

SHIPMAN, W. H.

A-64-69

STATE OF HAWAII
LAND USE COMMISSION

MINUTES OF PUBLIC HEARING AND
MEETING

Board Room, County Building
Hilo, Hawaii

1:00 P. M. - March 19, 1965

Commissioners

Present:

Myron B. Thompson
Charles S. Ota
Goro Inaba
Shiro Nishimura
Robert G. Wenkam
Leslie E. L. Wung
Jim P. Ferry

Absent:

C.E.S. Burns
Shelley M. Mark

Staff

Present:

Raymond S. Yamashita, Executive Officer
Roy Takeyama, Legal Counsel
Gordon Soh, Associate Planner
Alberta Kai, Stenographer

The public hearing was called to order by Chairman Thompson who opened the meeting with a prayer. The Commissioners and staff were introduced. The procedures of the public hearing were outlined. All persons participating or presenting testimonies during this hearing were sworn in by the Chairman.

PETITION OF MOLLY D. ZIMRING (A64-73) TO AMEND DISTRICT BOUNDARIES IN THE VICINITY OF THE JUNCTION OF KUPULAU ROAD AND AINALOA DRIVE IN HILO FROM AN AGRICULTURAL DISTRICT BOUNDARY TO AN URBAN DISTRICT BOUNDARY SO AS TO INCORPORATE 25.67 ACRES WITHIN THE HILO URBAN DISTRICT FOR DEVELOPMENT OF A 25 LOT SUBDIVISION: Described as Third Division, 2-4-36: 1 (formerly 2-4-05: 43), containing 25.67 acres.

The background and analysis on the above petition was presented by Gordon Soh (copy of report on file). The staff's recommendation was for denial on the following bases:

- (a) that the land in question is as much if not more so, surrounded by agricultural uses as urban uses;
- (b) that there are areas more suitably located and easily serviced by public agencies closer to Hilo;

- (c) that the area is not clearly identifiable with the existing developments at Camp 6;
- (d) that sufficient areas in Hilo have been districted for urban growth for the next ten years;
- (e) that the topography and drainage of the parcel is as much suitable for grazing as for urban uses;
- (f) that other low density areas contiguous to urbanized areas have already been districted;
- (g) that urbanization of petitioner's land would not be consistent with the development plan for Hilo;
- (h) that an overabundance of land with low agricultural capability has already been included in the Hilo urban district;
- (i) that the parcel in question would represent a large addition to the 92 acre Camp Urban district which is not fully developed; and that the parcel would not be the most logical extension of that district;
- (j) that the addition of the parcel would extend the area of low density urban districts near Hilo.

The County's recommendation was for approval on the basis that:

- (1) the parcel is adjacent to an existing urban zone;
- (2) the parcel will not be used for agricultural purposes, and the surrounding areas are evidenced by urban type developments;
- (3) the government road which the parcel fronts on has an existing county water system, electricity, and telephone service;
- (4) the nearby urban development is served with a public school, playground, and a gymnasium;
- (5) the parcel is not suitable for high capacity or intensive cultivation of agricultural products.

Mrs. Molly Zimring stated that back in 1920 there was a sugar operation known as the Waiakea Mill. At that time hand cultivation of sugar cane was used. From 1926 to 1930 the business of this mill dropped off because the land was not of very fine quality. At one time this land was owned by the Territory. The Territory subdivided it into homestead lots of 26.65 acres with the idea that homesteaders would become independent cane growers and sell their products to the mill. In 1931 or 1932, the mill went out of business. It was not a profitable operation in the area. The original homesteader was Mr. Haruo Maeda who sold these parcels to other homesteaders. They tried various expedients since they couldn't grow cane on it or profitably sell it. At the present time, this land which has

been in three ownerships is vacant. The area is very poor for grazing and for cattle in general. The nearest cattle raiser is Jack Russell. Mr. Russell leases 130 acres from the State near Camp 10 and can not earn a complete living from cattle raising. Around 1956, a Mr. Shipplay decided to try growing macadamia nuts. He spent \$20,000 on this agricultural venture. In 1959 which was his best year, he gave up and lost \$18,000. In 1962 this parcel (pointing to map) was subdivided and presently has 8 homes. The subdivision was completed less than two years ago. The 8 homes have been built in the last year and a half, and have added almost \$100,000 in taxable assessment and improvements to broaden the base of Hawaii County. This indicates the use to which this property can be suitably put to in this area, with no cost to the county. The staff has used this table in the staff report to show how slow development in Hilo is. By comparison with Oahu this may be slow, but by comparison with growth in Hilo this is very fast. There is only one parcel from Ainaloa to Kamani in agricultural use and quite successful. This is owned by a Mr. Yagi. However, this land which we owned for 6 years had been in part-time agricultural use. It has been used for anthurium raising, and a holding pen for cattle. At the present time it is useful for nothing. There is a paved road from Ainaola to Haihai Road for which the county spent \$1,000 in 1963. It is a 650 to 700 foot paved road. The first proposed 8 lots have paved roads. In addition there is an eight inch water line and all utilities are in. The land is suitable for nothing else and if it is taken out of its present classification, there is no loss. It is already subdivided into three 50,000 sq. ft. lots, or 1.1 acre lots. Our proposal is to put in small roadside lots which we propose to sell for \$2500 or less. These (pointing to map) being less valuable will probably be about \$2200 and these on the paved road about \$2500. The present zoning of this parcel is 1-A which permits 50,000 sq. ft. minimum lots, and roadside lots of 7,500 sq. ft. minimum.

Four things have happened since 1961 which have changed the mind of the County on this parcel. (1) $3\frac{1}{2}$ miles from this property, \$1 $\frac{1}{2}$ million has been spent to put in a very modern shopping center; (2) 3 miles from this property some \$6 million has been invested in the Holy Cross Church, the Holy Apostle Church, the ILWU building, the Army Reserve Building, a proposed YMCA building and the University of Hawaii Hilo Campus additions consisting of a library and a dormitory, etc. (3) 1 $\frac{3}{4}$ miles away (mileage by speedometer of car) the Kawanawakoa School complex and playground exists since 1962 and early 1963. It consists of the elementary-intermediate schools, large playground and the proposed high school. (4) All the subdivisions listed in the staff report on page 3 except the two 10 acre ones were not in or were not subdivided. The only subdivisions were the two 10 acre ones subdivided into big parcels. However, there were roadside lots which were subdivided directly across of Kapago. There was some delay about putting in the water line so there wasn't any building done on it. From 1962-64 the rest of these subdivisions went in. By comparison the number of houses (15 homes) in that space of time may be slow by Oahu standards but by Hilo standards that is amazing. The reason for

the development, which we consider very fast, is not because it is more desirable than any other place but rather because of its economics. There is one little factor left out of this 10 year urban expansion reserve in Hilo (1,190 acres) which is to fulfill all of our needs and that is 75% of our family population earn less than \$7,000 a year, and that land is 40-50¢ per sq. ft. with the minimum lot price at \$5,000. So 75% of our families are priced out of the market. There is only one place in the past year or two where people can buy at 25¢ a sq. ft., and that is in this area and these subdivisions of 15,000 sq. ft. lots priced at \$2,750 per lot. It is economical. Many of these lots are not built on because many of these lots were paid in cash - \$500 down and \$32.50 per month. These 15 homes in the past two years have added \$200,000 in taxes to broaden the county tax base and have done the county a great deal of good.

The past two years the county has put in a paved road and an eight inch water line. This water line which was completed in December 1962 is 2,250 ft. long and capable of serving 100 connections at a minimum. It costs \$15,000 to put this in. On the east side, there are 18 water connections. On the west side, there are 2, or a total of 20. Utilization of this water line is only 1/5th of its capacity. This same illustration of the water line can be applied to the road, school, recreational facilities, electricity, telephone which are there and available for this urban area. These are being used only on one side of the street. There is a 30 foot road all in this section, and no 15 foot soap box as down here. There is an access by Haihai and Ainaola. All of these services are there and available and useful for only one side of the road. We propose to bring in 25 more new users. The annual income from these 20 users is estimated to be \$720. With 25 more new users this will bring the utilization of these services to $\frac{1}{2}$ its capacity and raise the annual income to \$1620. If the cost were shared and the income doubled it would be no cost to the county since everything is presently there. It is true this is an isolated development, but it is there. The services are being paid for and it is being under used. Wouldn't it be a benefit to our county to get additional users? This is why the county has given its five reasons for approving this. In 1961 the county felt one way. At the present time as a result of what has happened since 1961, the master plan for 1965 has been changed. So if the Land Use Commission makes it a policy to go along with the master plan of the local governmental body then the recommendation contained in the staff report is in error because it recommends going along with the master plan as it existed in 1961.

In summary Mrs. Zimring stated that this parcel of land has never produced anything agriculturally. It is idle and vacant land. It could be producing improvements (taxable improvements) to broaden our tax rates at no cost to the county. The services are all there. It could help advertise the cost improvements already in and bring in some more income and broaden the tax base. It is eminently suitable for small lots. It is one of the few parcels of cheap land available. There is a need for lots priced at \$2500 or less. There isn't a one to be seen anywhere in this County now. About 75% of the people cannot buy lots. This area is in a wrong classification; there is a need for it. It is suitable for small houselots. There would be no cost to the county. In fact there would be a savings to the county,

and the demand for these houselots exists presently.

Mrs. Zimring rebutted staff arguments point by point:

- (a) There is only one land in agricultural use. The rest is vacant or in subdivision. The area would be classified as 40% idle, 10% in agriculture, and 50% in subdivision or urban use.
- (b) Although there are areas more desirable and closer to Hilo, they are priced out of the classification where people can afford to buy. If in the reserve areas (which are to provide for 10 years) there had been provided different economic classes of houselots, there would be no need to go farther out. However, this is the only area where land is cheap and where the market can buy.
- (c) The roads, water lines and utilities are shared. The boundary is up to the 30 foot road. The school, recreation and mail deliveries are shared. The facilities are used by Camp 6 which is the east side of the street. With a street as a boundary, wouldn't it be logical to include both sides of that street in the urban district? What other area is there more identifiable? This is the access to the area and Ainaloa. Perhaps it could be set across the street for it to be more clearly identifiable.
- (d) They are all of a single economic class. The further the City of Hilo moves Punaward, the more expensive the intervening land gets. So the medium lot price is now \$5,000. A year from now it will be \$6,000; two years \$7,000. The same people who has excess to it now will have excess to it then (25% of the population).
- (e) It is true that the topography and drainage, both being very good, are just as suitable for grazing as for houselots. The only problem is it can't be used for grazing because the quality of the land is too low and the size of the parcel too small. So that this quality in topography and drainage, which makes it as good for grazing as houselots, does not necessarily make it usable for that. It will remain idle and vacant if it can't be used for houselots because no other use has been thought of.
- (f) This is true. There are other areas contiguous to urban areas, but is this reason for denying this one. Where are the other areas? They must be on the outskirts. Specifically this parcel is in an area where the facilities are there and being under used, which the per capital cost in government to this county can be reduced and the taxable base can be increased, if this parcel was included.

- (g) This should have gone further to state, "Would not be consistent with the development plan of Hilo of 1961, but would be consistent with the development plan of 1965?" Hilo may move slower but this is no reason for moving the clock backwards.
- (i) Perhaps it would. "Our object is to get urbanization for the lots which we have illustrated." It was our understanding that we had to include the whole parcel. If this is in error we would amend our request that the boundary be amended for roadside lots which we feel there is a need. All of the area in Camp 6 which are accessible have been fully developed. Those areas not fully developed include a great big egg farm and land owned by these people, that is in an Urban district, which they are waiting to get higher prices before putting it on the market.
- (j) It will extend the area of low density urban districts near Hilo and recommend that it does so because there is a very real need and use for this urbanized land. This is an isolated urban area with wasted available service. So it would be most logical and money saving to add this area even though it is far from Hilo. However it is not as far from Hilo as it was in 1961. The City is creeping over to meet it. It now has school, churches, and shopping much more available. At that time it had a two-inch water line; now it has an eight-inch water line. It has partly paved road and more desirable now than at that time.

In closing Mrs. Zimring requested to change her statement made in her application to read: "There are a 100 lots zoned urban up to Ainaola Street and presently 56 have houses built on them." She stated that originally it stated: "There are a 100 lots zoned urban up to Ainaola Street and presently have houses built on them."

Mrs. Zimring, upon advice that she could petition for just a portion of her land to be changed, amended her petition for urbanizing roadside lots without limiting it to 7,500 sq. ft., which would range from 7,500 sq. ft. to 15,000 sq. ft. She stated that the Planning Commission doesn't have to grant them these small lots. They could grant them 15,000 sq. ft. minimum roadside lots. She informed the Commission that these smaller lots would sell from \$2200 to \$2500; the 15,000 sq. ft. lots (which demand is not too great) would sell at 22¢ a sq. ft. or \$3,000 a lot.

Commissioner Ferry asked the Acting County Planning Director whether there is such a zone established that would permit 7,500 sq. ft. lots in the area. Mr. Suefuji stated that if it is to be put in an urban zone the existing ordinance would allow 7,500. He added, however, that at a recent meeting the Board passed an amendment which would set forth one acre as a minimum in this area. This amendment is to become effective in one week. Mr. Suefuji stated that the present zone for this area is residential-agriculture. As far as the master plan is concerned, at the present time it is in Agriculture. The

Planning Commission has been apprised that if they are recommending that this area be put to urban use than the Commission is morally obligating itself to an amendment that is of necessity.

Commissioner Ferry stated, "Am I to understand that the Planning Commission of Hawaii is willing to change its zone in the present master plan and include this area in Urban." This would mean the one acre limitation would not hold. Commissioner Ferry asked the staff whether it was aware of the subdivision contemplated by the petitioner to the size of lots. Mr. Soh replied that the staff's primary interest in this petition was not so much the minimum lot size standard since it felt this was completely in the county's kuleana. Commissioner Ferry stated that he felt staff was not aware of this because staff's conclusion for denying this petition on the basis of (j) would not hold. This would not extend the area of low density urban districts near Hilo but rather high density. Mr. Soh replied that at that time we were talking of the entire parcel. Commissioner Ferry replied in the affirmative, stating that this is why he could see that staff was not of the knowledge of the 7,500 sq. ft. lot plan.

The remainder of the discussion centered around the county's zoning ordinances covering this area which were explained by the Acting County Planning Director.

There were no other testimony or questions relating to this petition. The Chairman announced that the Commission will receive additional written testimonies, protests, etc. within the next 15 days and will take action on this petition 45 to 90 days from this hearing.

The public hearing on the petition by Molly Zimring was closed.

PETITION BY W.H. SHIPMAN, LTD. (A64-75) TO AMEND THE AGRICULTURAL DISTRICT BOUNDARIES IN THE VICINITY OF KEAAU SO AS TO INCORPORATE 17.67 ACRES WITHIN THE KEAAU URBAN DISTRICT FOR DEVELOPMENT OF VARIOUS URBAN USES: Described as Third Division, TMK 1-6-03: portion of 8.

The background and analysis of the above petition was presented by Gordon Soh (see report on file). Staff recommended that the inclusion of petitioner's lands in an Urban District is reasonable. There is clearly the need for redevelopment in the area. The lands under petition are characterized by city-like concentrations; are close to the basic public and commercial services; do include plantation camps no longer ancillary to agriculture; are of moderate size; are urbanized but may be excessive to needs; are topographically suitable for urbanization; are contiguous to an Urban district; are proposed for urban use by the county general plan; are not particularly suitable for agricultural uses; do adjoin existing urban developments; do constitute a minor portion of the total urban area; will not contribute to scattered urban development if redistricted but will contribute to a lowering of population density. Staff added that resettlement of old time residents in recent subdivisions has already led to some

sprawl. Further sprawl can only weaken population concentration. In districting the urban areas in Keaau redevelopment ought to be encouraged rather than the continuation of sprawl. The proposed redevelopment of the areas close to the historic center of urban concentration according to a firm plan should be particularly encouraged. On these bases, staff recommended that the petitioner's request be approved.

The Hawaii Planning Commission confirmed that the land is now in urban use; adjoins the existing Keaau urban district, is proposed for urban use by the county master plan; is close to the civic center development; and is fully serviced by various public and commercial facilities. The County also suggests the importance of the developed Keaau as the hub district-wide development.

Mr. Richard Devine, representing the petitioner, was sworn in. He was very happy with the recommendation of the staff and had nothing further to add to the staff's report.

In response to Commissioner Ota's questions concerning their proposed development, Mr. Devine stated that these areas which were leased for agricultural pursuits are no longer being used as such, but rather for urban use. The other areas are mostly in cane, and at present petitioner wishes to have it remain as such. Ownership in this area is not limited to Mr. Shipman. Mr. Shipman has opened up his lands in these areas for houselots and has sold them to individuals. In his proposed development he intends to sell residential areas in fee simple to those individuals who are interested in buying. The business and commercial areas he intends to lease. Mr. Devine agreed with Commissioner Wenkam that the urban boundary in this area should join with the new Volcano Road.

There were no further testimonies or comments presented. The Chairman announced that the Commission will receive additional testimonies, protests, comments within the next 15 days and will take action 45 to 90 days from this hearing.

The public hearing was closed.

ACTION TO BE TAKEN

PETITION OF W.H. SHIPMAN, LTD. (A64-69) FOR AMENDMENT TO THE LAND USE DISTRICT BOUNDARIES FROM AN AGRICULTURAL TO AN URBAN DISTRICT FOR VARIOUS URBAN USES FOR LAND SITUATED BETWEEN THE NEW AND OLD VOLCANO HIGHWAY IN KEAAU, PUNA, HAWAII: Described as TMK 1-6-03: 64 containing 6.897 acres.

Since the public hearing held on the above petition in Hilo, on January 22, 1965, the petitioner's counsel has submitted a rebuttal to the staff's recommendation. A written summary was prepared to bring the Commission up to date on all the facts relating to this petition since the public hearing. This presentation was given by Gordon Soh (see summary on file).

