pay for the hook up, but this is only natural. It looks to me that this would be a very natural urban development. As you see, we are just a little pie-shaped piece blocked between the State over here, and urban development here. It would seem to be absolutely unreasonable to cut us off and say you've got to sit

there and simply do nothing with your land. You can't farm it, you can't do anything else and yet we are going to have development down there on the other side of this State piece, quite adjacent to it. So you can't say there is any unreasonableness why we shouldn't be up here against the State - you're against us over here for a development. We are sort of isolated in-between, and that is why we have filed this petition. This was originally mapped, but not filed, and we did not fully realize at the time when we bought it that we were greenbelted as you say. But now we realize it and that is why we have filed this petition to proceed with this development. We have spent over a million dollars here in Nanawale for development on our lands, power, roads, and you wouldn't even know it around here, but when you talk to people in Hilo, they ask you where is Nanawale - and it is only 20 miles away. We are trying to keep Hawaii green by bringing money over here. We feel that bringing more income into Hawaii should be encouraged. I realize that you have had a lot of terrible experience with a lot of these subdivisions which were only plat maps without development. But when you are developing and are doing something I feel that should be considered, and one of the arguments we forgot to put on our application.

Mr. Osorio: In accordance with the Land Use Law, the Hawaii Planning & Traffic Commission, who has voluminous applications pending, have to make certain recommendations. Under the Law, shouldn't the Planning and Traffic Commission notify the petitioner of its action before anything goes on here?

Legal Counsel: You mean the local Commission notify the petitioner as to what their recommendations may be? Under the Law, it is not specified at all. Under the Law all it says is that comments and recommendations from the local county be submitted to the Land Use Commission.

Mr. Osorio: By due process, this is not being considered by the local commission. So that any evidence to be presented on our behalf is not from us. We were not present or notified of this meeting to present our side of the case. What did they make their disapproval on?

Chairman Ota: That should be taken up with your local planning director.

Commissioner Wenkam: I want you to elaborate more on your need. After all there are 90,000 lots and as you say most of them map lots. But still there are quite a few thousand which do have paved roads which are quite well developed and many others which have roads, power, and even water, and yet these particular areas are not occupied at all. I mean the lots.

I don't know whether the majority of the lots have been sold or not, but it seems to me that the need, if there is a need for residential land as such, should be demonstrated by occupation of the land. That demonstration is what we haven't found.

Mr. Kendall: Need or demand is created. There are undoubtedly, as you can see, many of these map lots that you can't even find that have been sold all over the country, and there are lots here and I have seen them myself that are very good ones. I saw one with Dr. Loo yesterday which is a very attractive one and looks very good. But to create, you have to create something there. You just can't sell lots and walk away from people who have bought and made investments. We're trying to create and we hope to create by putting something up there that will make people come around - create lots for them and buildings. Like in Nanawale, people say why do we want to build way out there. Well, we figure a motel site with 50 units where people can drive to, stop their cars and rest for awhile. It being close to the beach, fishermen & people can go down to the beach and stay over for the week-end. You can create and grow something, you just don't plant the seed and walk away from it. You must nurture it, give it fertilizer and water and let it grow. That is what we are talking about. Yes, you might say there is no need for another map subdivision. I have to agree with you on this. But we have finance and we want to connect this with what we have. We also bought another property adjacent to this, which is now in sugar cane and adjacent to Nanawale here, some 230 acres which lie right in here and connects up to Pahoa. We have plans for a golf course there, and those are things for future development. But you don't do these things overnight. First you buy your property, make your plans, you crawl, you get it developed then you have things in the future. But if we don't go forward and get the Commission to do it when we are ready to go, then we are liable to get the rug pulled from under us. Somebody might say we want a development down there, politics get in, everything else. You got to get your preparation made and your things done when you have the opportunity. Right now this other piece isn't urban, but you have to apply for them to get ready. We plan to put a golf course there, subdivide around it, and put some nice homes on it. It is a lovely spot for it down there in Puna. The weather is much drier than it is up here in Hilo. You will be able to play a lot more golf down there than you can up here. A lot of people encourage us to put a golf course down in Puna. How are we going to do it?

At this point, Chairman Ota called for the staff analysis and recommendation. The Executive Officer then proceeded as requested (see staff report).

Staff recommended disapproval of this petition on the following bases:

1. The petitioner has not, to date, submitted adequate proof as required by Law.

2. The approval of this petition would be contrary to the intent and purpose of the Land Use Law as interpreted by the Standards for Determining District Boundaries. In this instance, the particular concerns, as stated in the Findings and declaration of purpose, are:

    1. Inadequate controls have caused many of Hawaii's limited and valuable lands to be used for purposes that may have a short-term gain to a few but result in a long-term loss to the income and growth potential of our economy. And,

    2. Scattered subdivisions with expensive, yet reduced, public services.

Chairman Ota: Because of the number of petitions yet to be heard I would want, if possible, to confine this question and answer period to the issue involved. Mr. Osorio or any one of the staff who want to ask any questions, please feel free to ask.

Mr. Kendall: The final conclusion of this, that such a situation may result in a short term gain to a few and a long term loss to many, seems absolutely absurd in view of our experience with our development in Nanawale. To-date we have not taken one penny from that and we don't anticipate it. We started that development (in Nanawale) in 1961. It is in existence for over 3 years now. We are putting money in it and we have a lot more to put in - certainly no short term gain. But there has been a considerable gain to the many by our development down there. We have not burdened the State or the County of Hawaii with one penny in expense because our roads are put in and maintained by us in all of our development. Our taxes have gone up 25% and over and the County and State are gaining by the tax bills that we pay year round. So, 25 times what they would be getting from that land, I can foresee the same type of thing in this other development. If you're going to leave that, your legal taxes will have to be just what they are. Now if that is developed, like we have done in Nanawale, there would be $200,000 to $300,000 worth of taxes coming from that development. And that is something that has completely been eliminated from the staff report which mentions a short term gain to a few and a long term loss to the others. That is absolutely contrary to our experience.

Commissioner Ferry: Mr. Kendall, are you involved in the Nanawale subdivision?

Mr. Kendall: Yes. I am one of the investors.

Commissioner Ferry: Are you aware that that subdivision is zoned in the Agriculture district by the Land Use Law?

Mr. Kendall: We have a map here which shows it being approved by the Planning and Traffic Commission.

Commissioner Ferry: But you obtained your approval prior to the boundaries being set and established as Law by this Land Use Commission.

Mr. Kendall: I am aware that the surrounding area is zoned in an Agricultural area. Yes. I realize while we are in there I presume that we would be called a nonconforming use, and I presume that is what the situation is with regard to the subdivision right next to our Honolulu Landing. I notice that is entirely in an urban zone, which I understand is what the yellow map indicates, and that is right next to us.

Commissioner Ferry: They are not in the urban zone. All of those areas are zoned in Agriculture. Because you have lots of record, they will be honored as developable lots with homesites.

Mr. Kendall: There are homesites there. I have one myself. I don't figure on raising anything although I have papayas, bananas and pineapples and everything else growing there which certainly gives it an agricultural classification.

Commissioner Ferry: How long has it been since Nanawale has become a subdivision of record?

Mr. Kendall: I think our map proves it to be as of January 1961 or December 1960, somewhere along there.

Commissioner Ferry: When was the off-site improvements put in?

Mr. Kendall: They have been put in continuously since our first approval and is being completed right now. All our roads are in but we keep improving them, paving and so forth.

Commissioner Ferry: They comprise of how many lots - Nanawale subdivision?