The staff reported that the petitioner has provided strong and persuasive arguments in favor of its request and because of this has reversed its earlier recommendation on the following bases:

- (1) The county has jurisdiction of uses in Urban districts.
(Mr. Soh added that since the preparation of this memorandum staff has been advised that the use proposed by Mr. Blomberg is more nearly that of a hardware store than a lumber yard. Mr. Soh stated that this distinction is important since a hardware store is more nearly commercial than a lumber yard.)
- (2) The area is not suitable for agriculture.
- (3) The area is contiguous not on one but two sides of an urban district.
- (4) Volcano Road is a convenient boundary to be used in establishing the district lines.
- (5) The area in question has as much potential for growth as any other area in Keaau. It lies at the junction of two important routes and is near being a 100% corner as any other area in Keaau.
- (6) The area is easily served with public facilities. It is bordered on two sides by the newest roads in Keaau.

Commissioner Inaba moved to accept the staff's recommendation for approval to grant the urban change. Commissioner Nishimura second the motion. The Executive Officer polled the Commissioners as follows:

Approval: Commissioners Wung, Inaba, Ota, Wenkam, Nishimura, Ferry, and Chairman Thompson.

Disapproval: None.

The motion for approval was carried.

PETITION OF W.H. SHIPMAN, LTD. (SP65-13) FOR A SPECIAL PERMIT FOR THE PURPOSE OF ALLOWING URBAN DEVELOPMENTS OF THAT PORTIONS OF PROPERTY NOW USED FOR INTENSIVE RESIDENTIAL USE LOCATED IN AN AGRICULTURAL DISTRICT IN THE COUNTY OF HAWAII

Chairman Thompson asked, "Is this petition for a special permit for urban development and not of a specific nature?" He was answered by the Executive Officer in the affirmative. Chairman Thompson stated, "Is this avenue appropriate for a variance? A variance must be tied in with a specific use." Mr. Twigg-Smith, representing the petitioner, was informed by the Chairman that this procedure was improper because the request was for a broad urban use and not for a specific use. He suggested the avenue of a boundary change instead.

The Executive Officer stated that in essence the staff report (see report on file) goes into some detail as to the appropriate bases upon which a special permit may be initiated or considered. The conclusion is that none of the basic requirements is present in this issue. Further that the law clearly provides a procedure to petition for amendment of the district boundaries when the issue concerned is for an unspecified urban development. These are the two conclusions drawn after studying this petition and upon this basis staff would recommend denial of this petition.

Commissioner Ota suggested that the staff together with the Hawaii Planning Commission and petitioner meet on this problem and take a look at this whole urban area again, and perhaps come up with some kind of comprehensive report covering this area.

The Executive Officer stated that there is nothing in the document or correspondence relating to this. However this presents an opportunity to discuss it to reach a much easier solution, or discover some course of procedure to initiate.

Chairman Thompson stated that in terms of the petition at hand and as presented, there is but one course to take and that is to deny the petition.

Commissioner Wung moved to deny this petition on the basis that this was an inappropriate procedure for a special permit. Commissioner Ferry seconded the motion. The Executive Officer polled the commissioners as follows:

Approval: Commissioners Wung, Inaba, Ota, Wenkam, Nishimura, Ferry, and Chairman Thompson.

Disapproval: None

The motion to deny was carried.

PETITION BY ANN KALI (SP64-3) FOR A SPECIAL PERMIT TO ADD A HOUSE ON PROPERTY SITUATED IN HANAPEPE CONTAINING 30,361 SQ. FT.: Described as Fourth Division, TMK 1-9-3: 28

Mr. Gordon Soh presented the background and analysis on this petition (see report on file). Staff recommended denial of this petition on the bases that:

- (1) The proposed use is not unusual and reasonable in accordance to statutory requirements.
- (2) The proposed use will not promote the effectiveness and objectives of the Law as it would weaken the integrity of state zoning because there is no valid basis for granting the special permit.

- (3) It would tend to weaken rather than strengthen the complementary assessment basis and force adjacent lands into uses not in the best public interest.

While approval of this or similar issues would not appear to be grave or consequential issues for the moment or even in the near future, staff feels it can become grave and consequential in the long run.

Commissioner Nishimura pointed out that the federal government spent \$1,000,000 in this area for a flood control. The original intent was to evacuate everyone from the area, however, they decided to urbanize the area and built this flood wall. He stated that this area is contiguous to the urban town close by. He pointed out the swinging bridge in the area connects this area with that of the urban area. He corrected staff's statement that there was an unimproved road there. He stated that the road is paved. He stated that most of the agricultural activity in the area is in vacant pasture.

Mr. Soh confirmed that the reason the area is in low density use is that it used to be inundated. However, the character of development has been changed.

Commissioner Nishimura pointed out that this is a remnant kuleana of 30,000 sq. ft. This family faces this problem of not being able to subdivide this land because of a family will which prohibits this.

Commissioner Wenkam was of the opinion that granting family land to children is neither unusual or reasonable, and in this case it is not being subdivided. He pointed out that this is a special permit which has the tendency to increase the density and lead to a change in the type of use of the land. He argued that this particular use is of a family nature and of a change which assumes the sincerity of the people requesting the permit. The permit is for a family use which is something that should be given serious consideration and one which is not establishing a precedent or is an issue of much consequence.

The Executive Officer stated that granting a variance on the basis of hardship is possible. However, the only kind of hardship which the Commission should consider is the difficulty in implementing the use prescribed. In this particular case the land can and is used for the use permitted in this area. There is no hardship. Petitioner wants to go beyond the zoning regulation and this is not subject for a special permit.

Commissioner Ferry added that if it is to accommodate a larger family, it is always permissible to add on to the house.

Commissioner Ferry moved to deny the request. Commissioner Ota second the motion. The Executive Officer polled the Commissioners as follows:

Approval: Commissioners Wung, Inaba, Ota, Ferry and Chairman Thompson.

Disapproval: Commissioners Wenkam and Nishimura.

The motion for denial was carried.

Chairman Thompson stated that the Commission will review this property to see whether this area should be considered for an Urban district. Commissioner Nishimura requested that the staff, upon all field investigations, meet with each respective island commissioners on these trips.

The meeting adjourned at 5:00 p.m.

Ref. No. LUC 598

Gentlemen:

A staff memorandum prepared subsequent to a rebuttal submitted by Mr. L. N. Nevels is enclosed for your information.

RAYMOND S. YAMASHITA
Executive Officer

cc: Dept. of Taxation
Mr. L.N. Nevils
Chairman M. Thompson
Hawaii Planning & Traffic Commission

STATE OF HAWAII
LAND USE COMMISSION

VOTE RECORD

ITEM A64-69
DATE 3/19/65
PLACE Hawaii County Bldg, Hilo Hawaii
TIME 3:00 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.	✓			

COMMENTS:

Goro ^{for} Approved
Nedra - Sec.

STATE OF HAWAII
LAND USE COMMISSION

March 17, 1965

MEMORANDUM

TO: Land Use Commission
FROM: Staff
SUBJECT: W. H. Shipman (A64-69)

The following is an analysis of both the staff report to A64-69 and the rebuttal thereto by L. N. Nevels, Jr., attorney for the petitioner.

The petitioner requests a boundary change to the Urban District at Keaau to incorporate 6.9 acres of agricultural land into the urban district. The parcel is bounded to the west by the new completed Volcano, and to the southeast and north by two small urban districts. The inclusion of the 6.9 acre parcel would join the two urban districts.

The staff report recommends denial of the petition on the following basis:

- (1) that the petition lacks "proof" of need;
- (2) that the town is on a decline and no more reserve is needed for growth than already provided;
- (3) that an industrial use of the property is proposed and as such is contrary to the County plan.

Up until the time of the public hearing, there doubtless was insufficient "proof" of need for the property. Testimony, however, can be admitted up to 15 days after the hearing. A rebuttal to the staff report may constitute such testimony.

The rebuttal argues that the proposed use would provide employment and activity to elevate employment levels in Keaau. This is doubtless true even though the contribution may be marginal. The rebuttal points out that the proposed use would be supported by building activity from subdivisions created in Puna in recent years. This thought lends substance to the feasibility of the proposed use although for the moment no one has demonstrated whether this building activity will in fact take place. The fact that a material supply will be available in Keaau may facilitate such building activity, however.

It may be that the proposal involves some speculation on the part of a Mr. Blomberg, the apparent entrepreneur who wishes to establish the supply business. He, apparently, wishes to take this risk. He should, in the staff's opinion, be given a chance to do so.

But where? Under the county plan an industrial area is proposed to the south. This area is postulated on a highway being built near this point to join the Volcano Highway with the route to Pahoa. This highway is not scheduled to be built at the present time; it may never be since another route has been built which will effectively rob it of traffic. Mr. Nevel's rebuttal points out that the building supply operation could be so designed as to be commercial in character, notwithstanding county determinations of uses permissible within its zones. This is possible, but rarely happens.

It is true that in establishing its districts, the Land Use Commission is obliged to follow county plans as much as possible. There is a danger, however, in trying to implement the county plan in too great a detail. It is the county's responsibility to prescribe for uses within an urban district not the State's.

The basis for staff recommendations in this regard was doubtless to destroy credibility that petitioner had a genuine and permissible use for the property in mind. The Commission, nevertheless, is to determine whether an urban use - any urban use - should be permitted on the parcel in question.

We have reviewed the Keaau Plan by Belt and Collins prepared in 1958 before the County Plan was prepared. It is an ambitious one proposing large acreages that may not ever materialize judging from past experience with growth in Keaau. Part of the proposal, however, was based on prior developments which existed at the time the plan was prepared and which were dispersed over a wide area.

It does seem overly ambitious, but it also demonstrates that public facilities have already been built to serve the scattered area. Within this service area, a consolidation of scattered urban districts should be encouraged. Moreover, it seems that the western boundary of this area can easily and reasonably be extended in the west to the Volcano Road. In establishing the urban districts at Keaau, it is surmised that boundary lines were drawn about existing developments and reserves provided where potentials for growth existed. In the case of Keaau potential for development is as great near the Volcano Road as elsewhere. So long as this does not lead to ribbon development, we fail to see what planning principle prohibits the Commission from re-establishing district lines on this basis.

Nevels pointed out that the proposed use promises some employment in an otherwise deteriorating town. It should make more sense to district areas for such growth rather than to district areas simply for residential growth. Without employment, residential areas will not grow. We ought to bear in mind that areas which the Commission

districted in the belief that it would provide for commercial and industrial growth have in fact been by passed by the construction of the connection between the Volcano Road and the road to Pahoa. The measure was undoubtedly undertaken because of expediency. It was a cheaper and immediate solution although inferior from the standpoint of traffic circulation and safety. The measure is now fact, however, bearing important implications on land use.

If we limit ourselves to the question as to what areas are needed as urban land and where they are needed based on existing facts, there appears to be strong and persuasive arguments in favor of the petitioner.

- Fact 1: The County has jurisdiction over uses in urban districts.
- Fact 2: The area is not suitable for agriculture.
- Fact 3: The area is contiguous not on one but two sides to Urban Districts.
- Fact 4: The Volcano Road is a convenient boundary to be used in establishing district lines.
- Fact 5: The area in question has much potential for growth as any other area in Keaau. It lies at the junction of two important routes and is near being a 100% corner as any other area in Keaau.
- Fact 6: The area is easily served by public facilities. Indeed it is bordered on two sides by the newest roads in Keaau.

SUPPLEMENT

Since the preparation of this memorandum, the staff has subsequently been advised that the use proposed by Mr. Blomberg is more nearly that of a hardware store than a lumber yard.

STATE OF HAWAII
LAND USE COMMISSION

Minutes of Public Hearing

Board of Supervisors' Board Room

Hilo, Hawaii

3:00 P.M. - January 22, 1965

Commissioners

Present:

Myron B. Thompson
Jim P. Ferry
Charles S. Ota
Goro Inaba
Shiro Nishimura
Robert G. Wenkam
Leslie E. L. Wung

Absent:

C.E.S. Burns
Shelley M. Mark

Staff

Present:

Raymond S. Yamashita, Executive Officer
Roy Takeyama, Legal Counsel
Ah Sung Leong, Planning Draftsman

The public hearing was called to order by Chairman Thompson who said a short prayer. The procedures to be followed throughout the public hearing were outlined by the Chairman. Interested persons and staff were sworn in by the Chairman.

Before proceeding with the public hearing, Mr. Nevels requested that a copy of the staff's report be submitted a day or so before the hearing to the petitioner, or counsel to the petitioner by the Commission in future situations.

The legal counsel stated that this is a question of administration. As far as submitting the staff's recommendation to the opposing counsel or petitioner, there was no provision under the Law which prohibits this. However, this needed further study and would be taken under advisement.

PETITION OF W. H. SHIPMAN, LTD. (A64-69) FOR AMENDMENT TO THE LAND USE DISTRICT BOUNDARIES FROM AN AGRICULTURAL TO AN URBAN DISTRICT FOR VARIOUS URBAN USES FOR LAND SITUATED BETWEEN THE NEW AND OLD VOLCANO HIGHWAY IN KEAAU, PUNA, HAWAII: Described as TMK 1-6-03: 64 containing 6.897 acres

The Chairman called upon the Executive Officer to present the staff's report covering the background of the petition. (See staff report on file.) The recommendation of the staff for denial was made on the following bases:

1. There is no real proof that the area is needed for a use other than for which the district in which it is situated is classified.
2. The conditions do not satisfactorily meet the standards, as established by the Land Use Commission, for the granting of amendments to the district boundaries.

The County's recommendation for approval of the petition was granted on the following findings:

1. The parcels involved abut an urban zone district.
2. The parcels involved are reasonable and proper to be used for urban purposes.
3. The parcels are not being used for agricultural purposes nor will they be used for such in future years.
4. The parcels are being provided with urban utilities such as water system, electricity and telephone.
5. Urban facilities are available in the proximity.
6. The Master Plan of Keaau, adopted by the Planning & Traffic Commission on January 10, 1964 upon a duly held public hearing proposes the parcels involved for commercial uses.

Mr. Luman N. Nevels, counsel to the petitioner W. H. Shipman, Ltd., introduced himself to the Commission. His opening statements centered around the staff's presentation. He remarked to the Commission that this situation shows one very good reason for having access to the staff report prior to the public hearing. Mr. Nevels requested the Commission's indulgence to permit him to go beyond the allotted 20 minutes. Chairman Thompson informed Mr. Nevels that he also had 15 days following this hearing in which to submit additional written testimony. Mr. Nevels indicated he was aware of this. Unfortunately, such testimony is written and not oral, or under oath. He felt that matters such as this should be accepted under oath and heard at the time of the hearing before all the Commission members.

Mr. Nevels informed the Commission that the map, which is being referred to, is in error, and outdated. He stated that a number of things have already occurred in Keaau since this map was produced. He pointed out that there is presently a road leading right to the lands under discussion. He confirmed the fact that the land is a sliver and contiguous to existing urban use. He informed the Commission that there are no existing county zoning ordinance, zoning map, and county plan for the County of Hawaii. He stated that the County of Hawaii, with the exception of three areas, is presently operating under a two year and one month old interim zoning ordinance. He stated that the County of Hawaii has only a proposal which has not been adopted. To say this request does not comply with a zoning map or master plan, when neither of these two things exist, is a very important point. He stated that the Hawaii Planning and Traffic Commission has granted this modification which they have petitioned and, therefore, considerable weight should be given to the County's findings and recommendation inasmuch as the County is directly involved with local problems.

Mr. Nevels proceeded to analyze each of the standards for amending district boundaries as related to his petition and outlined in the staff report:

Standard (a) - The area is not like Honolulu where there are city-like structures and etc., but that in likeness it did compare to that of a city-like area.

Standard (b)(1) - If their request is granted, it would provide an additional employment facility.

Standard (b)(2) - The services are within a radius of a 1/2 mile, with the exception of sewers. 95% of the island is without sewers.

Standard (h) - The land is not highly susceptible to highly intensive cultivation by reason of shape and location to the major highway.

Standard (j) - He could not see how this could be considered as contributing towards scattered urban developments as the area was contiguous to existing urban developments.

Mr. Nevels acknowledged the fact that Keaau was a dilapidated community. He informed the Commission that Keaau is owned by one person or company, and that most of the area are leased land. He stated that the petitioner is making considerable efforts to develop and improve the dilapidated situation. He asked the Commission whether they are going to change this condition by denying the petitioner the possibility of putting forth an economic enterprise adjacent to an existing urban development. Mr. Nevels stated that by granting the petitioner his request, this would remove the present dilapidated condition in the area.

At this point, Mr. Blomberg (who was not sworn in earlier) was sworn in by the Chairman. Mr. Nevels informed the Commission that Mr. Blomberg was the interested developer for this proposed commercial building and use.

Mr. Devine then spoke for the petitioner. He stated that the particular area was a sliver of land of which a large part has been occupied. He stated that initially the area was a plantation village, the economy of which depended upon the success of the plantation. However, due to the replacement of labor by mechanization, the population and services in the area have declined. Mr. Shipman did not want to give long leases until the master plan prepared by Belt and Collins was put into effect. With the sales of the Hawaiian Paradise Park lots, the build up of the Keaau Orchard, and the proposed road leading to the National Park, there would be sufficient growth for residences in the area to make it economical to use the new complete master plan for the village. He stated that their time schedule was slow, and that things had not developed at the rate they had hoped. However, development was taking place, and that people were building on the Hawaiian Paradise Park lots. He stated that this area was formerly cane land which was abandoned because it no longer was suitable for agriculture. He stated that everyone talks about the dilapidation and poor appearance of the area. However, the question is why can't it be

put into some better use. "Should the land use be left to weeds and growth, and contribute further to the dilapidated condition of the village?" Mr. Devine informed the Commission that Mr. Blomberg came in himself to ask for this particular piece. They explored with him the possibility of going into the industrial park which was denied by this Commission. Mr. Blomberg wanted this particular piece, mainly because of the new junction that is being put in, and the Pahoa Road now joining the new Volcano Road right in this area. Along with Mr. Blomberg proposal, Mr. Devine stated that Mr. Shipman worked with the Hongwanji Mission who wanted additional areas. A farm appliance and parking area will be put in together with Mr. Blomberg's development. The whole section on the Hilo side of the Pahoa Road Junction will be really cleaned up and will look like something. It has been stated that there are lots of urban lands there. The question is where? At present, there are a lot of tenants waiting to be given longer leases. They don't want to abandon their leases. They want an extension on their leases. The land in question is a sliver area. He asked, "Why can't it be developed?" He stated that "Here is a man who is willing to spend money, willing to employ people and has plans to show for it." He informed the Commission that Mr. Shipman is not proposing an office and yard.

Mr. Blomberg informed the Commission that there will be approximately 50,000 lot owners from the mainland that will be scattered throughout the Puna district. Therefore, he chose this particular site for this proposal because of its strategic location. He stated that the idea that this is a contractor's yard is a misnomer. He stated that the contracting is being done by other contractors. He stated that they intend to have two leasing departments to assist anyone. He stated that they were not interested whether a community is there or not. He felt that this was good for the community. It would encourage people to build and develop a trend which would improve the community and dispose of the present dilapidated buildings. He stated that Keaau is in the heart of a widely scattered residential area. He stated that he was startled that the people from the mainland are so full of pioneering experience, and willing to move down here, not caring whether there is electricity or not. He stated that their attitude is positive and they like the climate in Keaau. They feel that they will eventually get the things they would like to have after they are settled. He stated that this is one of the logical and basic reasons why he wanted to build on this strategic corner. He wants to put up a dramatic building and an eye stopping building. He stated that he has the talent to do it with 45 years of experience in designing and building.

Mr. Nevels stated that there is no vacant land at the present time zoned urban in this entire complex to his knowledge. He stated that he was referring to lands the size that Mr. Blomberg's project and W.H. Shipman, Limited are talking about. He reiterated that there are no master plan and no zoning at the present, but which they hope will come pretty soon. He stated that there is no conflict between that which does not exist and that which is not proposed.

Commissioner Ferry asked Mr. Blomberg whether he intended to lease the entire acreage which is under request - the 9.7 acres. Mr. Blomberg replied in the negative, stating he would lease approximately 75,000 sq. ft. Mr. Ferry called upon the Executive Officer for the number of acreage under petition. The Executive Officer replied that 6.897 acres were in the petition.

Commissioner Wenkam, in trying to clarify some of the confusion stemming from the petitioner's stated purpose and that reported by the staff, was informed by the petitioner that the purpose was for the construction of an 80 x 112 foot commercial building for workshop, dark room, retail showroom and offices. Mr. Nevels stated that this was noted at the public hearing held by the Hawaii Planning & Traffic Commission. The Executive Officer quoted from the petition: "At least one of said lots has already been requested for a long term lease by a building contractor for use as a yard and office."

Mr. Nevels apologized for this confusion, stating that he was not sure whether there is a difference between these two statements. He had meant this statement to be very general in description. He stated that the word "yard" as used in the petition was referred to mean "parking yard." He explained that there will be no yard, only a building and a parking yard.

Mr. Wenkam requested a copy of the master plan as prepared by W. H. Shipman, Ltd. for the Keaau area.

Mr. Raymond Suefuji, having been sworn in, stated that the County of Hawaii has a Master Plan that was adopted for the area of Keaau on January 10, 1964. He stated that this Plan as adopted by the Planning Commission is final, and is the Plan for the County of Hawaii. The Plan was prepared by Belt, Collins and Associates who also worked on the Plans for Mr. Shipman's property. The area in question on the Master Plan is the black area designated as a commercial area. Mr. Suefuji stated that the application, as submitted to the County, came in for a commercial use, and the Planning Commission reviewed the application on this basis. He stated that the areas that are placed under an Urban zone will have to be reviewed by Ordinance 183 which is the County's interim ordinance. Therefore, whether it becomes an Urban area or not, it does not mean that all the uses will be permitted. It still must come to the County for a zone area. He stated in this particular case it has come before the County for a commercial use.

Mr. Nevels thanked Mr. Suefuji for his comments but stated that they were still not in agreement with portions of the comments. It was Mr. Nevels understanding that there is no effective, legally, adopted ordinance, until it is adopted by the Board of Supervisors. He recognized that one was adopted by the Hawaii Planning & Traffic Commission but felt that the ordinance is not legal until it is adopted by the Board of Supervisors.

With no additional comments or testimonies to be offered from the public or Commission, the Chairman informed the public that the Commission will receive additional written comments, testimonies, etc. within the next 15 days, and will take action 45 to 90 days from this hearing.

The public hearing was closed.

REQUEST BY THEO. H. DAVIES AND COMPANY, LTD. THAT THE LAND USE COMMISSION ACKNOWLEDGE A CLINIC AND SITE (TMK 4-5-10: PORTION OF 1, THIRD DIVISION) AS PERMISSIBLE USAGE OF LANDS WITHIN THE AGRICULTURAL DISTRICT IN WHICH IT IS LOCATED IN HONOKAA, HAWAII

Introducing himself to the Commission, Mr. Richard Fraser, Manager of Honokaa Sugar Company, stated that their request was brought to the attention of the Commission's staff through their agent, Theo. H. Davies & Company. He stated that the Honokaa area is zoned by a county ordinance. He stated that it is their understanding that the County engaged Bush and Gerakas, an engineering firm, to make an economic study of the north end of Hawaii. Their study included recommendations for changes in the zoning of Honokaa. By resolution, the Board of Supervisors accepted this report. He stated that through discussions with the State Tax Office in Hilo, it is their understanding that this report is the basis of this Commission's present determination. He asked, "Do the determinations by the Land Use Commission supersede the County zoning ordinances?" Mr. Fraser stated that he has checked with the County Attorney and have been told that they do not - that the County ordinances stand until they are changed.

The legal counsel stated that there is no doubt that this is a question of zoning powers given to the Land Use Commission with respect to the overall zoning of all the lands in the State into four categories: Agriculture, Rural, Urban and Conservation. He stated that zoning measures of the Land Use Commission zones would prevail over any other zoning measure which is in conflict. Mr. Fraser replied that the County attorney did not agree with this. He stated, however, that he brought this up for the record and for this Commission's study. He felt it well for the Commission to have this understanding before they submitted an application for this Commission's consideration, because there would be some minor conflicts which would appear later in this discussion.

Mr. Fraser informed the Commission that they were advised by the State Tax Office that 83.28 acres had been set aside for urban districting in the Haena area, and that the map showed the urban area to include 66.2 acres. He asked the Commission whether they should file a formal application to correct such an error, or just mail a map to this Commission for their appropriate attention and action. Chairman Thompson suggested that he mail just the map and that this Commission would review it.

Continuing his presentation, Mr. Fraser stated that they had attended two public hearings by this Commission's predecessors and at which time no mention was made about their overend camp or Camp 7 as being urban. He stated that they have been eradicating this camp and have done no repair work. They plan to do away with this camp and have so notified those people who are involved. He stated that they wish to return this area back to Agriculture for sugar cane and take it out of urban. He informed the Commission that it was too expensive to maintain because of its isolation, and asked how would they go about returning this area back to Agriculture. Would they have to submit a petition for such a change?

The Executive Officer replied that any time a change in the district boundaries is to be made, a petition would have to be submitted for a change. He stated, however, that there were several issues involved here. He suggested to Mr. Fraser that a simpler solution might be worked out if all the problems in the same area were examined at the same time.

Mr. Fraser replied that his concern was whether they should submit a \$50.00 application for something which was in error. He stated that they have been dissolving this camp for the last three years and felt that the Land Use Commission's determination was made after their plans to shut down this camp. Mr. Fraser did not feel it was necessary to submit a \$50.00 application to correct this error.

The Executive Officer stated that the best procedure would be for them to write to the Land Use Commission and explain these conditions. The Land Use Commission would then examine it and make suggestions as to what alternatives are available. He explained that these conditions might be handled administratively or they may not be. If they were not, then the Company would have to go through a formal procedure. However, if this Commission was so informed by letter of these conditions, with a map describing the area or areas, this Commission could then be of help. Mr. Fraser agreed to this.

Mr. Fraser then proceeded with the subject at hand. He stated that they were planning a new dispensary for their employees, the majority of which lands are in Agriculture. He stated that the chosen site has been classified in Agriculture by this Commission, although the Honokaa zoning carried another classification. He stated that apparently there is a misinterpretation: they interpret it one way and the Commission's executive officer interprets it another way. He raised the following question, "Can buildings built to serve agricultural needs be constructed on lands classified as Agriculture?" He stated that he assumes this Commission has received copies of their letter relating to their request, which was submitted to the Commission's staff earlier.

Mr. Ellsworth Bush, having been sworn in by the Chairman and introduced by Mr. Fraser stated that he was with Theo. H. Davies & Co., agent for three other plantations on the Hamakua Coast in addition to Honokaa. He informed the Commission that they were attempting to take the existing dispensary facilities that are presently at each one of these companies and consolidate them into one dispensary which will serve all companies. He stated that those who were familiar with the plantation know that there are doctors and a nursing staff who are employees of the hospital and have been there for a long time. He reiterated that they wanted to consolidate these dispensaries into one clinic which they propose to construct on agricultural land in the Honokaa area. He stated that this was their basic plan which they have discussed with the Commission's Executive Officer, who in turn has prepared a statement of his belief whether their practice is proper in an agricultural district.

In response to Mr. Bush's question, the Chairman requested that Mr. Bush continue with his presentation. Mr. Bush introduced Mr. Tom Peterson who would be representing them in their case.

Mr. Peterson stated that Mr. Bush had consulted him, after he had some correspondence with this Commission earlier, for his opinion concerning the various statutes and regulations relating to their particular type of use and whether it would come under the Agricultural permitted uses. In referring to the 1963 Land Use Act, he said that the Act states that agricultural districts shall include services and uses accessory to the above activities, including but not limited to living quarters or dwellings, mills, storage facilities, processing facilities, roadside stands, etc. He stated that these various points which were made in the statute itself were intended to be carried out in the regulations that way. He felt that the statute permits services and uses both, but that this is not mentioned or referred to in the Commission's regulations. The regulations seem to provide for particular agricultural uses aside from actual growing crops and raising cattle. Regulation 2.7(c) implies that in addition to the use of agricultural land, there could be a camp of some sort where people were actually living but which did not seem to have the city-like nature that you would have when you had residences, schools, stores and that sort of thing. Regulation 2.14(a) describes the uses permissible in Agricultural districts which basically apply to the sugar industry. Regulation 2.14(d), closely related to 2.14(a), indicates a sense of related use or uses rather than strictly the farm dwelling or farm building use, in addition to the basic use of the land. Regulation 2.14(m) applies directly to this situation and covers most of the points made. Mr. Peterson stated that the Statute permits "...services and uses accessory....including but not limited to living quarters or dwellings, mills, storage facilities, processing facilities...." The regulation has added ".....maintenance facilities that are normally considered direct accessory to the above-permitted uses." Mr. Peterson stated that the concept of the word accessory as defined in Regulation 2.3(i) relates to the use of the land. He informed the Commission that the language and concept as it appears in Regulation 2.14(m) is a carry over of the 1961 Commission's interim regulations and its subsequent amendments. Mr. Peterson stated that the language as it appears in Regulation 2.14(m) was formulated by this Commission without too much reference to the changes the legislative body intended to have made in relation to permitted uses in Agricultural Districts. He stated that the original act of 1961 made no reference to accessory uses under agricultural uses. The whole language is new when it was re-enacted in 1963. The regulation appears not to have been completely coordinated. Mr. Peterson stated that there appears to be a fairly broad intention under accessory use, which this Commission does not want to become a loop hole. On the other hand, this Commission would want to include all those things specifically enumerated. In Hawaii under the intensive industrialization of Agriculture, it is obvious that anyone who lives here knows that there are a tremendous variety of uses that are accessory to the raising of sugar cane. There must be a number of facilities for the average person. Within this category the plantations in Hawaii have for many years provided medical services for their employees. It is essential here for the type of intensive agriculture needed to raise sugar. Complete medical facilities have been provided for many years by the plantation, since they were first built. The plantation now has the most progressive medical service system for employees. Mr. Peterson stated that in zoning, a garage and a swimming pool are recognized as

an accessory to a house and require no special variance. In Hawaii, the analogy holds with regard to a dispensary that is serving the plantation since a dispensary has become an essential part of the plantation, as much as a maintenance facility, storage facility, ~~research~~ facility which must be on a large capitalized scale. It has become an essential feature and has for many years been that way. It is customary, traditional, incidental, ancillary - all the terminology used in the statutes and regulations - and is normal to the Hawaiian situation. He stated that it is recognized that a medical service facility would not be considered as a normal agricultural use in other parts of the country. However, it is a fact that the plantation has always had medical facilities traditionally attached to its agricultural operation.

Chairman Thompson stated that the question is whether or not, under the broad word that is used by this Commission, this request is permissible. The Chairman requested that the Executive Officer proceed with his presentation. (Copies of the staff report were circulated to each commissioner.) The recommendation of the staff was for denial (see report on file).

The Executive Officer stated that the discussion as carried on by Mr. Peterson with regard to traditional roles or concept of the plantation life is particularly enlightening. He stated that he was in agreement that the plantation has played a very significant part in the development of the State. The traditional mode of operation, in which various facilities were integrated with basic plantation operations no longer hold. He stated, "As our society evolves, conditions become vastly different, primarily the degree of independence with which the plantations operate. In the past plantations operated in isolated areas, developed and used raw land and made no claim upon government in the way of facilities and services. Now there is a growing dependence, or relationships are changing. Government facilities and services now become a necessary part of plantation operations. On this basis, I don't feel that traditional relations have a bearing on this particular issue."

Mr. Fraser stated that he wished to forget the dispute concerning the word traditional and get back to the facts of the case. He stated that they were contractually bound to supply medication and clinical services to their employees. He stated that although there are government institutions, they have a very fine hospital in Honokaa for which they had donated their lands. He informed the Commission the lands donated were classified in the agricultural district by this Commission. He stated that if the dispensary is to utilize any of the governmental facilities, such as x-rays, laboratory, etc., it seems very sensible that it should be adjacent to this hospital. He stated that their actual plans called for a continuation of one drive way and compatible facilities. The statement as made by Mr. Yamashita is very updated, very modern, however; not historic.

The Chairman explained to the Commission that in view of the evidence presented, there were apparent three avenues which the Commission could approach this problem:

1. They can make a translation that the wording of the regulations is broad enough at this time to include such a use under Agriculture.

2. They can call for a declaratory ruling on this matter, and need not make a decision at this time. Or they can defer it until their next meeting, if they felt that further study is necessary; and
3. They can deny the request at this time and ask the petitioner to come in with a special permit.

Commissioner Wenkam asked, "Why didn't the petitioner come before this Commission with a special permit?" Mr. Fraser replied for a couple of reasons: (1) they had interpreted this use as accessory and proper. They felt they were in their rights to build this dispensary. (2) They felt that the Land Use Commission did not recognize that Honokaa was zoned under County ordinances, and from their interpretation and advice from the County Attorney led them to believe that within this area they would still be right. He stated, however, they wanted to clarify the meaning of this word. They have not started construction. They have not said that this is the only place it can be built. They feel that there is a misunderstanding in this term. He stated that even if they did not want to build where they do, and wanted to put it some other place, it would still have to go on Agricultural land. He stated that they just wanted to clarify the meaning of the word and this is their reason why they did not come in for a special permit.

Commissioner Wenkam stated that it does sound like a very appropriate place for the clinic. He stated, "You argue that the clinic is an accessory use for sugar adaptation. Are you arguing, therefore, that it is not an accessory use for diversified farmers? Our laws state Agriculture, without reference to the type of agricultural activity - Agriculture in general."

Mr. Fraser replied that it depends upon the diversified farmer.

Mr. Peterson stated that the word "direct" as it appears in the regulations but not in the statute is what he objected to. He said if you included the word "accessory" without the word "direct" this would be the proper way to approach this. It seems that once a function is established in a given land use that is normally associated with a particular broad category, it then fits in this catch-all accessory use. He referred to the swimming pool situation, stating that once it becomes a normal part of a type of activity it would then become accessory. He felt that when a small farmer on a few acres with no employee who says he is going to open up a clinic and wants to call it accessory to the farm, then this Commission would be in its right to say it is not an accessory use. However, if it were a large farm with an innumerable staff warranted by the size of the operation, the situation would be different. Mr. Fraser added that the clinic would be built to serve its own people only.

Mr. Thompson asked, "Are all plantations required to provide the same facilities that you have to?" Mr. Fraser replied that all plantations are essentially required to supply it with the exception of Hilo Sugar, Onomea and a few others. They contract with the Bergen clinic to handle their clinical problems. He stated that they didn't have this facility and, therefore, are required by contract to provide these clinical services.

Commissioner Nishimura asked, "Don't you have a clinical office?" Mr. Fraser replied in the affirmative, stating, "I don't think, however, it is safe to operate it any more. It has been condemned by the Board of Fire Underwriters and we were told to build a new one. So in doing this we thought it much smarter to join our four sugar companies (3 Davies and 1 Brewer) and offer combined services to give our employees broader choices in medicine."

Commissioner Nishimura asked, "Is Honokaa an Urban district?" Mr. Fraser replied that Honokaa is zoned by county ordinances. However, Bush and Gerakas came up with some recommended changes and the County accepted their recommendations by resolution. However, a resolution is only a recognition while an ordinance is Law. They have been told by the Department of Taxation that this Commission had accepted the recommendation of Bush and Gerakas rather than the original zoning by the County ordinance. He stated that they were not fighting as to where it should go. This question has come up because they had sought to get a subdivision for a clinical use. When this problem arose, they were asked to see this Commission. They asked Mr. Bush to discuss this with your staff and to see if there was any differences of opinion. They had assumed there was none. However, they found there was one, and this was their reason for bringing it to this Commission's attention.

The Executive Officer stated that the issue here is a simple one. "Is or is not the proposed clinic and site an accessory use to Agriculture? The fact that whether the clinic is needed or not is not the issue, whether there is a contract with the Union to build one is not the issue. The question is simply, 'Is it or isn't it an accessory use,' as defined by the Commission's regulations?"