Mr. Kendall: Nanawale subdivision comprises approximately 2300 lots, of which about 1200 of them are sold. There are 3 houses there now.

Commissioner Ferry: Of the 1200 sold, you got 3 homes up there. Do you have any idea of the number of lots of record in the Puna district? It numbers 46,000. How many homes have been developed on these lots?

Mr. Kendall: I would say less than a 100.

Commissioner Ferry: You would definitely be right. Because of this and because this Commission has to change the boundary zone on need, do you still feel you can justify your case for an urban zone?

Mr. Kendall: Suppose I come up with a deal I'm working on now for a resort-hotel? You're going to need an urban zone down there. You're going to need a place for people to live who will be working down there. It is going to develop down there. Then what am I going to do? I say I'm ready to go. I've submitted my plans and then they say we can't let you build down there.

Commissioner Ferry: How would a 50 room resort-hotel demand residences to be built on a 2300 lot subdivision? We are not even talking about this particular petition. Just let us now talk about Nanawale.

Mr. Kendall: If we put that in down there, people will come down there and would want to build little villages around there in different areas - and this makes it sound. We have plans now that indicate people are going to build them as they want to retire. We don't sell this off a map to people who haven't seen it. We bring them over here and show it to them. That's why when they put their foot on the land, they know they have seen it. They know what they are talking about. They know whether they want to live in Nanawale or not. That's why you will see development in Nanawale. People have actually bought land down there and are actually living down there.

Commissioner Ferry: I wish to take issue with your statement that you now maintain your own roads. Isn't it a fact, Sir, that upon completion of your subdivision, you will then dedicate your roads to the County?

Mr. Kendall: Only those main paved roads of which I believe there are three. As required by the County, the rest of the roads will be cinder-oil roads which will be kept up and maintained by the Community Association. They make a small assessment each year which they are doing right now to keep the roads kept up and in good shape.

Commissioner Ferry: Am I to understand that in the County of Hawaii, the residential zone does not require paved roads? You can get by with cinder-oil?

Mr. Kendall: It may now but, it didn't then.

Commissioner Ferry: If they are paved roads, and they are astute developments, I would imagine that you would want to shun yourself the responsibility of maintaining those roads. Consequently you would want to convey them to the County and in so doing you would create an atmosphere for the County where they would continuously pour money into it. If there were various residences established in the subdivision, they would demand police and fire protection. These are expenses that would have to be incurred by the County and judging from the staff report relating to a short term gain to a few and a long term loss to many, this is a true interpretation for the basis for such a statement.

Mr. Osorio: Commissioner Ferry, are you speaking of the roads that can be dedicated to the County or paved roads that have been constructed to County standards for cinder-oil roads?

Commissioner Ferry: I'm speaking of both. If these roads were developed, it would be good for the developer to one time pave the cinder-oil roads and dedicate it to the County.

Mr. Kendall: Dedication requires an acceptance. In other words you just can't put in a road and say to the County now you must take this and keep it up.

Commissioner Ferry: But, does any County government become selective as to what developers they will accept roads from and what others they will reject? It has never happened before in Hawaii.

Mr. Osorio: Speaking from practical experience, as a member of the Board of Supervisors, we have never turned down any subdivision where roads have been constructed according to County's standard. I see no reason why we would not accept something that was developed according to County standards. I think we are missing a point, though. We see only real property assessment itself in an area which certainly does not have the hundreds and hundreds of homes which should be in the built up area. I think, only in this respect, here, as far as getting the additional tax dollars, we are ahead of the game.

Commissioner Ferry: Maybe. However, are you aware also that taxes from this year and last year were 3 times plus over? You now have something like $5,000 plus taxes collected from the County of Hawaii and primarily through the sales of this type of subdivision. When I say this type of subdivision, I mean any subdivision with reference to this.

Mr. Kendall: I admit that there are some subdivisions like this that have no development, where people have no community effort.

Commissioner Ferry: But how can you have a community association with only 3 resident owners?

Mr. Kendall: You don't. You have a community association made up of every lot owner who automatically becomes a member when he accepts his deed and accepts his obligation of an assessment right to the community association to maintain the county facilities including roads.

Commissioner Ferry: Whether they have a building permit on the lot or not?

Mr. Kendall: That is correct.

Commissioner Nishimura: Mr. Kendall, you plan a development on the beach road. You have only 3 lots sold from the Nanawale Subdivision?

Mr. Kendall: Nanawale subdivision has two units. The Nanawale subdivision Unit 1 is completely sold out. There are about only 100 lots left. There are three homes on it.

Commissioner Nishimura: You mean to tell me that retired people are going to come here?

Mr. Kendall: They certainly are. They come to these meetings. They come to our luaus every Tuesday nights, 40 to 50 of them.

Commissioner Nishimura: How long, would you say, before you will have residents down there to complete your whole project?

Mr. Kendall: We started out as a ten year project and we have been in existence for 3 years now.

Commissioner Nishimura: And you have only three homes?

Mr. Kendall: Things are not sudden. Once things start to go, in fact, we have a plan right now for anyone who wants to build six homes now. It would be a pleasure to put this little motel in there, build a few homes around it and get some of the people to go in there to stir some activity in the area. There is no real effort on this Island to encourage people to come here. There have been discouragement more than anything else. We're trying to overcome that. This is the reason for our selling these lots and not with the idea of making an immediate profit, because we haven't. We hope to make a future profit here, however. I intend to live down here and retire down here, and eventually build a house near the water. I know it is a lot of risk, and we are used to that. But things just don't happen overnight. It takes a lot of hard work, sweat and money. But once things start going, you're going to see them move.

Chairman Ota: We will ask a few more questions. I would request that whoever speaks to let the last person complete his sentence, so that there will be no blurring of words here. We don't want to rush this thing, but we have another meeting with the local planning commission. We will go one time around and wind this hearing up.

Commissioner Wenkam: Is it 2300 lots in Nanawale? You sold 1200. It means in 3 years you sold just half of the lots. This doesn't seem to demonstrate the demand that you have described.

Mr. Kendall: This is because of the type of selling that has been made. We'd rather sell slowly and satisfy the customer. We haven't been putting on a high pressure sales campaign. That is the reason.

Commissioner Wenkam: In trying to answer the current demand that you do, why is it that only 3 people have moved in?

Mr. Kendall: The people who are buying are speculating that this area will grow and they will be able to make some money on resells. Others are young peoole who are buying and planning to move over here. Others are military, etc. who have served time over here or retiring and want to live over here, and they have come over to check the area from time to time.

Commissioner Wenkam: You refer again and again to the fact that you wish to develop this area because Nanawale has no beach frontage. You wish to get down there to obtain a beach frontage. Is there a beach in Nanawale?

Mr. Kendall: It is not a beach exactly. There is an ocean frontage where people can fish. And we hope to eventually develop a beach resort area where there will be some kind of beach created. That can be created at Honolulu Landing.

Commissioner Wenkam: You really feel a beach can be created there?

Mr. Kendall: Yes. I don't mean a Waikiki beach. People don't do much swimming around this island.

Commissioner Wenkam: To me the definition of beach means sand.

Chairman Ota: This morning we spent from 7:00 a.m. to 3:00 p.m. in the Puna district, and I can say we had a good look at the particular site.

Commissioner Wung: You say there/are three homes in that area. Can you tell me about the residents of those homes - whether they are living there and what their occupations are?

Mr. Kendall: My home is there. I come down to stay once a year with other people. The other two are retired people. In other words, there is not much here, but with two developments in a little area, things will start to generate and begin to develop.