Commissioner Wenkam asked, "Are the nurses and doctors in the clinic on the payroll of the plantation?" Mr. Fraser replied in the affirmative. Commissioner Wenkam stated, "So they are employees of the plantation. Are there any other accessory uses similar to this that have already been accepted as accessory uses?" Mr. Fraser stated that he could not think of any. The school was supplied by the State; the hospital, police department, etc. by the County. All they supplied were the living facilities. He stated that they were further out than some of the other places which are close to urban facilities and which rely on facilities provided by the County.

Mr. Peterson stated that most of the statutory uses were so well spelled out in the regulations at that time that they didn't need to require earlier clarification. Mr. Fraser added that the reason for their being before this Commission is simply to find out how the word accessory is interpreted.

The legal counsel stated that the petitioner's counsel is correct to say that the Commission is limited by the Statutes or Land Use Law. However, counsel should also realize that under the Law this is an Enabling Act which gives the Land Use Commission broad discretion and powers in interpreting the Statutes as to how they think it should be implemented.

The petitioner has argued that he interprets the section under Agricultural Uses as being very broad so as to include the dispensary as an accessory use. The staff, however, submits a report in rebuttal to that purely on the basis of the word as accepted as a college definition and also on the grounds that if such a use is considered a direct or accessory use, the question of drawing the line as to what other uses are to be considered accessory would then arise. Legal Counsel stated that he would have to agree with the Executive Officer. He did not think that the intent of the Law was to include a dispensary within the definition of an accessory use, because if it did, then all the other uses enumerated by the Executive Officer would naturally be included. Where do you draw the line? This is where the broad discretion should be left to the Commission - where to draw the line as to what is an accessory use.

Commissioner Thompson stated that this raises a further question as to whether or not this Commission, with the evidence submitted, wants now to take a position to clarify or broaden the interpretation of this regulation.

Commissioner Wenkam stated, "Right here is where we should decide whether we wish to establish a declaratory ruling that the clinic is an accessory use. I would like to say that - if I'm to be questioned whether this particular nature is accessory - inasmuch as it is fully staffed by employees of the plantation and that services are only for the plantation personnel, it appears to me this would make it accessory. It is not a normal accessory use; it is not a usually accepted type of accessory use; but it seems to me that in this particular case it is one."

Chairman Thompson stated, "You are prepared to make this broad interpretation at this time?" Commissioner Wenkam replied in the affirmative.

Commissioner Wung moved for a declaratory ruling on the decision. Commissioner Wenkam seconded the motion. The motion was not carried:

Approval: Commissioners Wung, Inaba, Wenkam, Ferry.

Disapproval: Commissioners Ota, Nishimura, and Chairman Thompson.

Chairman Thompson informed the petitioner that they should now submit a special permit for this particular use in this area.

Commissioner Ferry informed the petitioners that unfortunately they were at a disadvantage because the full commission is not present.

Mr. Bush informed the Commission that as noted in their diagram they propose to put this clinic on an "island." He stated that it is their understanding that this Commission is opposed to the establishment of this so-called urban island within an Agricultural district. The reason for their choice of this area was to provide an easy access for their patients to and from the clinic, and to avoid the possibility of taking away agricultural-districted lands.

Chairman Thompson explained to the petitioner that a special permit does not give the area an urban use. It allows the use within the Agricultural district. The area would still remain as Agriculture.

Mr. Bush asked how long would it take to process a special permit. The Executive Officer replied that in general it would take 3½ months to have a decision rendered. Mr. Bush stated in other words we would not be able to build on this site at all until we presented this special permit and had a ruling, and quite possibly the ruling would not be in their favor.

Mr. Fraser's question relating to the Honokaa zoning by the County and that of the Land Use Commission, and their advice from the County attorney relating to this matter was taken under advisement.

Commissioner Ota moved to reconsider his vote. The motion was seconded by Commissioner Ferry and carried as follows:

Approval: Commissioners Wung, Inaba, Ota, Wenkam, Nishimura, Ferry and Chairman Thompson.

Disapproval: None.

Commissioner Wung moved to have the Commission broaden its interpretation of the word "accessory" to include a clinic which is owned and operated by a plantation and for its employees, only. Commissioner Wenkam seconded the motion.

Discussion: The Executive Officer stated that he did not think the Commission was in the position to set contingencies.

The legal counsel stated that this was not a contingency.

The Executive Officer requested that the Commission defer action on this particular motion until their next meeting. He felt it very significant to review established criteria for land use districting which has been accomplished to date. He stated that one of the bases for determining the differences between Agricultural and Urban district boundaries was a consideration of what does constitute accessory uses to Agriculture. It is an important issue because it has been applied statewide and at present this Commission is faced with a question on a specific issue in a specific area. He stated that he felt that every decision they made must relate to what they have done throughout the State and requested a little more time to think about this and discuss this before the Commission reached a decision.

The Executive Officer polled the Commissioners as follows:

Approval: Commissioners Wung, Inaba, Wenkam, Nishimura, and Ferry.

Disapproval: Commissioners Ota and Chairman Thompson.

The motion for granting this request was carried.

The meeting adjourned at 5:30 p.m.

February 26, 1965

Ref. No. LUC 590

Mr. L. N. Nevels, Jr.
Nevels and Chang
Hilo Hotel Building
Hilo, Hawaii

Dear Mr. Nevels:

This is to inform you of the public hearing called by the Land Use Commission of the State of Hawaii on March 19, 1965, at 1:00 p.m., in the Board of Supervisors' Board Room, County of Hawaii, Hilo, Hawaii. Your petition for change of district boundary from an Agricultural to an Urban district classification for TTK 1-6-03; portion of 8, Third Division, will be heard at that time. Legal Notices will appear in the Honolulu Star-Bulletin, Honolulu Advertiser, and the Hawaii Tribune-Herald on March 9, and March 17, 1965.

Following this hearing, the Commission will hold a meeting at which time they will consider the Hawaii Planning and Traffic Commission's action on your application for a special permit (SP65-13) for urban developments in that portion of property now used for intensive residential use, located in an Agricultural district as established by the Land Use Commission.

As prescribed by SECTION 98H-4 of Act 205/63, the Commission will also consider your petition for a boundary change for that area described as TTK 1-7-03; 64, Third Division, and final action may be taken at this time.

Your presence will be welcomed.

Very truly yours,

RAYMOND S. YAMASHITA
Executive Officer

cc: W.H. Shipman, Ltd.
Chairman M. Thompson
Hawaii Planning & Traffic Commission

1507

PLANNING AND TRAFFIC COMMISSION
County of Hawaii
Hilo, Hawaii

February 3, 1965

RECEIVED

FEB 8 1965

State of Hawaii
LAND USE COMMISSION

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

Dear Mr. Yamashita:

Re: Special Permit Application by W. H. Shipman, Ltd.,
for Urban Developments.

Amendment of the Land Use District Boundaries from
Agricultural to Urban District applied for by
Department of Hawaiian Home Lands and Earl V. Truex.

For your information and files, we are transmitting all the materials on
W. H. Shipman, Ltd., pertaining to Planning and Traffic Commission's approval
on the petition for a special permit.

Also enclosed are the minutes of the meetings held on December 21, 1964,
and January 18, 1965, in reference to the Commission's recommendation on the
applications of Department of Hawaiian Home Lands and Earl V. Truex respec-
tively for amendment of the Land Use District Boundaries from Agricultural to
Urban District. A formal recommendation of the Planning and Traffic Commis-
sion on both of these applications will be forwarded to you at a later date
when time permits.

Yours very truly,

PLANNING AND TRAFFIC COMMISSION

Raymond H. Suefuji

Raymond H. Suefuji
Acting Director

lat

Enclosures

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RECEIVED

PLANNING AND TRAFFIC COMMISSION
County of Hawaii
December 21, 1964

FEB 8, 1965

State of Hawaii
LAND USE COMMISSION

The Planning and Traffic Commission met in regular session at 1:30 p.m., in the Conference Room of the County Board of Supervisors with Chairman Robert M. Yamada presiding.

PRESENT: Robert M. Yamada
Seiji Aoyagi
Marion Baker
Maxine Calksmith
John T. Freitas
Walter W. Kimura
Herman Mulder
Russell Oda
Robert J. Santos
Rufus P. Spalding, Jr.
Edgar A. Hamasu
Raymond H. Suefuji

ABSENT: John Alconera
Miyoshi Matsushita

L. N. Nevels
Richard Kimi
Albert Soloff
Yukio Naito

MINUTES

The minutes of the meeting held on November 16, 1964, were approved as circulated on a motion of Mr. Freitas,

and second of Mr. Kimura, and carried.

The meeting was recessed at 1:31 p.m., to conduct the following public hearings:

1. Request of Paul K. Tallett, for a variance to permit the continuance of a piggery use in a Class "A" Residential Zone, located on Lot 30, Parcel 25, Lehia Park Residence Lots (1st Series), a portion of Waiuli, Waiakea, South Hilo, containing an area of 16,000 square feet.
2. Request of Inter-Island Resorts, Ltd., for a variance to allow the development and construction of a 59 -unit addition with a restaurant and a cocktail lounge to Mauna Loa Wing of the Kona Inn Hotel, located on a lot approximately 89,588 square feet in area, being Parcel 4, Honuaula 1st, North Kona.
- ✓ 3. Request of W. H. Shipman, Ltd., for a Special Permit to allow the applicant for urban developments in that portion of his property now used for intensive residential use, located in the State Agricultural Zone.
4. Request of Laguna-Kai Development Venture for a variance to allow the development and construction of a 2-story, 44-unit resort development with dining and recreational services, located on a lot approximately 56,853 square feet in area, being Lots Nos. 77, 78, and 79 of Puako Beach Lots, Puako, South Kohala.

=====

stop at property line and changing it to mean intersecting line or the nearest crosswalk line or if no marked line, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic. The foregoing applies to the yield sign where the driver is required to stop.

On a motion of Mrs. Carlsmith and second of Mr. Kimura, the Commission voted to accept the recommendation of the Police Department to amend Ordinance No. 25.

3. HAIRPIN TURN
KEAUMOKU, WAIMAEA

The request of the Police Department was considered to improve the hairpin turn in the Keaumoku area in order to provide a more gradual turning radius. The hazard exists on the first bad turn, 3 miles from Waimaea Police Station, to Kona.

It was moved by Mrs. Carlsmith, seconded by Mr. Kimura, and carried that the recommendation on Item No. 3 under new business be accepted.

ZONING COMMITTEE
REPORT

The following were discussed and action taken on each item accordingly:

✓ 1-a. LAND USE COMMISSION
REZONING REQUEST
MOLLY D. ZIMRING

The members considered the request from Land Use Commission for comments and recommendations on the application of Molly D. Zimring for amendment of the Land Use

District Boundaries from Agricultural to Urban District on a portion of Lot 918, Grant 1609, Waiakoa Homesteads, 2nd Series, South Hilo.

The parcel is located in the vicinity of an Urban zoned area of Hilo, Camp 6 and is adjoining the Shigeoka subdivision. It is located on the corner of Kupulau and Haihai Streets. An 8-inch water main runs along Kupulau Road and a portion of the roadway is paved. The proposed subdivision plans show small lots fronting on the two roads with the interior portion kept as a large parcel until future demand calls for further subdivision. The lots which front on Haihai Street is presently on a paper road. The applicant understands that the Planning Commission's approval will not constitute to mean that the proposed subdivision will be granted as shown on the plat plans. It will still need the Land Use Commission's approval. The proposed uses will have to conform to the existing zoning ordinances and the Master Plan.

The staff report recommended rezoning to Rural District. The character of the land is rural. The Master Plan of the city of Hilo shows the area as Residential-Agricultural which has similar characteristics as the State's Rural Zone. The proposed zoning map shows this area in excess of 5 to 10 acres. It was pointed out that the Commission's responsibility is to control density and land uses and not to haphazardly increase urban districts in spotted areas.

Mr. Spalding moved for approval of the Committee's recommendation to recommend to the Land Use Commission that this area be placed in the Urban District. The motion was seconded by Mrs. Carlsmith, and unanimously carried.

✓ 1-b. LAND USE COMMISSION
REZONING REQUEST
W. H. SHIPMAN, LTD.

A discussion followed on the request of W. H. Shipman, Ltd. for amendment of the Land Use District Boundaries from Agricultural to Urban District on Lots A-22-A-5,

A-22-A-4, and A-22-A-1 in Keanu, Puna.

The staff reported recommended rezoning to Urban District since most of the lands in the immediate vicinity are being used for urban purposes. The Master Plan shows a portion of that area for residential uses.

It was moved by Mr. Spalding, seconded by Mr. Freitas, and unanimously carried that the Committee's recommendation be accepted.

1-c. LAND USE COMMISSION
REZONING REQUEST
STATE OF HAWAII (HHC)

The request of State of Hawaii, Department of Hawaiian Home Lands was next considered for amendment of the Land Use District Boundaries from Agricultural to Urban Dis-

trict on an additional Puukapu Village Houselot No. 86 in Puukapu, Waimea, South Kohala.

At the time of the Farm Lots subdivision, remnant lot resulted creating a houselot size in a corner of a previous residential subdivision. The adjacent small-lot subdivision is in an Urban District, therefore, the request to place this one houselot in the Urban District seems logical.

Mr. Spalding moved to accept the Committee's recommendation to recommend to the Land Use Commission that rezoning from Agricultural to Urban be approved. The motion was seconded by Mr. Mulder, and unanimously carried.

2. REZONING STUDY
CHONG MAN SUBDIVISION
RESIDENTIAL ZONE A.

The members considered the possible rezoning of the Charles Chong Man Subdivision in the land of Ponahawai from Class A to Class B Residential. The lots with-

in the subdivision are predominantly 3/4 acre to 1 acre in size. In the past, several resubdivision to a smaller sized lots were requested and approved by the Commission when the area was zoned Agricultural Zone 2. It was deemed undesirable to allow 10,000 square-foot lot to one property owner because of the fact that these parcels are very large. The adjacent Kaumana-Lani subdivision range in lot sizes from 8,000 to 10,000 square feet in a Class B. Residential area.

The staff recommended the extension of the present Class B Residential from the Kaumana-Lani Subdivision to the stream and following that line to the Kaumana Drive.

On a motion of Mr. Spalding and second of Mr. Mulder, the Commission voted to accept the Committee's recommendation to hold a public hearing at the next meeting to rezone the area from Class A to Class B Residential.

On Item Nos. 3, 4, and 5, which pertains to County Attorney's opinion on Ordinance No. 183, County Attorney's opinion on appeal from the decision of the Building Officials, and zone variance procedure under the Rules of Practice and Procedure adopted on July 16, 1962, the Chairman of the Zoning Committee recommended that the report be studied and sincerely urged everyone to read since it contains some of the criteria in rendering decisions on zoning cases.

6. REVISED PLANS ON
VARIANCE GRANTED
KID MCCOY, ET AL.

A revised development plans were submitted by Kid McCoy for approval by the Commission. The revised plans now conform to the construction drawings previously submitted on

roads and water system. The approval was held in abeyance pending submission of revised over-all plans. All conditions regarding parking and density remain the same. The staff recommended approval.

Mr. Spalding moved that the Commission approve the revised development plans. The motion was seconded by Mr. Mulder, and carried.

district. Pleasant and attractive environment with adequate open space around each building planted with tropical vegetation and greenery as well as ample, well-maintained, off-street parking area are definite means to achieve visitor satisfaction. Satisfied visitors are the best advertisement for Hawaii's visitor industry.

3. A rule of thumb is very often used in calculating off-street parking spaces for a commercial development. It is established that normally one hotel room would provide employment for one person. Adequate parking spaces need to be set aside for employees parking as well as visitors parking.
4. In view of items (2) and (3), it is indeed strongly suggested that from the standpoint of your long-range business success as well as to maintain a healthy economic climate and the betterment of Kailua Resort Region, that you give every consideration to provide attractive and pleasant environment in the vicinity of the hotel.

(Mr. Mulder abstained from voting.)

✓ LAND USE COMMISSION
SPECIAL PERMIT
W. H. SHIPMAN, LTD.

A public hearing was held on the request of W. H. Shipman, Ltd., for a Special Permit to allow the applicant urban developments in that portion of his property now used for intensive residential use, located in the State Agricultural Zone.

Action was deferred until next month's meeting. Act 205 (LUC law) prohibits the Commission to act on such petition earlier than 15 days after the said public hearing.

ADOPTION
RES. NOS. 53 and 54

The Planning and Traffic Commission Resolution Nos. 53 and 54 are for the purpose of officially adopting the Master Plan of South Hilo and Puna Districts and the Master Plan of Kohala-Hamakua Region.

On a motion of Mr. Santos and second of Mr. Mulder, the Commission unanimously voted to adopt the resolutions.

ADOPTION
RES. NO. 55

and South Kona Districts.

The Planning and Traffic Commission Resolution No. 55 is for the purpose of officially adopting the Master Plan of North

Mr. Mulder moved for the adoption of the Kona Master Plan with amendments in the light industrial use on the south side of the airport to reflect open space and the realignment of Kuakini Highway to be left for future discussion. The motion was seconded by Mr. Santos, and carried.

ADOPTION
RES. NO. 56

The Planning and Traffic Commission Resolution No. 56 creates Business Zone from Agricultural Zone 2 on a parcel described as Lot 12, a portion of Grant 10551, Block 501, Waiakae Homesteads, Waiakae, South Hilo, situated at the corner of Kahaopea Street and Kanoelehua Avenue.

It was moved by Mr. Santos, seconded by Mr. Kimura, and carried that Resolution No. 56 be adopted.

RECEIVED

FEB 8, 1965

State of Hawaii
LAND USE COMMISSION

PLANNING AND TRAFFIC COMMISSION
County of Hawaii
January 18, 1965

The Planning and Traffic Commission met in regular session at 1:07 p.m., in the Conference Room of the County Board of Supervisors with Chairman Robert M. Yamada presiding.

PRESENT: Robert M. Yamada
Seiji Aoyagi
Marion Baker
Mardne Carlsmith
John T. Freitas
Walter W. Kimura
Robert J. Santos
Rufus P. Spalding, Jr.
Raymond H. Suefuji

ABSENT: Miyoshi Matsushita
Herman Mulder

Shunichi Kimura, County Chairman

Jack Bryan
Walt Southward
Lloyd Sadamoto

MINUTES

The minutes of the meeting held on December 21, 1964, were approved as circulated on a motion of Mr. Spalding, second of Mr. Kimura, and carried.

The meeting was recessed at 1:08 p.m., to conduct the following public hearings:

1. The request of Richard Smart for a variance to allow the development and construction of a 40 x 100 administration building for Parker Ranch, located on a lot approximately 24,244 square feet in area, portion of R. P. 5671, LCA 8521-B, Apana 1, Waikoloa, South Kohala.
2. Request of Thomas A. Kobayashi for a variance to allow the development and construction of a storage room, loading and unloading facility and sales room in an existing retail furniture store, located on a lot approximately 30,415 square feet in area, portion of R. P. 1098, L. C. Award 614, Honuaia Iki, North Kona.

The meeting was reconvened at 1:25 p.m., but recessed because of the lack in quorum to conduct business.

The next scheduled public hearing commenced at 1:30 p.m., on the request of D & S Pacific, Ltd., for a variance to allow the development and construction of a 68-unit apartment hotel condominium, located on a lot approximately 49,933 square feet in area, Land Court Application 1735, portion of Hienaoli 6th and Auhaukoo 1st, North Kona.

The meeting was reconvened at 1:41 p.m.

TRAFFIC COMMITTEE
REPORT

and carried.

Mrs. Carlsmith moved to accept the entire Traffic Committee report under the unfinished and now business. The motion was seconded by Mrs. Baker

The meeting was recessed at 1:47 p.m., to conduct a public hearing on the request of Kona Hardwoods for a variance to allow the development and construction of a 10 x 36 addition to the existing building to be used as a beauty salon, located on a lot approximately 7,637 square feet in area, portion of L. C. Aw. 9971:46, Honuaula 1st, North Kona.

The meeting was reconvened at 1:57 p.m.

ZONING COMMITTEE
REPORT

The following were discussed and action taken on each item accordingly:

✓ 1. LAND USE COMMISSION
REZONING REQUEST
EARL V. TRUOX

The members considered the request from Land Use Commission for comments and recommendations on the application of Earl V. Truox for amendment of the Land Use District Boundaries from Agricultural

to Urban District on a portion of Olaa Reservation Lots, in Puna and fronting on Peck Road for the purpose of subdividing a 50-acre lot into 1-acre parcels.

The contention of the applicant was that under the Agricultural zone, the minimum area allowed would be 3-acres, but if Urban zone is granted, 1-acre parcels would be permissible allowing more retired couples to farm their own gardens which is more within their scope of living.

The staff report recommended change of zone boundaries to Rural District because the minimum area allowed is 1-acre under this zoning. The Master Plan reflects this area as Agricultural use. The land is not being used for anything at the present time. The criteria for which the applicant has to meet before ^{changing} change of zone boundaries to Urban District would be that the property must be adjoining or close to an existing urban boundary. In this case, the Urban District is completely detached from the property in question. The applicant is proposing a 1-acre lot which is the minimum area for agricultural-residential type of zoning which is comparable to the State and County interpretation.

Mr. Spalding moved to recommend the change of use to the Land Use Commission of the 50-acre parcel to a Rural District zoning. The motion was seconded by Mrs. Carlsmith, and carried.

On a motion of Mr. Spalding and second of Mrs. Carlsmith, the Commission voted to accept and file Item Nos. 2 and 3 of the Zoning Committee report.

The meeting was recessed at 2:01 p.m., to conduct a public hearing on the request of Laurance S. Rockefeller for a variance to allow the development of a ranch type hotel and lodge, located on a lot approximately 11.340 acres in area, Grants 11059:2, 5272, 5273, portion of 5274 and L. C. Aw. 4513, South Kohala.

The meeting was reconvened at 2:10 p.m.

The Board of Water Supply recommended disapproval due to the inadequate pipeline which serves this subdivision until such time that the subdivider installs adequate pipeline in conformance with their requirements.

Mr. Santos moved that the subdivision be denied for the reasons indicated by the Board of Water Supply. The motion was seconded by Mr. Kimura, and carried as follows:

Ayes: Mr. Santos
Mr. Kimura
Mrs. Carlsmith
Mr. Aoyagi
Mr. Spalding

Noes: Mr. Freitas
Mrs. Baker

(Note: After the Commission's action, the Board of Water Supply called attention to the fact that the two homes already existing on the subdivided lot is being served on one meter, therefore recommended approval on the basis of no change in condition. Another letter was forwarded to the applicant after a telephone poll and majority vote of members indicating approval for recordation with usual modifications and conditions.)

21. STREET NAME
HUAPALA SUBDIVISION
CHARLES MAKAWEO, ET AL.

A request was made by the developer of the Huapala Subdivision to name their recently constructed roadway within the subdivision situated at Waiakes Homesteads, 1st Series. The Name

"Makaleka" was submitted for consideration.

The subdivider informed the Commission prior to the meeting that they would like to have the Commission select a name rather than defer for further consideration since the name "Makaleka" was not recommended for approval by the Committee because of the possible confusion with an existing street name of "Makalika."

On a motion of Mr. Freitas and second of Mr. Spalding, the Commission voted to designate the street name of "KUPAA" which mean steadfast.

The Chair declared a recess for 5 minutes at 3:45 p.m.

The meeting was reconvened at 3:55 p.m.

✓ LAND USE COMMISSION
SPECIAL PERMIT
W. H. SHIPMAN, LTD.

the State Agricultural Zone.

The request of W. H. Shipman, Ltd., was considered for a special permit to allow the applicant urban developments in that portion of his property now used for intensive residential use, located in

A public hearing was held last month on this request. It was moved by Mr. Santos seconded by Mrs. Carlsmith, and carried to recommend approval of the request for a special permit to the Land Use Commission on the basis of the following findings:

1. Trends and needs have changed in that the plantation is not interested in maintaining housing for the employees. They are requesting that the area involved which provide housing for the employees be extracted from their general agricultural lands. The ultimate plan is to have the employees own a parcel of land, build, and maintain a home of their own.

2. The granting of the special permit would not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage and school improvements and police and fire protection.
 - a. All subdivision within this area must be developed with water and roads before approval is granted by the Planning and Traffic Commission.
 - b. School, police and fire protection are presently available.
3. The land is not available for agricultural uses and it is presently under urban use.
4. The use requested is for the highest and best use of the land involved for the general interest.
5. Land allotted under present district boundary is insufficient for a planned community. The reason herein stated has direct association with the ordinances of the County of Hawaii. Ordinance No. 294 adopted December 16, 1964 requires a minimum of one acre for the development and construction of a single-family dwelling. The Planning and Traffic Commission is granting variance when requested in all urban areas on the basis of the proposed zoning map. With such an approval, the area of land needed per single-family dwelling is doubled and tripled due to low density area requirements.

The approval is subject to the condition that the said development will conform to all rules and regulations of the State and County after approval.

INTERIM ZONING
VARIANCE REQUEST
RICHARD SMART

After a duly held public hearing the request of Richard Smart was considered for a variance to allow the development and construction of a 40 x 100 administration building for Parker Ranch, located on a lot approximately 24,244 square feet in area, portion of R. P. 5671, LCA 8521-B, Apana 1, Waikoloa, South Kohala.

On a motion of Mr. Spalding and second of Mrs. Carlsmith, the Commission voted unanimously to approve the variance request on the basis of the following conditions:

1. A minimum off-street parking of 1 parking per 300 square feet of gross floor area be provided and paved.
2. The development be constructed in accordance with the plans submitted.
3. All requirements of the building code, health, fire, and the Board of Water Supply be complied with.
4. Construction shall start within a period of one year as of the date of the public hearing; otherwise, the variance shall be deemed null and void.

INTERIM ZONING
VARIANCE REQUEST
THOMAS A. KOBAYASHI

After a duly held public hearing the request of Thomas A. Kobayashi was considered for a variance to allow the development and construction of a storage room, loading and unloading facility and sales room in an existing retail furniture store, located on a lot approximately 30,415 square feet in area, portion of R. P. 1002, L. C. Award 614, Hanauna Iki, North Kona.

1504 ~~1504~~ ^{G. Soh}
Nevels and Chang
ATTORNEYS AT LAW

January 29, 1965

RECEIVED

FEB 3 1965

State of Hawaii
LAND USE COMMISSION

Land Use Commission
State of Hawaii
426 Queen Street
Honolulu, Hawaii 96813

Ref. No. LUC 564

Gentlemen:

Please find enclosed herewith the Submission of W. H. Shipman, Limited, concerning Third Taxation Division, Tax Key 1-6-03:64.

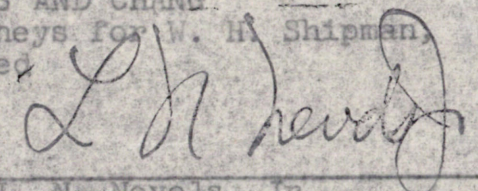
Since drafting this Submission, we have been informed that there is a distinct possibility that W. H. Shipman, Limited will give to the Hongwanji the lot designated as Lot A-16-A-3-B-2, 1.917 acres. This will be done if and when the Land Use Commission shall have designated the lands in question to be urban. It cannot, of course, be done at the present time.

We are also informed that EXHIBIT 1 mentioned in the Submission will be given to you by Belt, Collins & Associates. This is a very lengthy document and only one copy of it is available at the offices of W. H. Shipman, Limited, in Hilo. We understand, however, that Belt, Collins & Associates will deliver this to you for your use within the next several days.

Respectfully yours,

NEVELS AND CHANG
Attorneys for W. H. Shipman,
Limited

By


L. N. Nevels, Jr.

LNNjr/jm
Encls.

cc.: Planning and Traffic Commission

W. H. Shipman, Limited

In the Matter of the Petition

-of-

W. H. SHIPMAN, LIMITED
to Amend District Boundaries.

SUPPLEMENTAL SUBMISSION

Petition of W. H. SHIPMAN, LIMITED for
Amendment of Land Use District Boundary:
Tax Key 1-6-03-64 (Third Taxation Division)

L U C A 64-69

TO THE HONORABLE, THE LAND USE COMMISSION,
STATE OF HAWAII:

I.

PRIOR PROCEEDINGS:

On September 9, 1964, W. H. SHIPMAN, LIMITED, our client, submitted its Petition for the Amendment of Land Use District Boundary above captioned. The required fee of \$50.00 was also submitted.

The Planning and Traffic Commission, County of Hawaii, conducted on September 21, 1964, a public hearing in Hilo (after notice thereof duly published) concerning the Application. At said public hearing, there was no opposition to the Petition by any member of the public, nor, so far as could be observed by the undersigned, by any member of the said Planning and Traffic Commission.

After said public hearing, the Hawaii County Planning and Traffic Commission in writing recommended the approval of

the Petition. This recommendation was received by your Commission on October 2, 1964.

A public hearing in Hilo, Hawaii, was held on Friday, January 22, 1964, pursuant to public notice given in two state-wide newspapers on January 6 and 20, 1965, and also in a Hawaii County-wide newspaper on January 12, and 20, 1965. At said hearing the manager of the Petitioner, the proposed lessee of a portion of the property involved and the attorney for the Petitioner appeared. Both of the former testified under oath. No person appeared in opposition. The staff of the Land Use Commission orally and by written report urged denial of the Petition.

This submission seeks to rebut the urged denial and is presented in accordance with the Land Use Commission Regulations within fifteen days of the Public Hearing.

FACTS:

The land which is the subject of this Petition is denoted on the tax maps of the Third Taxation Division as Tax Key 1-6-03-64. It is Land Court property and has been tentatively subdivided by map (Land Court Application 1053) into seven lots, as follows:

Lot	A-16-A-3-B-1	-	1.771	Acres
"	A-16-A-3-B-2	-	1.917	"
"	A-16-A-3-B-3	(roadway)	0.271	"
"	A-16-A-3-B-4	(")	0.508	"
"	A-16-A-3-B-5		0.438	"
"	A-16-A-3-B-6	(roadway)	0.185	"
"	A-16-A-3-B-7	-	1.807	"
TOTAL			6.897	"

The lands, taken as a whole, are roughly triangular in shape, being a total of approximately 1250 linear feet long

(adjacent to the new Volcano Highway) and approximately 300 feet wide, at the widest point.

The lands lie between the New Volcano Highway and the Old Volcano Road; a part of them being contiguous with existing, occupied commercial and quasi-public lands. All of the contiguous lands are either public roads or are designated for, and actually being employed in, urban uses.

The lands are presently districted by your Commission as Agricultural. There seems to be no dispute anywhere over the fact that the lands are not suited to agricultural uses by reason of their shape, their location, their size and their soil.

The lands are situated in the village of Keaau. This village is basically an old plantation town which matured into a minor metropolis during the days of hand cultivation and harvesting. It serviced a large agricultural community, had its own schools, parks, police and fire stations, gymnasium, theater, general merchandise stores, bowling alleys, garages, churches, etc. It supported a population of about 2,500 people as late as 1940. Mechanization of the plantation (now Puna Sugar Company - the largest plantation on the Island of Hawaii) and improved transportation have reduced the population by approximately fifty per cent in the last twenty-five years.

Three significant facts should be emphasized in considering the future of the village, however - facts which must lead to the conclusion of a significantly increased importance for this town in the foreseeable future:

1. The soon-to-be completed Chain of Craters Road.

Upon completion of this highway, Keaau will be the only cross-

roads of routes to the Volcanoes National Park. Both routes, the Volcano Road and the Chain of Craters Road, intersect in the center of Keaau. Projections show a momentous increase of tourist traffic as a result thereof.

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II.

ARGUMENT:

Three minutes prior to the hearing (which this Submission supplements), it was learned that the staff of the Land Use Commission proposed to recommend denial of the Petition.

The following argument is set forth as an analysis of, and rebuttal to, the written Staff Report consisting of ten pages which was distributed at the time of the public hearing.

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From the facts set forth above (pages 2 through 5) in this Submission, the statement (pages 7 and 8 of the Report) that "The dilapidated condition of the commercial structures, the lack of any new commercial structures during the past 10 years and the population statistics raise significant doubt about any need for additional urban land." can hardly be supported.

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1. It is distriected agricultural.
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would have to be a minimum lot size of one acre, unless the boundaries of said lot had been established prior to December 16, 1964.

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All this would make it impossible to rebuild Keaunoh within its present urban-districted lands even though not one single new enterprise or dwelling were to be added;

Let us look at Sub-Part F. Amendments to District Boundaries and Regulations, Section 2.30. This Section sets forth the test to be applied for the amendment of District Boundaries. It is:

1. That "the area is needed for a use other than that for which the District in which it is situated is classified"

and either

2. That "the petitioner has submitted proof that the land is usable and adaptable for the use it is proposed to be classified".

or

3. That "conditions and trends of development have so changed since the adoption of the present classification, that the proposed classification is reasonable".

We believe that we have established both 1 and 2 above -- NEED together with USABILITY and ADAPTABILITY.

Need is shown by demand for the land plus the lack of any other land which could be used for the purpose.

Usability and adaptability are conceded by the Staff in its Report (page 7, next to last paragraph).

We also believe, based upon the facts, that the proposed classification as URBAN is reasonable. We suggest that, if all the facts had been known at the time, the Commission would have, in all probability, districted the land in question as urban when it initially adopted its classifications.

It is interesting to note Sub-Part B, Land Use Districts, Section 2.8, and the "standards" set forth therein to determine boundaries of Agricultural Districts. Not one of the standards applies to the land in issue. Section 2.8(f) would permit the inclusion of this land in an Agricultural District, but it certainly is not a "standard"; it merely allows inclusion.

On the other hand the standards set forth for URBAN classification (Section 2.7) appear "to fit" the situation here in almost every respect. In fact, there is not one out of the fourteen standards set forth in Section 2.7 with which the land in question does not comply.

It must also be recalled that the Acting Director, at the public hearing on January 22, 1965, reminded us all that if this Petition is granted, the particular urban use must still be approved by the Hawaii County authorities by reason of the Interim Zoning Ordinances under which this County still lives.

Finally, and specifically, the Petitioner must respectfully disagree with the conclusions of the Staff (Report, page 9) in which it is stated that the standards quoted on pages 8 and 9 thereof are not fulfilled.

Let us examine each of these:

- "(a) It shall include lands characterized by "city-like" concentration of people, structures, streets and other related land uses.

While Keaau is not a large center of population, it is certainly "city-like". This is recognized by your Commission in that Keaau has been designated URBAN already. If the Staff interprets (a) to mean that the particular land (as distinguished from the immediate vicinity) must comply with the standards set forth therein, a rather remarkable situation develops -- no vacant land, even in the middle of Honolulu could be classified URBAN. We doubt this was intended.

- "(b) It shall take into consideration the following specific factors:

- (1) Proximity to centers of trading and employment facilities.
- (2) Economic feasibility and proximity to basic services such as sewers, water, sanitation, schools and playground and police and fire protection.

The land under consideration is proximate to centers of trading and employment. The Staff Report itself (page 2)

reveals "there are approximately 25 assorted commercial activities and four churches", in Keaau. In the same paragraph the Report acknowledges the existence of a public water system, electricity, telephone service, post office, public gymnasium and police and fire departments. Do not these statements themselves clearly show compliance with both (b)(1) and (b) (2) above? The Report states that employment is stagnant and it has declined. Of course! This is precisely what the Petitioner is attempting to remedy, revise and reverse! All it asks is the opportunity to try, using vacant land, ideally suited and contiguous to the existing community.

We agree that standard (c) does not apply to this Petition.

"(d) It shall include sufficient reserve areas for urban growth in appropriate locations, based on a 10 year projection.