Commissioner Ferry: Are you aware, Mr. Kendall, that your 15 room resort development can be applied for, through this Commission, under a special permit?

Mr. Kendall: I realize that when we get our plans, and everything, that we have to apply and get permission for it.

Commissioner Ferry: Even if we deny your request on your petition at this time?

Mr. Kendall: Yes, that is what I understood. In other words if we don't get this, there still is something we can do to get the development together. In other words, this is really a little preliminary in a way, because I don't like to move until everything is ready. I don't believe in jumping ahead. On the other hand, I believe in putting our order in to let people know what we intend to do. It is my understanding that a map was filed on this property, and I don't know whatever happened to it. I guess it wasn't ever recorded.

Commissioner Ferry: I don't know whether it was recorded, but even if it were recorded, I'm sure the determination would be the same. This would be in an agricultural zone. To be perfectly frank with you, if we were to zone that small red area which is under petition now, it would be hypocritical to leave Nanawale in an Agricultural zone. In addition to that we would return some of the other subdivisions that are already lots of record and much less than the agricultural minimum.

Mr. Kendall: I did not understand that. You see this is colored in one area, and Nanawale is colored in certain plats and this isn't, and there is one over here which is the same. Now do I understand that these are agricultural areas, but we are permitted to sell lots?

Commissioner Ferry: Yes, because they are lots of record.

Mr. Kendall: Now this map that we have obtained when we bought this property, is it not a map of record?

Commissioner Wenkam: No it is not.

Mr. Osorio: We may be missing a point here. May be we can apply through the Land Use Commission for something other than what we are applying for now - rather than changing it from Agriculture to Urban, to one of getting a permit on the similar basis like Nanawale and Hawaiian Shores and Beaches.

Commissioner Ferry: No. You could not apply for a permit to come in for a lot size at 9,000 sq. ft. But if the developer had a plan for a 50 unit motel development, than a special permit would be in order. Then as the need grew, you could justify your petition for an urban zoning for this subject area.

Mr. Kendall: We would have created our need like you were talking about, and we could proceed. I see. In other words this does not foreclose us from progressing as we had in mind.

Commissioner Ferry: Not at all.

Mr. Osorio: In other words, there is no way possible for Mr. Kendall with his Honolulu Landing area to get similar status as Hawaiian Shores and Nanawale Estates?

Commissioner Ferry: Yes, they could, upon application. But again the burden of proof rests with the petitioner. You would have to justify the need for urban zoning. Now the Land Use Commission has designated this as agricultural, also taking into consideration that the lots are already recorded in their urban size. So this shouldn't hamper your development. Your main concern of course right now is in carrying it under dispute or under petition at this time because it is not a subdivision of record.

Mr. Kendall: So if we decide to come in again with something or other, we would not be bound by this map in any way. Whether we change the size of the lot or whatever we do?

Mr. Osorio: Mr. Kendall has pointed out to you people, earlier, of the fact that this is an isolated parcel which is stuck between two types of use areas and which possibly can't be used for but one or the other use. Naturally, the State wouldn't want to buy this parcel now - probably couldn't afford it - which leaves only one possible use other than Agriculture, and whether permission is needed from this Commission to allow Mr. Kendall to go ahead with his development.

Chairman Ota: Since there are no other questions or comments, this Commission will receive additional information, comments, protests within the next 15 days and will take action on this petition 45 to 90 days from this public hearing.

The public hearing on the matter of Donald G. Kendall, A(T)64-68, is closed.

PETITION BY MARYANN KAMAHELE (A(T)64-66), FOR AMENDMENT TO THE LAND USE DISTRICT BOUNDARIES FROM AGRICULTURAL TO RURAL TO SUBDIVIDE 5.52 ACRES INTO FOUR 1.220 ACRE LOTS TO BE GIVEN TO HER FOUR DAUGHTERS: Described as TMK 1-5-10: 15, Makuu, Puna, Hawaii

The Executive Officer presented the background of the staff report and outlined the area on a map (see staff report).

Mrs. Maka: I wish to introduce myself. I am Mrs. Theresa Kamahele Maka, daughter of Mrs. Maryann Kamahele. I'm sorry she cannot come here today because she lives far away from here in Pahoa. This is my sister Mary Kamahele Acacio who came here with me to this meeting. What we want is to put this place in a Rural district. We are asking this because this land is an undivided land. My mother gave us four lots - these small portions. You know how it is when the land is not divided. Maybe some day we three sisters will be fighting with each other over this land and this is the reason why we want it divided. But everybody knows that this land is in an agricultural land.

Chairman Ota: And that is the reason we are here. To hear whatever testimonies that you folks may have. We cannot tell you the results today. However, this is what will happen. After hearing from you, the staff who has not presented its analysis as yet, will make its recommendation to approve or disapprove your petition. This Commission will then hear from you or anyone present here who may have any additional testimonies to submit before the end of this public hearing. After 45 to 90 days from this hearing, this Commission will meet again to act on your petition at which time you will be so notified of this meeting. Mr. Yamashita will now proceed with his analysis and recommendation on this petition.

The Executive Officer presented the staff's analysis and recommendations of the petition (see staff report). Staff recommended disapproval of this petition on the following bases:

1. The petitioner has not, to date, submitted adequate proof as required by law.

2. The approval of this petition would be contrary to the intent and purpose of the Land Use Law and as interpreted by the Standards for Determining District Boundaries. The parcel is now appropriately in the Agricultural district.

Chairman Ota: Now this is what our Executive Officer has recommended. This doesn't necessarily mean that this case is closed. We will take his testimony and findings upon advisement and when we meet 45 days or so from now, we will consider all of these facts and whatever facts you folks have presented to us. We have nine members here and it will take six votes to approve your request. I hope you understand that. What the staff has read here doesn't necessarily mean that the decision will be as such. Before you go, is there any question you wish to ask us, or may be the commissioners may wish to ask you some.

Commissioner Ferry: Inasmuch as the local county planning and traffic commission has approved your request, I think it quite possible that this could be handled where you may remain in an agricultural zone if you get a variance according to their present agricultural zoning. In other words their present zoning is now 3 acres. They may grant you a variance leaving this in an agricultural zone, but permitting you to subdivide it into four 1.22 acre lots. This is geared as a point of interest on your behalf. We have received many requests for similar petitions which would definitely constitute spot zoning. It is difficult to say that in an area of let's say 3,000 to 5,000 acres which was zoned agriculture that we would take it and zoned it Rural if it meets a specific need. But this can be accomplished only on the county level. When land is zoned in agriculture, the county statute and zoning ordinances governing agricultural zone apply. This is why you can make direct application to the county.

Commissioner Wenkam: How do you expect the lots to be used after they are subdivided.

Mrs. Maka: We will use them for week-end beach uses. We may build homes on them later.

Commissioner Wenkam: You will be using them for personal use. In other words they will primarily remain in the same use, that of an agricultural character, the way it's being used today.

Commissioner Ferry: The point was made that there would be some for sale.

Mrs. Maka: Another thing the surveyor cannot survey it, unless the road is from Akapuki(?). We have the surveyor and he says he has to pass through Akapuki(?).

Chairman Ota: What has been stated by Commissioner Ferry should be checked out with the County again.

Commissioner Ferry: The petition is before us, and we've got to hear it. But, I think if it is rejected, they have another alternative and that is to go directly to the County and obtain a variance according to their present agricultural zone. However, that is up to the County to say.