This "guide" requires sufficient reserve areas for the next ten years. The Petition for District Boundary Change proposes seven lots, of which three are designated roadways, another consisting of 19,000 square feet and three lots of more than one acre, one of which has already been spoken for. This leaves three lots (A-16-A-3-B-2; -5 ; and -7) consisting of about 4 acres for the next ten years' expansion in the town which is the gateway to 40,000 lots which have been sold; the town which is at the confluence of the principal National Park approaches and the town which is the largest in the Puna District (which is, in turn, about as large in land area as the entire County of Oahu).

It would appear therefore that this Commission would be eminently reasonable to anticipate that four acres of additional commercial land might well be utilized in the next 10 years!

"(e) It shall include lands with satisfactory topography and drainage and reasonably free from the danger of floods.

On page 9 of the Staff Report, it is stated: "The petitioner's statements, as supported by staff field inspection satisfy Standard (e) in respect to satisfactory topography." Nothing more therefore need be said on that point.

"(f) In determining urban growth for the next ten years, or in amending the boundary, lands contiguous with existing urban areas shall be given more favorable consideration than non-contiguous lands.

The lands at issue are contiguous with existing urban areas, and thus should "be given more favorable consideration than non-contiguous lands". No "urban sprawl" can possibly exist here.

"(g) It shall include lands in appropriate locations for new urban concentrations and shall give consideration to areas of urban growth as shown on the general plans of the Counties and of the State of Hawaii.

According to the Staff Report, page 6, "The location does appear to be in conflict with the County's Plan". And on page 8, that "the proposed use is in conflict with the Master Plan of Keaau and the zoning map adopted by the County Planning and Traffic Commission."

This is not so.

The land in question is zoned by the County as Commercial, 10,000-square-foot lots by the County Planning and Traffic Commission.

We do accept responsibility, however, for this error because of an inadequate description in the Petition of the type of establishment which Mr. Blomberg plans to put on one of the several lots included in the Application.

However, the proposed use does comply with the County Plan in every respect.

- "(h) Lands with a high capacity for intensive cultivation shall not be included in this District except when substantial evidences indicate that other lands are not available that could serve adequately the urban needs.

There is no dispute that the lands do not have a "high capacity for intensive cultivation". The statements heretofore made in this Submission support this finding.

- "(i) Small areas, which do not conform to the above standards, may be included within this District:

- (1) When surrounded by or adjacent to existing urban development; and
- (2) Only when such areas represent a minor portion of this District.

The situs of the lands clearly conform to these requirements.

- "(j) It shall not include areas of land which shall contribute towards scattered urban developments."

Clearly there would result no "scattered urban community" by the granting of this Petition. This land is adjacent to, indeed contiguous with, presently districted urban land.

However, since the Staff Report states that standard (j) above is not met, it must be pointed out that under the existing zoning Ordinances of the County of Hawaii, the entire area would be required for urban use (even if Mr. Blomberg were not on the scene) when the "dilapidated" buildings were torn down. Under existing ordinances and policies none of the present businesses using land zoned and masterplanned by the County

could be confined to their present-sized lots. It is estimated that each existing business, due to off-street parking requirements, lower density requirements, etc. would need between two and three times their present area. And there is no other land. (See the Master Plan for Keaau, and compare it with the Land Use District boundaries.)

III.

SUMMARY:

1. The land concerned is districted AGRICULTURAL.
2. The topography, size, situs, and shape of the land render it useless for practical agriculture.
3. The land is contiguous to presently-districted urban areas.
4. The land is ideally suited to and situated for commercial use.
5. No improper use, even though urban, will be made of the land, if redistricted, since under existing ordinances, the proposed use must be approved (even after redistricting) by the Planning and Traffic Commission.
6. There is need for this land as commercial.
 - a. The need has been recognized by the County Master Plan for the area.
 - b. The need has been recognized by the recommendation by the Hawaii County Planning and Traffic Commission in recommending the granting of the Petition.
 - c. The need immediately for about one-third of the usable land is further shown by the existence of a proposed lessee, now ready, willing and able to use

the land as commercial property.

d. The need is further shown by the existence of County Ordinances which require - for any rejuvenation of the business and other urban uses - two to three times as much land area for the same business or residential use as to which the urban lands are now being put.

This is due to present off-street parking, lower density requirements.

Thus, to have exactly the same number of residents, businesses and commercial endeavors as now exist, the land area to support these would have to be two or three times greater.

e. The anticipated increase in tourist trade based upon the soon-to-be completed Chain of Craters Road.

f. The gradually accelerating construction in the large subdivisions already sold in Puna.

For the reasons above, we respectfully urge the granting of the Petition for Amendment of District Boundaries.

The failure so to do would result in

1. The loss of at least one needed employment facility in Keaau and perhaps to the entire Island; and

2. The non-use of otherwise valuable land ideally suited to commercial endeavors.

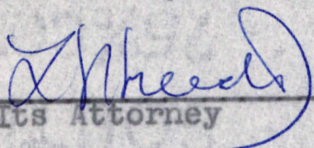
It is respectfully requested that in the event the Staff recommendation is not changed, based upon the new facts

contained in this Submission that the undersigned be notified prior to a decision in the premises by the Land Use Commission and be given an opportunity to rebut any new materials submitted by the Staff. The undersigned will be very willing to travel to Honolulu for such a hearing.

Dated at Hilo, Hawaii, this 29th day of January, 1965.

Respectfully submitted,

W. H. SHIPMAN, LIMITED

By 
Its Attorney

Of Counsel

NEVELS AND CHANG
Hilo Hotel Building
Hilo, Hawaii

Luman N. Nevels, Jr.
Patrick L. McLane
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Nevels and Chang
ATTORNEYS AT LAW

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Suite 920
1441 Kapiolani Blvd.
Honolulu 14, Hawaii
Telephone: 995-305

January 29, 1965

Land Use Commission
State of Hawaii
426 Queen Street
Honolulu, Hawaii 96813

Ref. No. LUC 564

1504
RECEIVED

FEB 3 1965

State of Hawaii
LAND USE COMMISSION

Gentlemen:

Please find enclosed herewith the Submission of W. H. Shipman, Limited, concerning Third Taxation Division, Tax Key 1-6-03:64.

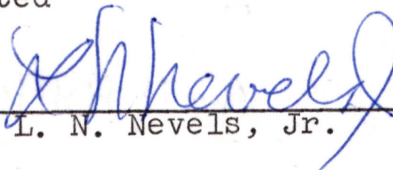
Since drafting this Submission, we have been informed that there is a distinct possibility that W. H. Shipman, Limited will give to the Hongwanji the lot designated as Lot A-16-A-3-B-2, 1.917 acres. This will be done if and when the Land Use Commission shall have designated the lands in question to be urban. It cannot, of course, be done at the present time.

We are also informed that EXHIBIT 1 mentioned in the Submission will be given to you by Belt, Collins & Associates. This is a very lengthy document and only one copy of it is available at the offices of W. H. Shipman, Limited, in Hilo. We understand, however, that Belt, Collins & Associates will deliver this to you for your use within the next several days.

Respectfully yours,

NEVELS AND CHANG
Attorneys for W. H. Shipman,
Limited

By


L. N. Nevels, Jr.

LNNjr/jm
Encs.

cc.: Planning and Traffic Commission

W. H. Shipman, Limited

In the Matter of the Petition

-of-

W. H. SHIPMAN, LIMITED

to Amend District Boundaries.

RECEIVED

FEB 3 1965

State of Hawaii
LAND USE COMMISSION

SUPPLEMENTAL SUBMISSION

Petition of W. H. SHIPMAN, LIMITED for
Amendment of Land Use District Boundary:
Tax Key 1-6-03-64 (Third Taxation Division)

L U C A 64-69

TO THE HONORABLE, THE LAND USE COMMISSION,
STATE OF HAWAII:

I.

PRIOR PROCEEDINGS:

On September 9, 1964, W. H. SHIPMAN, LIMITED, our client, submitted its Petition for the Amendment of Land Use District Boundary above captioned. The required fee of \$50.00 was also submitted.

The Planning and Traffic Commission, County of Hawaii, conducted on September 21, 1964, a public hearing in Hilo (after notice thereof duly published) concerning the Application. At said public hearing, there was no opposition to the Petition by any member of the public, nor, so far as could be observed by the undersigned, by any member of the said Planning and Traffic Commission.

After said public hearing, the Hawaii County Planning and Traffic Commission in writing recommended the approval of

the Petition. This recommendation was received by your Commission on October 2, 1964.

A public hearing in Hilo, Hawaii, was held on Friday, January 22, 1964, pursuant to public notice given in two state-wide newspapers on January 6 and 20, 1965, and also in a Hawaii County-wide newspaper on January 12, and 20, 1965. At said hearing the manager of the Petitioner, the proposed lessee of a portion of the property involved and the attorney for the Petitioner appeared. Both of the former testified under oath. No person appeared in opposition. The staff of the Land Use Commission orally and by written report urged denial of the Petition.

This submission seeks to rebut the urged denial and is presented in accordance with the Land Use Commission Regulations within fifteen days of the Public Hearing.

FACTS:

The land which is the subject of this Petition is denoted on the tax maps of the Third Taxation Division as Tax Key 1-6-03-64. It is Land Court property and has been tentatively subdivided by map (Land Court Application 1053) into seven lots, as follows:

Lot	A-16-A-3-B-1	-	1.771 Acres
"	A-16-A-3-B-2	-	1.917 "
"	A-16-A-3-B-3	(roadway)	0.271 "
"	A-16-A-3-B-4	(")	0.508 "
"	A-16-A-3-B-5		0.438 "
"	A-16-A-3-B-6	(roadway)	0.185 "
"	A-16-A-3-B-7	-	1.807 "
TOTAL			6.897 "

The lands, taken as a whole, are roughly triangular in shape, being a total of approximately 1250 linear feet long

(adjacent to the new Volcano Highway) and approximately 300 feet wide, at the widest point.

The lands lie between the New Volcano Highway and the Old Volcano Road; a part of them being contiguous with existing, occupied commercial and quasi-public lands. All of the contiguous lands are either public roads or are designated for, and actually being employed in, urban uses.

The lands are presently districted by your Commission as Agricultural. There seems to be no dispute anywhere over the fact that the lands are not suited to agricultural uses by reason of their shape, their location, their size and their soil.

The lands are situated in the village of Keaau. This village is basically an old plantation town which matured into a minor metropolis during the days of hand cultivation and harvesting. It serviced a large agricultural community, had its own schools, parks, police and fire stations, gymnasium, theater, general merchandise stores, bowling alleys, garages, churches, etc. It supported a population of about 2,500 people as late as 1940. Mechanization of the plantation (now Puna Sugar Company - the largest plantation on the Island of Hawaii) and improved transportation have reduced the population by approximately fifty per cent in the last twenty-five years.

Three significant facts should be emphasized in considering the future of the village, however - facts which must lead to the conclusion of a significantly increased importance for this town in the foreseeable future:

1. The soon-to-be completed Chain of Craters Road. Upon completion of this highway, Keaau will be the only cross-

roads of routes to the Volcanoes National Park. Both routes, the Volcano Road and the Chain of Craters Road, intersect in the center of Keaau. Projections show a momentous increase of tourist traffic as a result thereof.

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Need is shown by demand for the land plus the lack of any other land which could be used for the purpose.

Usability and adaptability are conceded by the Staff in its Report (page 7, next to last paragraph).

We also believe, based upon the facts, that the proposed classification as URBAN is reasonable. We suggest that, if all the facts had been known at the time, the Commission would have, in all probability, districted the land in question as urban when it initially adopted its classifications.

It is interesting to note Sub-Part B, Land Use Districts, Section 2.8, and the "standards" set forth therein to determine boundaries of Agricultural Districts. Not one of the standards applies to the land in issue. Section 2.8(f) would permit the inclusion of this land in an Agricultural District, but it certainly is not a "standard"; it merely allows inclusion.

On the other hand the standards set forth for URBAN classification (Section 2.7) appear "to fit" the situation here in almost every respect. In fact, there is not one out of the fourteen standards set forth in Section 2.7 with which the land in question does not comply.

It must also be recalled that the Acting Director, at the public hearing on January 22, 1965, reminded us all that if this Petition is granted, the particular urban use must still be approved by the Hawaii County authorities by reason of the Interim Zoning Ordinances under which this County still lives.

Finally, and specifically, the Petitioner must respectfully disagree with the conclusions of the Staff (Report, page 9) in which it is stated that the standards quoted on pages 8 and 9 thereof are not fulfilled.

Let us examine each of these:

- "(a) It shall include lands characterized by "city-like" concentration of people, structures, streets and other related land uses.

While Keaau is not a large center of population, it is certainly "city-like". This is recognized by your Commission in that Keaau has been designated URBAN already. If the Staff interprets (a) to mean that the particular land (as distinguished from the immediate vicinity) must comply with the standards set forth therein, a rather remarkable situation develops -- no vacant land, even in the middle of Honolulu could be classified URBAN. We doubt this was intended.

- "(b) It shall take into consideration the following specific factors:

- (1) Proximity to centers of trading and employment facilities.
- (2) Economic feasibility and proximity to basic services such as sewers, water, sanitation, schools and playground and police and fire protection.

The land under consideration is proximate to centers of trading and employment. The Staff Report itself (page 2)

reveals "there are approximately 25 assorted commercial activities and four churches", in Keaau. In the same paragraph the Report acknowledges the existence of a public water system, electricity, telephone service, post office, public gymnasium and police and fire departments. Do not these statements themselves clearly show compliance with both (b)(1) and (b) (2) above? The Report states that employment is stagnant and it has declined. Of course! This is precisely what the Petitioner is attempting to remedy, revise and reverse! All it asks is the opportunity to try, using vacant land, ideally suited and contiguous to the existing community.

We agree that standard (c) does not apply to this Petition.

"(d) It shall include sufficient reserve areas for urban growth in appropriate locations, based on a 10 year projection.

This "guide" requires sufficient reserve areas for the next ten years. The Petition for District Boundary Change proposes seven lots, of which three are designated roadways, another consisting of 19,000 square feet and three lots of more than one acre, one of which has already been spoken for. This leaves three lots (A-16-A-3-B-2; -5 ; and -7) consisting of about 4 acres for the next ten years' expansion in the town which is the gateway to 40,000 lots which have been sold; the town which is at the confluence of the principal National Park approaches and the town which is the largest in the Puna District (which is, in turn, about as large in land area as the entire County of Oahu).

It would appear therefore that this Commission would be eminently reasonable to anticipate that four acres of additional commercial land might well be utilized in the next 10 years!

"(e) It shall include lands with satisfactory topography and drainage and reasonably free from the danger of floods.

On page 9 of the Staff Report, it is stated: "The petitioner's statements, as supported by staff field inspection satisfy Standard (e) in respect to satisfactory topography." Nothing more therefore need be said on that point.

"(f) In determining urban growth for the next ten years, or in amending the boundary, lands contiguous with existing urban areas shall be given more favorable consideration than non-contiguous lands.

The lands at issue are contiguous with existing urban areas, and thus should "be given more favorable consideration than non-contiguous lands". No "urban sprawl" can possibly exist here.

"(g) It shall include lands in appropriate locations for new urban concentrations and shall give consideration to areas of urban growth as shown on the general plans of the Counties and of the State of Hawaii.

According to the Staff Report, page 6, "The location does appear to be in conflict with the County's Plan". And on page 8, that "the proposed use is in conflict with the Master Plan of Keaau and the zoning map adopted by the County Planning and Traffic Commission."

This is not so.

The land in question is zoned by the County as Commercial, 10,000-square-foot lots by the County Planning and Traffic Commission.

We do accept responsibility, however, for this error because of an inadequate description in the Petition of the type of establishment which Mr. Blomberg plans to put on one of the several lots included in the Application.

However, the proposed use does comply with the County Plan in every respect.

- "(h) Lands with a high capacity for intensive cultivation shall not be included in this District except when substantial evidences indicate that other lands are not available that could serve adequately the urban needs.

There is no dispute that the lands do not have a "high capacity for intensive cultivation". The statements heretofore made in this Submission support this finding.

- "(i) Small areas, which do not conform to the above standards, may be included within this District:

- (1) When surrounded by or adjacent to existing urban development; and
- (2) Only when such areas represent a minor portion of this District.

The situs of the lands clearly conform to these requirements.

- "(j) It shall not include areas of land which shall contribute towards scattered urban developments."

Clearly there would result no "scattered urban community" by the granting of this Petition. This land is adjacent to, indeed contiguous with, presently districted urban land.

However, since the Staff Report states that standard (j) above is not met, it must be pointed out that under the existing zoning Ordinances of the County of Hawaii, the entire area would be required for urban use (even if Mr. Blomberg were not on the scene) when the "dilapidated" buildings were torn down. Under existing ordinances and policies none of the present businesses using land zoned and masterplanned by the County

could be confined to their present-sized lots. It is estimated that each existing business, due to off-street parking requirements, lower density requirements, etc. would need between two and three times their present area. And there is no other land. (See the Master Plan for Keaau, and compare it with the Land Use District boundaries.)

III.

SUMMARY:

1. The land concerned is districted AGRICULTURAL.
2. The topography, size, situs, and shape of the land render it useless for practical agriculture.
3. The land is contiguous to presently-districted urban areas.
4. The land is ideally suited to and situated for commercial use.
5. No improper use, even though urban, will be made of the land, if redistricted, since under existing ordinances, the proposed use must be approved (even after redistricting) by the Planning and Traffic Commission.
6. There is need for this land as commercial.
 - a. The need has been recognized by the County Master Plan for the area.
 - b. The need has been recognized by the recommendation by the Hawaii County Planning and Traffic Commission in recommending the granting of the Petition.
 - c. The need immediately for about one-third of the usable land is further shown by the existence of a proposed lessee, now ready, willing and able to use

the land as commercial property.

d. The need is further shown by the existence of County Ordinances which require - for any rejuvenation of the business and other urban uses - two to three times as much land area for the same business or residential use as to which the urban lands are now being put.

This is due to present off-street parking, lower density requirements.

Thus, to have exactly the same number of residents, businesses and commercial endeavors as now exist, the land area to support these would have to be two or three times greater.

e. The anticipated increase in tourist trade based upon the soon-to-be completed Chain of Craters Road.

f. The gradually accelerating construction in the large subdivisions already sold in Puna.

For the reasons above, we respectfully urge the granting of the Petition for Amendment of District Boundaries.

The failure so to do would result in

1. The loss of at least one needed employment facility in Keaau and perhaps to the entire Island; and

2. The non-use of otherwise valuable land ideally suited to commercial endeavors.

It is respectfully requested that in the event the Staff recommendation is not changed, based upon the new facts

PERMANENT RECORD

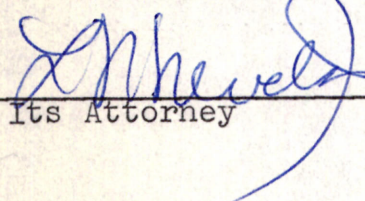
contained in this Submission that the undersigned be notified prior to a decision in the premises by the Land Use Commission and be given an opportunity to rebut any new materials submitted by the Staff. The undersigned will be very willing to travel to Honolulu for such a hearing.

Dated at Hilo, Hawaii, this 29th day of January, 1965.

Respectfully submitted,

W. H. SHIPMAN, LIMITED

By


Its Attorney

Of Counsel

NEVELS AND CHANG
Hilo Hotel Building
Hilo, Hawaii

PERMANENT RECORD

SOUTH OCEAN CO. U.S.A.

STATE OF HAWAII
LAND USE COMMISSION

Board of Supervisors' Board Room
Hilo, Hawaii

3:00 P.M.
January 22, 1965

STAFF REPORT

Subject: A64-69, Petition for Amendment of Land Use District Boundary
by W. H. SHIPMAN

W. H. SHIPMAN, LTD. has submitted an application for amendment to the land use district boundary from an Agricultural district classification to an Urban district classification for TMK 1-6-03: 64, Third Division, containing a total gross area of 6.897 acres.

The land is situated in the town of Keaau and is approximately 6.68 miles from the new Hilo Shopping Center. The property is sandwiched between the New Volcano Road and the Old Volcano Road, and is contiguous to the urban district of Keaau. Primary access to the property is from the Old Volcano Road. The New Volcano Road provides a right turn egress, only, into the parcel.

According to the Soil Survey of the T.H., the soils in the general area are very shallow about 4-12 inches deep "that occur in association with a very **high** proportion bedrock outcrops that are scattered throughout the

unit. Loose stones occur throughout the soil and are very numerous on the surface." The Soil Survey also mentioned that the lands under sugar cultivation require intensive fertilization while the lands used for pasture purposes produce such grasses as Hilo grass, different types of pasapalums, and kikuyu.^{1/} Slope of land on the subject property is less than 6% while the median annual rainfall is about 146.0 inches.^{2/}

The land in question is vacant, and is contiguous to the urban district of Keaau. The town has utilities which include a 6-inch water system, electricity, and telephone. Urban facilities include a post office, public gym with police and fire stations, and a public school. In addition, there are approximately 25 assorted commercial activities and four (4) churches.

Two recent residential subdivisions in the vicinity of the petitioner's property have been quite successful. A subdivision which is adjacent to the Old Volcano Road has a total of 54 lots with lot sizes ranging from 8,040 square feet to 20,762 square feet. Out of the total 54 houselots, about 23 lots are occupied by single family dwellings.^{3/} A second subdivision is near the center of Keaau Town and is adjacent to a light-duty road which leads to the Olaa Sugar Company's main office. There are

^{1/} Soil Survey of T.H., p. 402-403.

^{2/} Hawaii Water Authority, Rainfall of the Hawaiian Islands, p. 116.

^{3/} TMK 1-6-142.

approximately 42 lots in this subdivision with about 33 homes.^{4/} The sugar plantation's office is approximately $\frac{1}{2}$ mile from the Olaa Steak House. Other than the two residential subdivisions, a post office and gym which also houses a police and fire station, virtually all of the urban area in Keaau consists of dilapidated buildings.

Hawaii County zoning map for Keaau proposes that the petitioner's property be zoned as CV-10 (Commercial-Village 10,000 sq. ft.).

On October 2, 1964, the Land Use Commission received the Hawaii County's recommendation for the Shipman petition. At their meeting on Sept. 28, 1964, the Hawaii Planning and Traffic Commission decided to recommend approval on the basis of the following findings:

- "1. The parcels involved abuts an urban zone district;
- "2. The parcels involved are reasonable and proper to be used for Urban purposes;
- "3. The parcels are not being used for agricultural purposes nor will they be used for such in future years;
- "4. The parcels are being provided with urban utilities such as water system, electricity and telephone;
- "5. Urban facilities are available in the proximity;
- "6. The Master Plan of Keaau, adopted by the Planning and Traffic Commission on January 10, 1964 upon a duly held public hearing proposes the parcels involved for commercial uses."

^{4/} TMK 1-6-02.

Under Act 205, Section 98H-4, Amendments to district boundaries, the Law states: (1) "No change shall be approved unless the petitioner has submitted proof that the area is needed for a use other than that for which the district in which it is situated is classified;" and (2) "either of the following requirements has been fulfilled; (a) the petitioner has submitted proof that the land is usable and adaptable for the use it is proposed to be classified, or (b) conditions and trends of development have so changed since the adoption of the present classification, that the proposed classification is reasonable." In support of (1) above, the petitioner has submitted the following statement:

"The petitioner's client requests boundary change for the reason that this is a sliver of property between the main government highway running around the Island and a completely urbanized area. It is utterly impossible to use the land for agricultural in view of the fact that it is too small to be economical in said use, it is so situated as to be almost inaccessible to agricultural equipment and is, in fact, a remnant of land between a new high-speed highway and an established urban center.

"(1) The subject property is needed for a use other than that for which the district in which it is located is classified. At least one of said lots has already been requested for a long-term lease by a building contractor for use as a yard and office. The location for such use is ideal for his purposes. A long-term lease will be entered into immediately after the boundary is amended. In its present zoning, the property cannot be economically utilized for anything for the reasons above set forth. The owner desires to have his property utilized for some economic purpose. There is no other available land in the Keaau Village area of sufficient size and location for utilization for the proposed Lessee's purposes."

In support of (2)(a) above, the petitioner has submitted the following statement:

"The land is usable and adaptable for the use it is proposed to be classified, because it is level, it has access to both the village of Keaau and the main highway (via the road entering the main highway)."

Discussion

The most fundamental requirements for approval of any petition for amendment of District Boundaries are the 'proof' that the area is needed for another use; and, either additional proof that the land is usable and adaptable for the proposed use, or conditions and trends have changed.

First, let us examine the County's bases for recommending approval against the requirements and guides for any subsequent action by the Land Use Commission. In respect to the necessary 'proof', that the area is needed for another use, there is none in the bases presented by the County. In respect to the fundamental alternative requirements, the County's bases for approval do not provide any direct proof that the land is adaptable and usable nor that conditions and trends have so changed. However, by inference, the County's listed bases 4, 5 & 6, referring to proposed and existing utilities and facilities, and a proposed zoning for commercial use in their Master Plan, would suggest that the land is usable and adaptable. With respect to the fundamental requirements for approval by the Land Use Commission, it is concluded that there are insufficient bases in the County's testimony for favorable action by the Land Use Commission.

Turning to the testimony submitted by the petitioner, the petitioner states that "at least one of said lots has already been requested for a long-term lease by a building contractor for use as a yard and office." This statement was made to satisfy the first requirement - proof that the land is needed for a use other than that for which the area is classified. This would seem to represent evidence of a need, although small, for

urban use. However, this apparent need must be analyzed against other considerations.

By traditional zoning definitions, the particular use of a contractor's yard and office is more appropriately defined as a light industrial use rather than a commercial use. The zoning plan of Keaau, adopted by the County Planning Commission, reflects substantial areas for both commercial (CV-10 or Village Commercial, 10,000 square feet) and light industry (ML-20 or Limited Industry, 20,000 square feet). The subject parcel is designated CV-10 by the proposed County Zoning maps. While the proposed use may indicate a demand for urban land, the location does appear to be in conflict with the County's Plan.

Next, the question, of whether or not adequate lands for foreseeable urban growth have been placed in the Urban District, should be considered. Relatively, the Urban Districts are "tight" in the Puna District as compared to say, Kona or Hilo. In view of the following population statistics, this "tightness" would seem justified:

U. S. Census of Population 1960
(for Keaau)

<u>Year</u>	<u>Population</u>	<u>Percent decline</u>
1940	2,509	
1950	1,620	35%
1960	1,334	18%

Note: From 1940 to 1960, the population of Keaau declined by about 47%.

Further, conversation with life-time residents in Keaau indicate that the latest significant commercial building activity that could be recollected was the renovation of the Keaau Service Station some 20 years ago. The

general dilapidated appearance of the central portion of Keaau seems to lend credulity to the recollection. While a substantial amount of recent residences (about 56) have been constructed in two new subdivisions on the outskirts of the village, there is a noticeable amount of dilapidated and abandoned residences near the core. Conversations with the County Planning Commission indicate that occupants of the new residences are from both Hilo and the older residences in Keaau.

Thus, it appears that the older and more dilapidated residences are being abandoned in favor of new construction along the periphery of the village. This petition is suggestive that a similar trend for other urban uses is being initiated. Thus, the situation is not uncommon to the general urban scene, where urbanization creeps away from a deteriorating core, upsetting land values, and contributing to urban sprawl with resultant inefficient land use and higher governmental costs. Such situations are one basis for urban redevelopment programs. The basic problem is not caused by a shortage of land, but rather, a situation which is encouraged by an abundance of land or lack of adequate development controls.

With respect to meeting one of the alternative requirements for approval in the Law, with respect to the fact that the land is usable and adaptable for the proposed use, field investigations support the petitioners testimony that the land does meet this requirement.

It is concluded that the testimony submitted to date is questionable proof that the area is needed for a use other than that for which it is districted. While the need for a single urban use may be present, there has been no evidence that the existing urban district is inadequate to provide for the proposed use. (The dilapidated condition of the commercial structures,

the lack of any new commercial structures during the past 10 years and the population statistics raise significant doubt about any need for additional urban land.) Moreover, the proposed use is in conflict with the Master Plan of Keaau and the zoning map adopted by the County Planning and Traffic Commission. Although the former County Planning Director stated that a shopping center would be located on one of the proposed lots, there has been no supporting evidence submitted. On this basis, a possible shopping center has not been considered in this analysis.

In addition to the fundamental requirements for approval, the Land Use District Regulations provide these following guides for the granting of amendments to the district boundaries:

- "(a) It shall include lands characterized by "city-like" concentration of people, structures, streets and other related land uses.
- "(b) It shall take into consideration the following specific factors:
 - (1) Proximity to centers of trading and employment facilities.
 - (2) Economic feasibility and proximity to basic services such as sewers, water, sanitation, schools and playground and police and fire protection.
- "(c) It shall include plantation camps that are characterized by residences, school, businesses and other related uses. It shall not include plantation camps that are not characterized by the foregoing uses but are merely ancillary to agricultural activities.
- "(d) It shall include sufficient reserve areas for urban growth in appropriate locations, based on a 10 year projection.
- "(e) It shall include lands with satisfactory topography and drainage and reasonably free from the danger of floods.
- "(f) In determining urban growth for the next ten years, or in amending the boundary, lands contiguous with existing urban areas shall be given more favorable consideration than non-contiguous lands.

- "(g) It shall include lands in appropriate locations for new urban concentrations and shall give consideration to areas of urban growth as shown on the general plans of the Counties and of the State of Hawaii.
- "(h) Lands with a high capacity for intensive cultivation shall not be included in this District except when substantial evidences indicate that other lands are not available that could serve adequately the urban needs.
- "(i) Small areas, which do not conform to the above standards, may be included within this District:
 - (1) When surrounded by or adjacent to existing urban development; and
 - (2) Only when such areas represent a minor portion of this District.
- "(j) It shall not include areas of land which shall contribute towards scattered urban developments."

The bases for the County's recommendation appear related to guides (b), (f), and (g). Standard (b) is generally applicable with the possible exception that proximity to employment facilities would seem poor. Employment in the commercial activities are stagnant and employment in the agricultural activities have declined. Standard (f), contiguity to an urban district, is a basis for giving "more favorable consideration than non-contiguous lands", but other more fundamental considerations in the Law should first be satisfied. In respect to Standard (g), the location may be appropriate and urban growth would be as shown on the General Plan of the County. However, the proposed use does not fit the County's zoning map.

The petitioner's statements, as supported by staff field inspection, satisfy Standard (e) in respect to satisfactory topography. Indirectly, the testimony would also satisfy Standard (h), in respect to the exclusion of prime agricultural lands.

Standards (a), (d) and (j) appear adverse to an approval of this petition. The land is now generally vacant, there is no real evidence that the present urban districts are inadequate and as such approval of this petition would contribute towards scattered developments.

Standards (c) and (i) do not apply to this petition.

Recommendation

A denial of this petition is recommended on the following bases:

1. There is no real proof that the area is needed for a use other than that for which the district in which it is situated is classified.
2. The conditions do not satisfactorily meet the standards, as established by the Land Use Commission, for the granting of amendments to the district boundaries.

Hearing Set On Land Use Boundaries

The State Land Use Commission will hold a public hearing at 3 p.m. Jan. 22 in Hilo on a petition by W. H. Shipman, Ltd. to change land use boundaries from agricultural to various urban uses for a 7-acre tract between the new and old Volcano Hwy. at Keaau, Puna, Hawaii.

The hearing will be held in the board room of the Board of Supervisors.

In its petition, the Shipman firm said the change was needed because the property is a remnant too small and isolated for agricultural use.

It said also that a building contractor is seeking a long-term lease on a portion of the land for an office and yard. A State official said here yesterday that there also have been unconfirmed reports that a shopping center may be planned on the parcel.

Ref. No. LUC 564

Dear Mr. Nevells:

Publications of Legal Notice will appear in the Honolulu Star-Bulletin and Honolulu Advertiser on January 6 and 20, 1965, and in the Hawaii Tribune Herald on January 12 and 20, 1965.

RAYMOND S. YAMASHITA
Executive Officer

cc: Hawaii Planning & Traffic Commission
bc: M. Thompson

NOTICE OF PUBLIC HEARING

TO CONSIDER A PETITION FOR CHANGE OF DISTRICT BOUNDARY WITHIN THE COUNTY OF HAWAII BEFORE THE LAND USE COMMISSION OF THE STATE OF HAWAII

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

In the Board Room of the Board of Supervisors, County of Hawaii, Hilo, Hawaii, on January 22, 1965, at 3:00 p.m. or as soon thereafter as interested persons may be heard in considering:

Docket Number

and Petitioner: A64-69, W. H. Shipman, Ltd.

Tax Map Key: Third Division, 1-6-03:

64, containing 6.897 acres

Change Requested: Amendment to the Land Use District Boundaries from an Agricultural to an Urban District for various urban uses. Land is situated between the new and old Volcano Highway in Keaau, Puna, Hawaii.

Maps showing the area under consideration for change of District Boundary, and copies of the Rules and Regulations governing the petition above are on file in the offices of the Planning and Traffic Commission, County of 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 through Friday.

All written protests or comments regarding the above petition 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
(Hon. Adv.: Jan. 6, 20 1965)

NOTICE OF PUBLIC HEARING

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

(S.-B.: Jan. 6, 20 1965)

NOTICE OF PUBLIC HEARING

TO CONSIDER A PETITION FOR CHANGE OF DISTRICT BOUNDARY WITHIN
THE COUNTY OF HAWAII BEFORE THE LAND USE COMMISSION OF THE
STATE OF HAWAII

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

In the Board Room of the Board of Supervisors, County
of Hawaii, Hilo, Hawaii, on January 22, 1965, at 3:00 p.m.
or as soon thereafter as interested persons may be heard
in considering:

Docket Number
and Petitioner: A64-69, W. H. Shipman, Ltd.

Tax Map Key: Third Division, 1-6-03: 64,
containing 6.897 acres

Change Requested: Amendment to the Land Use District
Boundaries from an Agricultural to an Urban District
for various urban uses. Land is situated between
the new and old Volcano Highway in Keaau, Puna,
Hawaii.

Maps showing the area under consideration for change of District
Boundary, and copies of the Rules and Regulations governing the
petition above are on file in the offices of the Planning and
Traffic Commission, County of 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 through Friday.

All written protests or comments regarding the above petition 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

(Legal ad - 2 cols. w/border to appear:)
(JANUARY 6, 1965 - HONOLULU STAR-BULLETIN)
(HONOLULU ADVERTISER)
(JANUARY 20, 1965 - HONOLULU STAR-BULLETIN)
(HONOLULU ADVERTISER)
(HAWAII TRIBUNE HERALD, LTD.)
(JANUARY 12, 1965 - HAWAII TRIBUNE HERALD, LTD.)

LAND USES

(A64-69)

W. H. Shipman

4 Service Stations

1 Restaurant

le restaurant

1 Fountain and light lunch

le cafe

1 Theater

le theatre

1 Bakery

la boulangerie

1 Meat Market

la boucherie

1 Vegetable Store

legume magasin

4 Grocery Stores

l'epicerie

2 Barber Shops

les coiffeurs

1 Shoemaker

2 Retail Liquor

1 Pool Hall

2 Dressmaker

1 Auto Top Shop

4 Churches

Quatre l'eglises

1 Post Office

le bureau de poste

1 New County Building to come up

1 Jeweler

1 House contracting

1952 Keaau Service Station remodeled

LAND USES

(A64-69)

W. H. Shipman

- 4 Service Stations
- 1 Restaurant
- 1 Fountain and light lunch
- 1 Theater
- 1 Bakery
- 1 Meat Market
- 1 Vegetable Store
- 4 Grocery Stores
- 2 Barber Shops
- 1 Shoemaker
- 2 Retail Liquor
- 1 Pool Hall
- 2 Dressmaker
- 1 Auto Top Shop
- 4 Churches
- 1 Post Office
- 1 New County Building to come up
- 1 Jeweler
- 1 House contracting
- 1952 Keasu Service Station remodeled

cc: Thompson 10/5/64

Ref. No. LUC 499

October 5, 1964

Mr. Edgar Hamasu, Director
Planning & Traffic Commission
County of Hawaii
Hilo, Hawaii

Dear Mr. Hamasu:

Thank you for transmitting the comments of your
Planning and Traffic Commission on the W. H. Shipman, Ltd.
Petition, Lot A-16-A-3-B, L. C. Application 1053.