Executive Officer: You have until 15 days to say something in addition to this. So if you have or think of anything else to say in the next two weeks and wish the Commission to know about it, you may write in to the Land Use Commission and we will receive any additional comments you might wish to make.

Chairman Ota: Since there are no additional questions, comments for or against this petition, the Commission will receive additional comments, protests, etc. within the next 15 days and will take action on your petition 45 to 90 days from this hearing.

The public hearing on the matter of Maryann Kamahele, A(T)64-66, is closed.

PETITION BY JOHN G. PEDRA (A(T)64-67), FOR AMENDMENT TO THE LAND USE DISTRICT BOUNDARIES FROM AGRICULTURAL TO RURAL FOR THE PURPOSE OF SUBDIVIDING A PORTION OF PARCEL 11 INTO TWO ONE-HALF (½) ACRE LOTS: Described as TMK 9-5-12: Portion of 11 containing 1.00 acre, Naalehu, Kau, Hawaii

The Executive Officer presented the background of the staff report on the petition and outlined the area on a map (see staff report). The hearing then proceeded as follows.

Mr. Kushi: I'm Masanori Kushi, attorney for the petitioner, John G. Pedra, Sr. and family. The petition before this Commission was made by Mr. Pedra himself and I was hired as his attorney following this submittal. Mr. Pedra is not present today because of prior commitments in Honolulu. Mr. Pedra has 8 children and what he wants to do is in effect give ½ acre tracts to his two married daughters, Mrs. Lucille Sesson and Mr. & Mrs. Anna Mae Jones. I have here with me Mr. Lawrence Jones, husband of Anna Mae and also Mr. Albert Pedra, son of Mr. Pedra. Mr. Lawyer (referring to R. Takeyama), I would like to ask what went on previously, in regard to this recommendation and the desires of the petitioner. The point I wish to bring about is that both Mr. & Mrs. Sesson and Mr. & Mrs. Lawrence Jones plan to build a residential home as soon as possible and actually live there. If assuming this petition is denied by this Commission and I can rely on what Mr. Ferry has stated, that I can still go to the local planning and traffic commission and ask for a variance - leaving it in an Agricultural zone but ask for a variance - if that is a possible way out, may be that would be the answer to this case here.

In reading the recommendation by the staff, the staff says there is inadequate proof. In every case there is inadequate proof that lands are needed for use other than that for which the district in which it is situated is classified. Well, as a lawyer, I don't know what kind

of a proof is necessary here on this specific point. As far as what is needed by the family for a specific purpose, this has been explained. The father wants to deed his land to his two married daughters so that they can build a family home. There is no doubt that there is a need in that nature. Land would be given to them free. Now, the second proof here, conditions and trends of development have so changed since the adoption of the present classification, that the proposed classification is reasonable. I don't know how to submit proof on this second point. Apparently Mr. Pedra came to this Commission for help because in every case the surveyor had a problem. When he went to survey the place, he was recommended to go to the local planning and traffic commission. Then the local planning and traffic commission automatically referred him to this Commission for a change in classification. While I am on this subject, since Mr. Takeyama is here, can I rely on what Mr. Ferry had stated? If we can convince the planning and traffic commission to leave this in the agricultural zone for these residential home purposes that that is the way out, and that it would not necessarily conflict with the Land Use Law?

Mr. Takeyama: I am not in the position to answer this question. All I want to say is this, if the so-called variance that Mr. Ferry is speaking of is not the special permit, then if you are referring to a variance from an existing county zoning ordinance, I think that is up to the county to decide on that matter.

Mr. Kushi: Assuming we can get a variance on the county level, we are not in conflict with any land use regulation as a rule.

Mr. Takeyama: Before they can grant a variance it has to be for an agricultural use, right? I would think that is about the only way in which you can get it. If it is not for an agricultural use than you would be contradicting the Land Use Law. There is one thing that is not quite clear here which you should discuss with the county authorities. That is the minimum acreage. I don't know whether it is 3 acres.

Chairman Ota: Mr. Yamashita will now proceed with the staff's analysis and recommendations.

The Executive Officer continued with the analysis and recommendations (see staff report). Staff recommended denial of this petition on the following bases:

1. There is, at this point, inadequate proof that (a) the land is needed for a use other than that for which the district in which it is situated is classified, and that (b) conditions and trends of development have so changed since the adoption of the present classification, that the proposed classification is reasonable.

2. Spot zoning of a one acre site would be contrary to the intent and purpose of State zoning.

3. According to the Standards for Determining District Boundaries, an Agricultural classification of the site is most appropriate.

Chairman Ota: Mr. Kushi do you wish to rebut the staff's recommendation or do you have any questions you wish to ask.

Mr. Kushi: Like I said, Mr. Pedra has in mind to give ½ acre tracts to Mr. & Mrs. Sesson, Mr. Pedra's daughter. Mr. Sesson works down under some place. They do sincerely intend to build a family home on these lots, that is after their request is granted. The other ½ acre tract he wants to give it to his other daughter, Mr. & Mrs. Lawrence Jones. Lawrence is on my side here. Lawrence works for the Bendix Corporation. He is with the South Point Tracking Station and he also plans to build a residential home there. Obviously under the analysis made by the staff and based on such an analysis, I can see that the staff would recommend denial of this petition. I do know we have land use law and obviously my client is against a stonewall with his case here. But the point I wish to express to you is this. We talk about spot zoning and it seems like an ugly word. But I sincerely question whether this County can afford to have such land use rules and regulations, and laws so stringently enforced. Here is a case of a man who owns so much land - 38.60 acres. All he wants to do is give a small portion to his children here to make use of. But according to the Law it is stopping him from doing this, all in the name of orderly development on this island. I know that this is not a legal problem to appeal to you that this is strictly an emotional problem. But I just want to appeal to this Commission that may be it would be good to have spot zoning. What harm is it really doing? The analysis states here that we are setting a bad precedence that should we allow all adjoining lands in agricultural areas, and land owners who had made similar requests to divide up their lands into smaller spots here, we would be allowing the spot zoning to become a Rural classification so that they can build homes. My answer to that is - so what? Even if this spot zoning is granted. The land would be utilized for residential purposes. This is not a case of a huge residential subdivision involving 1,000 lots - lots that have to be sold to many people and may not be used for residential purposes forever. This is a case where the risk will prove the fact. The intentions of the party concerned is that they will build their homes and all they want is free land and in this case from their own father. There are other lands available, I suppose, in the Naalehu area where there are subdivisions, but they cost money and they would have to pay for it. This is the case where these kids get their land from their father to build their residential homes. So if this Commission grants Mr. Pedra his request and it is spot zoning, I still say so what? I am appealing my case strictly on emotional grounds.

Commissioner Wenkam: May I ask whether you had considered asking the Hawaii County Planning Commission for a special permit? Because, under a special permit, it would be more applicable in this case. Then spot zoning would not be an issue.

Mr. Kushi: No. I just had this case very recently and this application was before this Commission already.

Commissioner Ferry: Is this parcel, including the 23 acres leased, owned by Mr. Pedra? The 38.60 acres?

Mr. Kushi: Yes.

Commissioner Ferry: Does he intend to deed a ½ acre portion or to provide a building site?

Mr. Kushi: To deed a ½ acre portion to his children.

Commissioner Ferry: Why is it confined to an ½ acre size, assuming evidently that the title deed here is that the children will share in this. Now there are 8 children, and the County zoning here is 3 acres in an agricultural zone. You could certainly split that up very easily. You wouldn't provide an ½ acre parcel. You would provide a minimum 3 acre parcel or it could be 4.3¼ acres to be perfectly exact. Then you would have 8 lots for 8 children.

Mr. Jones: The contour of the land wouldn't permit building.

Commissioner Ferry: That is beside the point. You wouldn't build on all of 4.3 acres. You would cut up a parcel even though half of it would be lying in a gulch. Your boundary lines will be defined as such. Then you will have no problems. You can go directly to the County. However in direct response to your question or to your statement that this is an emotional plea, let us not be so naive then and look further into the question with the realization that sure you will be granted a half acre site now, but can you claim that it will be claimed for your own in perpetuity, by the grantee? Undoubtedly not. So all you will be doing is merely stirring a need, a need which may not be a special one. Because what guarantee is there that Mr. Jones and his wife are going to hang on to their property and not sell it. But you are talking on the emotional end of it. On the emotional end you want to stir the purpose for which Mr. Pedra wants to dedicate his land. You will be doing it sure, but would you still have that dedicated purpose two years hence or at any time of your life?

Mr. Kushi: Mr. Ferry, I think you really did not quite understand what I had stated. I'll put it to you in another way. Why should Mr. Pedra be forced to divide it up into a four

point something acre tract of land to give it to his eight children? You ask me why didn't he do it that way. Well here is the case where the presentation is being made now, in the case of Mr. Jones and Mr. & Mrs. Sesson. The half acre is sufficient for their purpose, for their residential purpose. They do not profess to go into agricultural. The point is that ½ a tract is large enough. What does the fact whether the Jones hang on to the land has to do with it. I still say if we have spot zoning on this island, so what? Can we afford to be economically so fussy at this stage. That's all I'm saying. Well, may be in a place like Honolulu I can see where orderly development of land and all that should be considered, knowing how terrible a struggle it is to live in a place like that.

Commissioner Ferry: Mr. Kushi, you speak of economic development. Tell me, are Mr. & Mrs. Jones or Mr. Pedra's other daughter presently residing in the County? They are not presently contributing to the economy of the County. Would moving them, from where they are presently residing, into their own home be beneficial to the County economy?

Mr. Kushi: Yes, I think so.

Commissioner Ferry: How?

Mr. Kushi: For one thing they will be building their own home, it will cost money. I don't see why not. The land values, after they build their new home, will increase for real property tax purposes.

Mr. Jones: I would like to ask you a question, Mr. Ferry. What would benefit the County? There is nothing along that way now that is benefiting the County.

Commissioner Ferry: That's not the purpose. The purpose is what will benefit the County as Mr. Kushi claims by subdividing this into an ½ acre parcel. The burden of proof is upon the petitioner.

Chairman Ota: Do any of the other commissioners have any questions?

Commissioner Nishimura: Do we have a Rural district for the Naalehu area?

Executive Officer: I can't say.

Chairman Ota: I think you are putting our director on the spot without proper background. I think a question like this would be more appropriate in our deliberations. Do you want an answer?

Commissioner Nishimura: No, but that yellow spot there. There is a land area between that spot. Who owns that other portion?

Chairman Ota: That area is owned by Naalehu and is being used for dairy purposes.

Mr. Kushi: If we do apply for a special permit, what are our chances? If we don't have a chance we don't want to waste our time.

Chairman Ota: Let me put it this way. Under a change of boundary you will need six votes to approve, and on a special permit you will need a majority vote.

Commissioner Ferry: I think the point that Mr. Kushi wants to make here is that they don't want to just construct the home but also to deed a ½ acre parcel, so this would have to be a change of boundary.

Executive Officer: That is not exactly true. I think that there is a legal question involved here.

Legal Counsel: Let me say this. First you asked me a question regarding what your chances are if you should pursue a special permit. Under the district regulations the standards are spelled out, so I think you should follow that and then weigh the facts you can present and predict what the Commission is going to do. Secondly, if the special permit is granted, the special permit goes according to the use of the land. I think we have, in the past, granted use of a particular land which permitted subdivision of land. So, if the special permit is granted, subsequent parties have subdivided and no questions were raised at that time. I think, however, that the question Mr. Ferry is trying to put across to you is that if your minimum required lots in the county is three acres, and if your client purports to use it for agricultural pursuits, then there is really no need for you to come to the Land Use Commission for approval. So your first step is to find out what are the minimum lot requirements existing as of May 1, 1963. If it's 15,000 sq. ft., and if your client is going to use it for agricultural purpose, then you may go ahead. However, if your clients will be using it for single family dwellings then you are not permitted to do so, even if your client meets the minimum lot size requirement.

Mr. Kushi: That is the point I was going to bring up. It is obvious that they are not going to use it for agricultural purposes by my presentation. But what are the tests or standards that my client may follow to use it for agricultural purposes? What must they do? Must they cultivate the land - show some income?

Legal Counsel: That depends upon your County ordinance. It spells it out.

Commissioner Ferry: It shows in our regulations that some income must be derived.

Legal Counsel: No, we cut that out.

Commissioner Ferry: I thought we cut out the majority income.

Mr. Kushi: I wish to thank the Commission on behalf of Mr. Pedra, including Mr. Ferry. We will take some time to decide whether to follow these devious grounds, the special permit procedure, or a variance through the County. Before leaving you, however, I wish to leave this emotional plea again, "What's wrong with spot zoning?"

Chairman Ota: If there are no further comments and questions, this Commission will receive additional comments and protests within 15 days from this hearing and will take action on this petition 45 to 90 days from this hearing.

The public hearing is closed.

December 22, 1964

Ref. No. LUC 548

Mr. John G. Pedra
P. O. Box 304
Naalehu, Kau, Hawaii

Dear Mr. Pedra:

At a meeting held on December 18, 1964, in Honolulu, Hawaii, the Land Use Commission took final action on your petition for amendment of the Land Use District Boundaries, from Agricultural to Rural, for a one (1) acre portion of TMK 9-5-12: 11, Third Division. A motion to approve your petition was defeated. There were four (4) affirmative and three (3) negative votes, to the motion for approval, by the seven (7) commissioners present. Thus, your petition has been denied.

Subsequently, the Land Use Commission voted to initiate a study to determine the feasibility of creating a rural district in the general area where your land is located. The results of such a study cannot be predicted. However, should any subsequent action be taken, you will, of course, be contacted.

In addition, we would like to point out that subdivision of your parcel is still possible under the County's agricultural zoning ordinances. However, there would be certain restrictions on the lot sizes. Should you wish further information on this point, we would suggest you contact your County Planning and Traffic Commission in Hilo.

A copy of the staff report on your petition, which was a basis for the Land Use Commission's decision, is enclosed for your

information. Should you have further questions on the action taken by the Land Use Commission on your petition, please feel free to contact us.

Very truly yours,

RAYMOND S. YAMASHITA
Executive Officer

Enclosure (1)
cc: Hawaii Planning and Traffic Commission
Myron B. Thompson

STATE OF HAWAII

LAND USE COMMISSION

VOTE RECORD

ITEM A(T)64-67 (Pedra)

DATE 12/18/64

PLACE LUC Hearing Rm

TIME 1:40 pm

NAMES	YES	NO	ABSTAIN	ABSENT
WUNG, L.	✓			
INABA, G.	✓			
OTA, C.	✓			
WENKAM, R.		✓		
BURNS, C.E.S.		✓		
NISHIMURA, S.	✓			
MARK, S.				
FERRY, J.				
THOMPSON, M.	1	✓		

COMMENTS: Wung - Approve
Burns - See.

STATE OF HAWAII

LAND USE COMMISSION

VOTE RECORD

ITEM Staff Study

DATE

PLACE

TIME

NAMES	YES	NO	ABSTAIN	ABSENT
WUNG, L.	✓			
INABA, G.	✓			
OTA, C.	✓			
WENKAM, R.	✓			
BURNS, C.E.S.	✓			
NISHIMURA, S.	✓			
MARK, S.				
FERRY, J.				
THOMPSON, M.	✓			

COMMENTS: Wenkam Staff initiate ~~appropriate procedures~~ ~~place~~ studies for rural areas in vicinity of Pedro's lot.

Wung - sec.

STATE OF HAWAII
LAND USE COMMISSION

Board of Supervisors' Chambers
Hilo, Hawaii

3:00 P.M.
October 23, 1964

STAFF REPORT

Subject: A(T)64-67, Petition for Amendment of Land Use District Boundary by JOHN G. PEDRA

Background

This petition is to amend the District Boundaries so that the land use classification of one (1) acre of TMK 9-5-12: 11, Third Division, is changed from Agricultural to Rural. The petitioner is owner of the entire Parcel 11 and proposes to subdivide one acre of the south corner of his land into two one-half (½) acre residential lots for members of his family.

The one acre is located about a mile from the commercial center of Naalehu, Kau, Hawaii. Access to the property is by a 700 foot long unpaved roadway which branches off from Mamalahoa Highway, the main belt road on Hawaii. The site of the subdivision is situated in the front (south) portion of parcel 11 and is adjacent to the petitioner's single family residence. The 1 acre site appears to be unused but was apparently once used for grazing not too long ago - as evidenced by fencing.

Out of a total 38.60 acres owned by Mr. Pedra, about 23 acres are leased out to the Hutchinson Sugar Company and is used for growing cane. The remaining 15 acres are indicated as pastures on the map submitted by the petitioner.

The area immediately surrounding the site is used for agriculture or is vacant. The agricultural uses are sugar cane cultivation and cattle grazing. The Naalehu Dairy and pastures occupy the area between the site and the town. Above the site are additional pastures and cane lands. Towards Hilo, the land is virtually all pastures. Between the site and the highway the land is used for pasture and there is one family residence. The area below the road is entirely in pasture.

The one acre site is relatively flat, but the remaining portions of the land, including the cane area, has generalized slopes of land from 10% to over 20%.

The land has been classified by the Land Study Bureau as 'Class A' and 'steep areas outside the forest reserve.' Rainfall in the area is between 40 to 50 inches per year.

Although the land is not now within the scope of a County water system, the petitioner is supplied with water through the private system of Hutchinson Sugar Plantation. The Hawaii County Board of Water Supply mentioned that they will take over the water system of the sugar plantation in the near future and extend the line along the main highway to within a short distance of the site. This work is expected to be accomplished early next year, at which time, it is possible that the petitioner may make a new connection or continue using the existing service. A power line parallels the access road to the site and services the only two residences in the locale.

The State General Plan designates the vicinity of the petitioner's land as open land and forest reserve. The County has not developed plans for the area as yet.

The petitioner has submitted the following statement which is assumed to be the applicable proof required by Section 98H-4, Act 205.

> "The present restrictions set forth by your commission are causing considerable problems to me and my family.
>
> "As a land-owner of an agricultural district, I suddenly find that I cannot divide my land among my family, as I had planned.
>
> "Approximately half of my property is planted in cane and undivided among my sons. The south-west portion is for building of homes and living plots, among my sons and daughters.
>
> "Therefore, I must request that my land be reclassified as a Rural Zoning District, or seek legal advice concerning this matter."

On July 20, 1964, the Hawaii Planning and Traffic Commission voted to recommend approval of the petitioner's request on the following bases:

"1. The parcels to be created are to be given to the immediate blood relation of the parcel owner.

"2. Said parcels are located in an area being used for the front yard of the existing structure; as such they never were used for agricultural purposes.

"3. The land use character between rural and agricultural districts is very similar; consequently despite what may be termed "spot zoning," the rezoning will not incur detrimental effect on adjacent land, in this case used for grazing.

"4. An existing County road provides access to the lot in question; electricity and water system are available."

Analysis

The economy of the general area is basically agricultural - principally sugar cane and grazing. There is a limited military facility at South Point. While the impact of this facility upon the economy is currently small, increased activity in this type of facility is possible which might significantly affect the economy and the development of the area. However, there are no current bases upon which this possibility can be translated into land use needs. The situation is the same with respect to the tourist activity in the area. At this point in time, there are no real indicators of any substantial changes in the economy of the area in the foreseeable future.

Both Pahala and Naalehu have developed as urban nuclei to sugar plantations. Both plantations have programs which are consolidating scattered camps and are providing for all types of general urban uses in their master plans. Substantially all of these plans have been incorporated into the Land Use Urban Districts together with other private lands involved in the urban pattern.

The subject site is about a half mile from the Naalehu Urban District. Within this urban district are located urban facilities such as a school, churches, commercial center, parks, post office, theater and a County building. This urban district has provisions for about 200 additional residential lots on plantation lands and about 50 acres of additional

private lands. Considering the economy of the area and available information, it would appear that adequate lands for urban expansion in the foreseeable future have been provided. Further, the urban district is well located in respect to existing and proposed facilities, employment and other existing developments. The urban district now provides for relatively compact expansion. This would permit services and facilities to be provided and maintained economically and efficiently.

The conclusion is that there is no evidence indicating a need for residential uses outside the Naalehu urban district. In this particular issue, the proposal would establish residential uses which would 'leap frog' and be contrary to the intent of the law to provide for orderly development. While the proposed residential uses would be small, equal applicability of the law must be assumed. Since adjacent lands appear similar, at least in respect to factors which may be legitimately considered under the law, the matter of precedence must be considered. Moreover, the residential uses are being proposed in a location which leap frogs an existing dairy operations. In the light of previous experiences with similar situations in Waianae, Oahu, it would appear that the establishment of residential uses in this area can eventually produce serious land use problems.

On another point, State zoning as mandated by the Land Use Law is accomplished by grouping "contiguous land areas suitable for inclusion in one of the four major districts." Considering the characteristics of the general area, the inclusion of this particular one acre site would be spot zoning - or zoning of a small area to the advantage of a specific owner - which is contrary to the intent of the law.

On still another point, the intent and purpose of the law has been translated into the Land Use District Regulations and particularly the Standards for Determining District Boundaries. A review of the guidelines for Rural and Agricultural districting indicate that an Agricultural districting is most appropriate for the entire locale and particularly when the broader basis for State zoning is borne in mind. Rural Standards a, b, c, g and h are fundamentally adverse to a Rural classification; Standard e may be considered favorable; and d & f are not applicable. There are no adverse Agricultural Standards.

Recommendation

Staff recommends denial of this petition on the following bases:

1. There is, at this point, inadequate proof that (a) the land is "needed for a use other than that for which the district in which it is situated is classified" and that (b) conditions and trends of development have so changed since the adoption of the present classification, that the proposed classification is reasonable.

2. Spot zoning of a one acre site would be contrary to the intent and purpose of State zoning.

3. According to the Standards for Determining District Boundaries, an Agricultural classification of the site is most appropriate.

NOTICE OF PUBLIC HEARING

TO CONSIDER PETITIONS FOR CHANGE OF DISTRICT BOUNDARIES WITHIN THE COUNTY OF HAWAII BEFORE THE LAND USE COMMISSION OF THE STATE OF HAWAII

NOTICE IS HEREBY GIVEN of the public hearings to be held in the County of Hawaii by the Land Use Commission of the State of Hawaii to consider petitions for Change of District Boundaries as provided for in Section 98H-4, Revised Laws of Hawaii 1955, as amended.

In the Chambers of the Board of Supervisors, County of Hawaii in Hilo, Hawaii on October 23, 1964 at 3:00 p.m. or as soon thereafter as interested persons may be heard in considering:

Docket Number and Petitioner	Tax Map Key	Change Requested
A(T)64-66 Maryann Komohele	1-5-10: 15 containing 5.52 acres	Change requested from an Agricultural to a Rural district classification for the subdivision of said lot into four 1 [illegible] acre parcels.
A(T)64-67 John C. Pedro	9-5-12: Portion of 11 containing 1.00 acre.	Change requested from an Agricultural to a Rural district classification for the purpose of subdividing a portion of Parcel 11 into two one-half (½) acre lots.
A(T)64-68 Donald G. Kendall	1-4-03: 19 & 20 comprising approximately 352 acres.	Change requested from an Agricultural to an Urban district classification for the subdivision of Parcels 19 & 20 into approximately 1,141 lots of about 9,000 sq. ft. each.

Maps showing the area under considerations for change of District Boundaries and copies of the Rules and Regulations governing the petitions above are on file in the office of the Planning and Traffic Commission, County of Hawaii, and the Land Use Commission are open to the public during office hours from 7:45 a.m. to 4:30 p.m., Monday thru Friday.

All written protests or comments regarding the above petitions may be filed with the Land Use Commission, 426 Queen Street, Honolulu, Hawaii before the date of public hearing, or submitted in person at the time of the public hearing, or up to fifteen (15) days following the hearing.

LAND USE COMMISSION
M. THOMPSON, Chairman
R. YAMASHITA, Executive Officer

(T34—Hawaii Tribune-Herald: Oct. 3, 21, 1964)

STATE OF HAWAII

LAND USE COMMISSION

VOTE RECORD

ITEM A64-67- John T. Pedro

DATE December 18, 1969

PLACE DPED Hearing Room

TIME 8

NAMES	YES	NO	ABSTAIN	ABSENT
WUNG, L.	✓			
INABA, G.	✓			
OTA, C.	✓			
WENKAM, R.		✓		
BURNS, C.E.S.		✓		
NISHIMURA, S.	✓			
MARK, S.				✓
FERRY, J.				✓
THOMPSON, M.		✓		

COMMENTS: Comm. Wung moved to accept the petition
Comm. Burns seconded
The motion was not carried

NOTICE OF PUBLIC HEARING

TO CONSIDER PETITIONS FOR CHANGE OF DISTRICT BOUNDARIES WITHIN THE COUNTIES OF MAUI AND HAWAII BEFORE THE LAND USE COMMISSION OF THE STATE OF HAWAII

NOTICE IS HEREBY GIVEN of the public hearings to be held in the Counties of Maui and Hawaii by the Land Use Commission of the State of Hawaii to consider petitions for Change of District Boundaries as provided for in Section 98H-4, Revised Laws of Hawaii 1955, as amended.

1. In the Chambers of the Board of Supervisors, County of Maui in Wailuku, Maui on October 22, 1964 at 2:30 p.m. or as soon thereafter as interested persons may be heard in considering:

Docket Number and Petitioner	Tax Map Key	Change Requested
A(T)64-62 Michael T. Kuwahara	2-3-02: Portion of Parcel 23 containing an area of about 29,000 sq. ft.	Change requested from a Rural to an Urban district classfication for the relocation of an existing garage and installation of gasoline pumps to a different location on said lot.

2. In the Chambers of the Board of Supervisors, County of Hawaii in Hilo, Hawaii on October 23, 1964 at 3:00 p.m. or as soon thereafter as interested persons may be heard in considering:

Docket Number and Petitioner	Tax Map Key	Change Requested
A(T)64-66 Maryann Kamahele	1-5-10: 15 containing 5.52 acres.	Change requested from an Agricultural to a Rural district classification for the subdivision of said lot into four 1.220 acre parcels.
A(T)64-67 John G. Pedra	9-5-12: Portion of 11 containing 1.00 acre.	Change requested from an Agricultural to a Rural district classification for the purpose of subdividing a portion of Parcel 11 into two one-half (½) acre lots.
A(T)64-68 Donald G. Kendall	1-4-30: 19 & 20 comprising approximately 352 acres.	Change requested from an Agricultural to an Urban district classification for the subdivision of Parcels 19 & 20 into approximately 1,141 lots of about 9,000 sq. ft. each.

Maps showing the area under considerations for change of District Boundaries and copies of the Rules and Regulations governing the petitions above are on file in the office of the Planning and Traffic Commission, Counties of Maui and Hawaii and the Land Use Commission and are open to the public during office hours from 7:45 a.m. to 4:30 p.m., Monday thru Friday.

All written protests or comments regarding the above petitions may be filed with the Land Use Commission, 426 Queen Street, Honolulu, Hawaii before the date of public hearing, or submitted in person at the time of the public hearing, or up to fifteen (15) days following the hearing.

LAND USE COMMISSION
M. THOMPSON, Chairman
R. YAMASHITA, Executive Officer
(S.-B.: Oct. 3, 1964)

MAP SHOWING PROPOSED RURAL ZONE

LOT 26-A KAUNAMANO HOMESTEAD

Kau, Hawaii

Scale as shown

John G. Pedra, Sr. ~ Owner

3d DIVISION			
Zone	Sec	Plat	Par
9	5	12	11

TSUNEO KOIKE
REG. SURV. CERT. No. 318
P.O. Box 82
Naalehu, Kau, Hawaii

THIS WORK WAS PREPARED BY ME OR UNDER MY SUPERVISION

May 8, 1964

Tsuneo Koike
Signature

Ref. No. LUC 503

October 6, 1964

Mr. Lawrence B. Jones, Jr.
P. O. Box 572
Naalehu, Kau, Hawaii

Dear Mr. Jones:

The Land Use Commission has received your letter of September 30, 1964 requesting information on the status of the petition submitted by John G. Pedra, Sr.

On May 11, 1964, the Land Use Commission received Mr. Pedra's petition to amend the district boundaries from an agricultural district to a rural district for TMK 9-5-12: 11. A $50.00 check was also attached to the petition to cover the cost of the public hearing.

On October 23, 1964, a public hearing will be held at the Chambers of the Board of Supervisors in Hilo, Hawaii for the petition submitted by Mr. Pedra. The public hearing has been scheduled to start at 3:00 p.m. or as soon thereafter.

In your letter you mentioned that a public hearing should be held no earlier than 30 days and no later than 90 days after the petition is received. The "30 days" that you mentioned refers to Section 98H-6 of Act 205 in which "The planning commission, or the zoning board of appeals as the case may be, shall conduct a hearing within a period of not less than 30 nor more than 120 days from the receipt of the petition". This section is applicable to petitions for special permits and not to petitions for boundary changes.

Section 98H-4 of Act 205 states that "Within 90 days after receipt of the petition the county planning commission shall forward the petition, together with its comments and recommendations, to the commission". Further, "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". It is under Section 98H-4 that John G. Pedra, Sr.'s petition for a boundary change is applicable. By October 23, 1964, which is the

date of the public hearing, it will have been only 165 days since the Land Use Commission received the Pedra petition. This, according to the law is well within the maximum time (210 days) before a public hearing is to be held. However, after the public hearing is held, the Land Use Commission must take action on the said petition no sooner than 45 days or not more than 90 days from the date of the public hearing.

In general, a petition for a boundary change takes from a minimum of 5 months to a maximum of 11½ months before a decision can be rendered.

Should there be further questions, please feel free to contact this office.

Enclosed for your information is a copy of Act 205.

Very truly yours,

RAYMOND S. YAMASHITA
Executive Officer

REM/an
Enclosure

Lawrence B. Jones, JR.
P. O. Box 572
Naalehu, Kau, Hawaii

1475

September 30, 1964

RECEIVED
OCT 5 1964
State of Hawaii
LAND USE COMMISSION

Dear Sir,

Last April, a petition accompanied by a $50.00 fee was requested through the channels of the Hawaii County Planning and Traffic Commission and the Hawaii State Land Use Commision. This petition and fee was for a public hearing for John G. Pedra, Sr. of Naalehu involving a zoning change. Perhaps you have misplaced it accidentally, or possibly you've misplaced it un - accidentally.

I suppose that you are familiar with the organizational rulings, — You sent us a copy. It states, in black and white, that a public hearing will be held in, no earlier than 30 days, and no later than 90 days after the petition is received. Where is the petition, and what happened to the fee.

This jurisdiction is very important to me, my wife, and a number of people.

Would you please comply????????

Sincerely,

Lawrence B. Jones, Jr.

Ref. No. LUC 494

September 30, 1964

Mr. John G. Pedra
P. O. Box 304
Naalehu, Kau, Hawaii

Dear Mr. Pedra:

This is to inform you of the public hearing called by the Land Use Commission of the State of Hawaii on October 23, 1964 at 3:00 p.m. in the Chambers of the Board of Supervisors, County of Hawaii, Hilo, Hawaii. Your petition for Change of District Boundary from an Agricultural to an Urban district classification will be heard at that time.

Publication of Legal Notice will appear in the Honolulu Star-Bulletin, Honolulu Advertiser and Hilo Tribune Herald on October 3, 1964 and also on October 21, 1964 in the Hilo Tribune Herald.

Very truly yours,

RAYMOND S. YAMASHITA
Executive Officer

cc: Myron Thompson
Hawaii Planning & Traffic Commission

COUNTY OF HAWAII

PLANNING AND TRAFFIC COMMISSION

RECEIVED

JUL 27 1964

State of Hawaii
LAND USE COMMISSION

1357

Applicant John G. Pedra

Date petition received by Planning Commission May 14, 1964

Date of Planning Commission Meeting July 20, 1964

Date petition and recommendations forwarded to LUC July 24, 1964

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 9-5-12-11

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

The Commission decided to recommend: Approval of said request.

on the basis of the following findings:

1. The parcels to be created are to be given to the immediate blood relation of the parcel owner.

2. Said parcels are located in an area being used for the front yard of the existing structure; as such they never were used for agricultural purposes.

3. The land use character between rural and agricultural districts is very similar; consequently, despite what may be termed "spot zoning," the rezoning will not incur detrimental effect on adjacent land, in this case used for grazing.

4. An existing County road provides access to the lot in question; electricity and water system are available.

(1) steep areas outside F.R.

over 50%

(57)

(Signed) Edgar A Hamar
Director, Planning and Traffic Commission

Robert M. Yamada
Robert M. Yamada, Chairman

EAH:mh

Amend

May 12, 1964

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 John G. Pedra is forwarded for your comments and recommendations.

Very truly yours,

RAYMOND S. YAMASHITA
Executive Officer

Enclosure

204

RECEIVED
MAY 11 1964
State of Hawaii
LAND USE COMMISSION

Naalehu, Hawaii

May 8, 1964

State of Hawaii
Land Use Commission
426 Queen Street
Honolulu, Hawaii

Dear Sir:

I am in receipt of your letter dated May 1, 1964 and attachment, Rules of Practice and Procedure.

Enclosed, please find cash to the amount of $50.00, as fee, to cover cost of public hearings and publications.

Also enclosed herewith, is a Description of the Proposed Rural Zone and a map of Lot 26-A, Kaunamanu Homestead as per your request.

Sincerely yours,

John G. Pedra

John G. Pedra

Enclosure

Ref. No. LUC 299

May 1, 1964

Mr. John G. Pedra
P. O. Box 304
Naalehu, Hawaii

Dear Mr. Pedra:

This is in reference to your letter dated April 29, 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 May 1, 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, 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

John G. Pedra
P. O. Box 304
Naalehu, Hawaii

April 29, 1964

RECEIVED
MAY 1 1964
State of Hawaii
LAND USE COMMISSION

State of Hawaii
Land Use Commission
426 Queen St.
Honolulu, Hawaii

Dear Sirs:

The present restrictions set forth by your commission are causing considerable problems to me and my family.

As a land-owner of an agricultural district, I suddenly find that I cannot divide my land among my family, as I had planned.

Approximately half of my property is planted in cane and undivided among my sons. The south-west portion is for building of homes and living plots, among my sons and daughters.

Therefore, I must request that my land be reclassified as a Rural Zoning District, or seek legal advice concerning this matter.

Sincerely yours,

John G Pedra

John G. Pedra

Enclosure: Petition For Amendment
of Temporary District Boundary

STATE OF HAWAII
LAND USE COMMISSION

426 Queen Street
Honolulu, Hawaii

This space for LUC use

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MAY 11 1964
State of Hawaii
LAND USE COMMISSION

Date Petition and Fee received by LUC _____

Date forwarded to County for recommendation 5/12/64

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 Tax Key 9-5-12-11, H-Naalehu 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:

Petitioner's interest in subject property:

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

(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 unsuitable and inadequate for the use for which 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) John G Pedro

Address: P. O. Box 304, Naalehu, Hawaii

Telephone: 693889

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1204

Description

of

Proposed Rural Zone

of

LOT 26-A KAUNAMANO HOMESTEAD

Being a portion of Lot 26-A, Kaunamano Homesteads situated at Kau, Hawaii, State of Hawaii.

Beginning at a "X" on stone at the South corner of this lot, the North side of Hutchinson Road (Government) and on the Northeast boundary of LCA 8754 to Kalawahine, the coordinates of said point of beginning referred to Government Survey Triangulation Station "Kapuna 2" being 5907.87 feet South and 8659.00 feet East, and running by azimuths measured clockwise from true South:

1.	140	19'	00"	233.85 feet	along L.C.A. 8754 to Kalawahine;
2.	208	58'	00"	200.00 feet	along the remainder of Lot 26-A;
3.	320	19'	00"	233.85 feet	along same;
4.	28	58'	00"	200.00 feet	along the West side of Hutchinson Road to the point of beginning and containing an area of 1.00 acre.

Tsuneo Koike

Naalehu, Kau, Hawaii
May 8, 1964

Tsuneo Koike
Registered Prof. Surveyor
Certificate No. 318

Maps

State Form B14

STATE OF HAWAII

LAND USE Commission
426 Queen St, Honolulu, Hawaii
Department, Bureau or Commission

OFFICIAL RECEIPT **No.** 85

May 12, 1964

RECEIVED from John G. Pedra

Fifty + 00/100 **DOLLARS**

For public hearing by the Land Use Commission for Temporary Boundary Change for lands on Hawaii from A to R

$ 50.00
Cash

Herbert L. Kai
Public Accountant

Money Recd 5/11/64 - Secty abroad
Receipt made out 5/12/64