Have you had any luck in getting a more detailed
map of the subject area? If not, we would appreciate your
outlining the parcel(s) or a print of your "Master Plan of
Keau, adopted by the Planning and Traffic Commission on
January 10, 1964...", and forwarding it to us.

Many thanks for your cooperation on this and other
matters.

Very truly yours,

RAYMOND S. YAMASHITA
Executive Officer

25% OFF TOP FISH
Type - Erase
Copy - 34

Ref. No. LUC 472

September 18, 1964

Planning and Traffic Commission
County of Hawaii
Hilo, Hawaii

Attention: Mr. Edgar Hamasu, Director

Gentlemen:

Pursuant to Section 98H-4, RLH 1955, as amended, a copy of the Petition for Amendment of District Boundary submitted by W. H. Shipman, Ltd., is forwarded for your comments and recommendations.

We understand from Mr. Nevels that you are in possession of maps which adequately describes the property. If this is not the case, we would appreciate your calling Mr. Nevels.

Thank you for your cooperation in this and other matters.

Very truly yours,

RAYMOND S. YAMASHITA
Executive Officer

Enclosures

Ref. No. LUC 473

September 18, 1964

Mr. L. N. Nevels, Jr.
Nevels and Chang
Hilo Hotel Building
Hilo, Hawaii

Dear Mr. Nevels:

This letter is to confirm our telephone conversation this morning that

1. On September 9, 1964, we received a letter from Mr. David Kekuawela in the envelope you sent us containing a petition for amendment to the District Boundary by W. H. Shipman, Ltd. The letter, dated May 11, 1964, addressed to the Land Use Commission and signed by Mr. Kekuawela, is not intended to be a petition for a boundary change. This letter was sent to the Land Use Commission for information, only, that Mr. Kekuawela is initiating a petition for a special permit with Hawaii County Planning and Traffic Commission. A copy of this letter is enclosed for your information. Should this not be the case, we would appreciate hearing from you.
2. You will forward maps which describe the lands included in the W. H. Shipman, Ltd. Petition which was apparently forgotten to be enclosed.

Thank you for your cooperation in this matter.

Very truly yours,

RAYMOND S. YAMASHITA
Executive Officer

Enclosure

cc: David Kekuawela

1424
RECEIVED

COUNTY OF HAWAII
PLANNING AND TRAFFIC COMMISSION
OCT 2 1964
State of Hawaii
LAND USE COMMISSION

Applicant W. H. Shipman, Ltd.
Date petition received by
Planning Commission September 21, 1964
Date of Planning Commission
Meeting September 28, 1964
Date petition and recommendations
forwarded to LUC September 30, 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:

Lot A-16-A-3-B, L. C. Application 1053, Keaau, Puna, Hawaii

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

The Commission decided to recommend: Approval

on the basis of the following findings:

1. The parcels involved abuts an urban zone district;
2. The parcels involved are reasonable and proper to be used for Urban purposes;
3. The parcels are not being used for agricultural purposes nor will they be used for such in future years;
4. The parcels are being provided with urban utilities such as water system, electricity and telephone;
5. Urban facilities are available in the proximity;
6. The Master Plan of Keaau, adopted by the Planning and Traffic Commission on January 10, 1964 upon a duly held public hearing proposes the parcels involved for commercial uses.

(Signed)

Edgar A. Hama
Director, Planning and Traffic Commission

Robert M. Yamada
Chairman, Planning and Traffic Commission

1400
RECEIVED

SEP 9 1964

State of Hawaii
LAND USE COMMISSION

Hilo, Hawaii

May 11, 1964

State of Hawaii
Land Use Commission
Honolulu, Hawaii

Gentlemen:

Enclosed herewith is a plan together with an application for which a change in zoning from Agricultural to Rural is requested.

The parcel involved is Lot 1092-J of Land Court Application 1053 containing 1.50 acres and located in Puna, Hawaii. I propose to subdivide the lot into three one-half acre lots and convey two of the lots to my children, retaining one for myself.

The required fee of \$50.00 is enclosed.

An early consideration of this application will be greatly appreciated.

Very truly yours,

David Kekuawela

David Kekuawela
c/o W. H. Shipman, Ltd.
230 Kekuanaoa Street
Hilo, Hawaii

JNS:rmv
encls.

14
90/100
STATE OF HAWAII
LAND USE COMMISSION

426 Queen Street
Honolulu, Hawaii

This space for LUC use

Date Petition and Fee
received by LUC 9/9/64 an.

Date forwarded to County
for recommendation _____

Date Petition, and County
recommendation received by
LUC _____

PETITION FOR AMENDMENT OF FINAL DISTRICT BOUNDARY

We, on behalf of our client, W. H. SHIPMAN, LTD., request an amendment of the Land Use Commission, District Boundary respecting the County of Hawaii, Island of Hawaii, map number and/or name H-Puna, to change the district designation of the following described property from its present classification in an agricultural district into an urban district:

Description of property:

Those certain parcels of land designated as Lot A-16-A-3-B, Land Court Map No. H-Puna, as shown on the attached prints. This property lies between the new Volcano Highway and the main road of the village of Keaau. All adjacent land is urban.

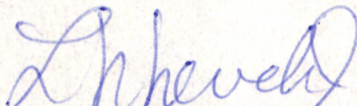
Petitioner's interest in subject property:

The Petitioner is the attorney for W. H. SHIPMAN, LTD., the owner in fee simple of subject property.

Petitioner's reasons for requesting boundary change:

The Petitioner's client requests boundary change for the reason that this is a sliver of property between the main government highway running around the Island and a completely urbanized area. It is utterly impossible to use the land for agricultural in view of the fact that it is too small to be economical in said use, it is so situated as to be almost inaccessible to agricultural equipment and is, in fact, a remnant of land between a new high-speed highway and an established urban center.

- (1) The subject property is needed for a use other than that for which the district in which it is located is classified. At least one of said lots has already been requested for a long-term lease by a building contractor for use as a yard and office. The location for such use is ideal for his purposes. A long-term lease will be entered into immediately after the boundary is amended. In its present zoning, the property cannot be economically utilized for anything for the reasons above set forth. The owner desires to have his property utilized for some economic purpose. There is no other available land in the Keaau village area of sufficient size and location for utilization for the proposed Lessee's purposes.
- (2) (a) The land is usable and adaptable for the use it is proposed to be classified, because it is level, it has access to both the village of Keaau and the main highway (via the road entering the main highway).



L. N. NEVELS, JR.

NEVELS AND CHANG
Hilo Hotel Building
Hilo, Hawaii

Telephone: Hilo 45-775

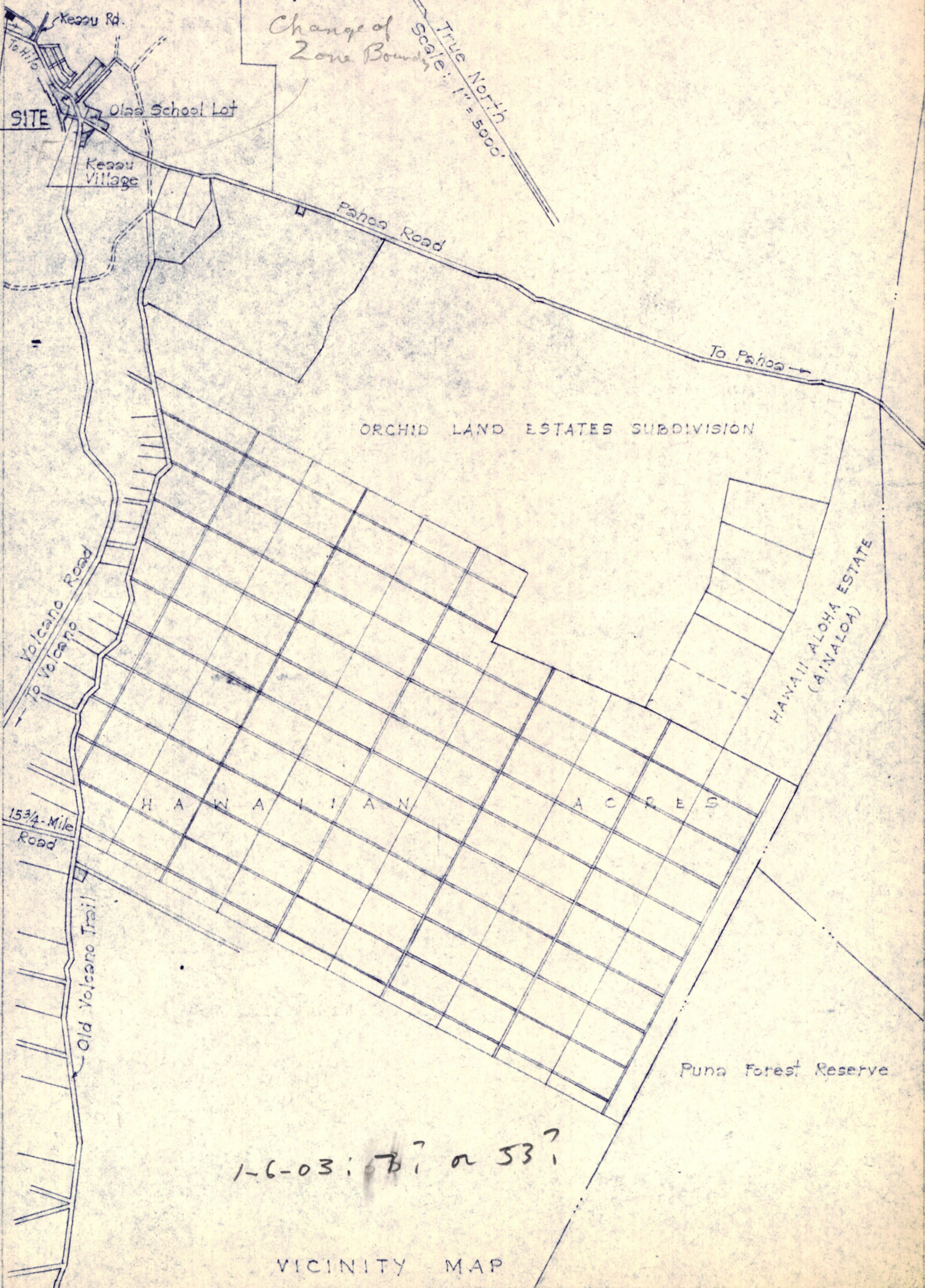
Attorneys for
W. H. SHIPMAN, LTD.

Application

Amendment of Dist Boundary

Change of
Zone Boundary

True North
Scale: 1" = 500'



1-6-03: 77 or 53?

VICINITY MAP

1400

RECEIVED

SEP 9 1964

State of Hawaii
LAND USE COMMISSION

RECEIVED

SEP 9 1964

State of Hawaii
LAND USE COMMISSION

Hilo, Hawaii

May 11, 1964

State of Hawaii
Land Use Commission
Honolulu, Hawaii

Gentlemen:

Enclosed herewith is a plan together with an application for which a change in zoning from Agricultural to Rural is requested.

The parcel involved is Lot 1092-J of Land Court Application 1053 containing 1.50 acres and located in Puna, Hawaii. I propose to subdivide the lot into three one-half acre lots and convey two of the lots to my children, retaining one for myself.

The required fee of \$50.00 is enclosed.

An early consideration of this application will be greatly appreciated.

Very truly yours,

David Kekuawela

David Kekuawela
c/o W. H. Shipman, Ltd.
230 Kekuanaoa Street
Hilo, Hawaii

JNS:rmv
encls.

STATE OF HAWAII
LAND USE COMMISSION

426 Queen Street
Honolulu, Hawaii

This space for LUC use

Date Petition and Fee
received by LUC 9/9/64 an

Date forwarded to County
for recommendation _____

Date Petition, and County
recommendation received by
LUC _____

PETITION FOR AMENDMENT OF FINAL DISTRICT BOUNDARY

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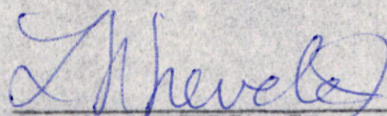
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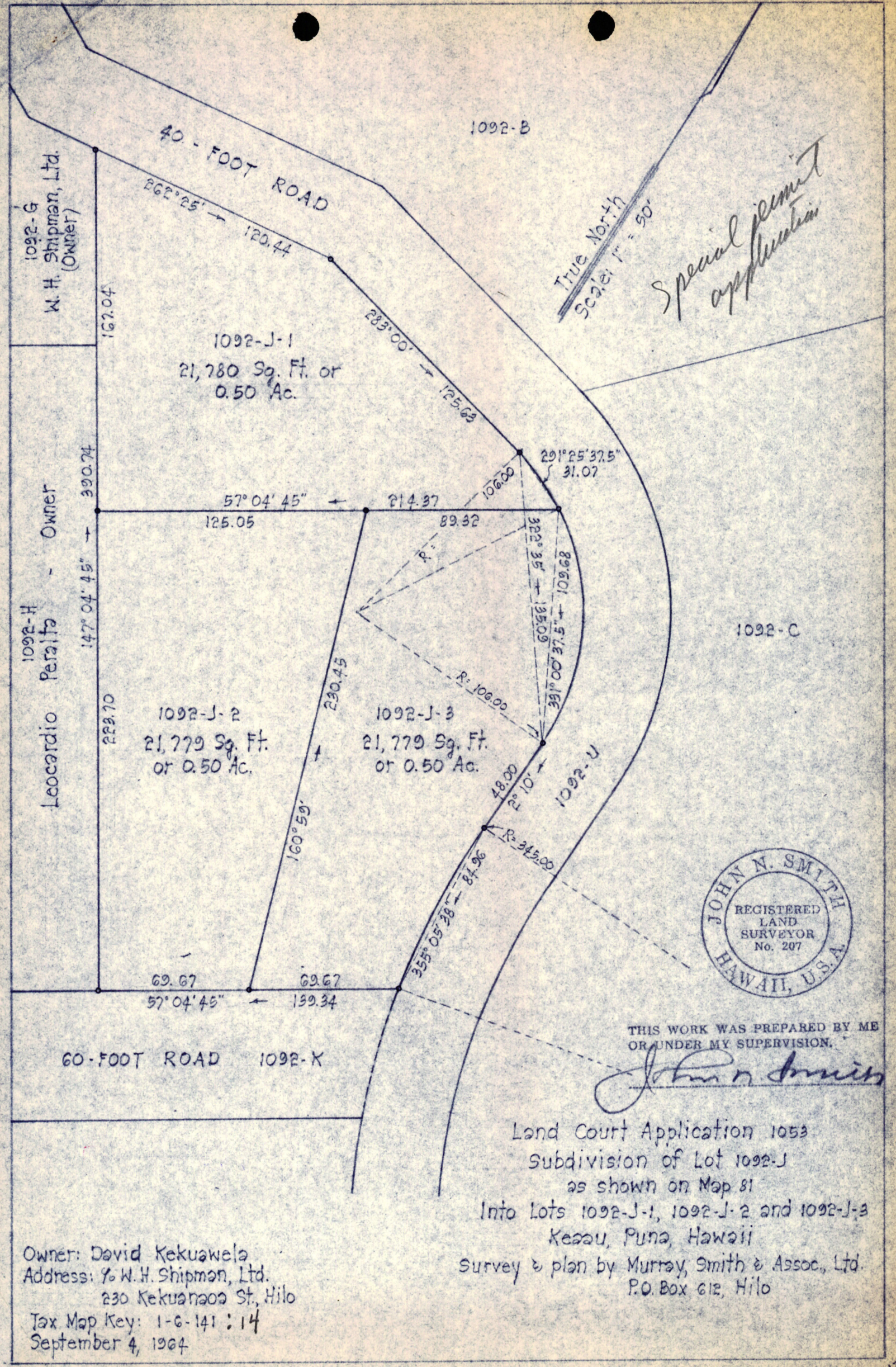
- (1) The subject property is needed for a use other than that for which the district in which it is located is classified. At least one of said lots has already been requested for a long-term lease by a building contractor for use as a yard and office. The location for such use is ideal for his purposes. A long-term lease will be entered into immediately after the boundary is amended. In its present zoning, the property cannot be economically utilized for anything for the reasons above set forth. The owner desires to have his property utilized for some economic purpose. There is no other available land in the Keaau village area of sufficient size and location for utilization for the proposed Lessee's purposes.
- (2) (a) The land is usable and adaptable for the use it is proposed to be classified, because it is level, it has access to both the village of Keaau and the main highway (via the road entering the main highway).


L. N. NEVELS, JR.

NEVELS AND CHANG
Hilo Hotel Building
Hilo, Hawaii

Telephone: Hilo 45-775

Attorneys for
W. H. SHIPMAN, LTD.



1092-G
W. H. Shipman, Ltd.
(Owner)

1092-H
Leocardio Peralta - Owner

1092-B

40 - FOOT ROAD

True North
Scale 1" = 50'
Special permit
application

1092-J-1
21,780 Sq. Ft. or
0.50 Ac.

1092-J-2
21,779 Sq. Ft.
or 0.50 Ac.

1092-J-3
21,779 Sq. Ft.
or 0.50 Ac.

1092-C

60-FOOT ROAD 1092-K



THIS WORK WAS PREPARED BY ME
OR UNDER MY SUPERVISION.

John N. Smith

Land Court Application 1053
Subdivision of Lot 1092-J
as shown on Map 81

Into Lots 1092-J-1, 1092-J-2 and 1092-J-3
Keeau, Puna, Hawaii

Survey & plan by Murray, Smith & Assoc., Ltd.
P.O. Box 612, Hilo

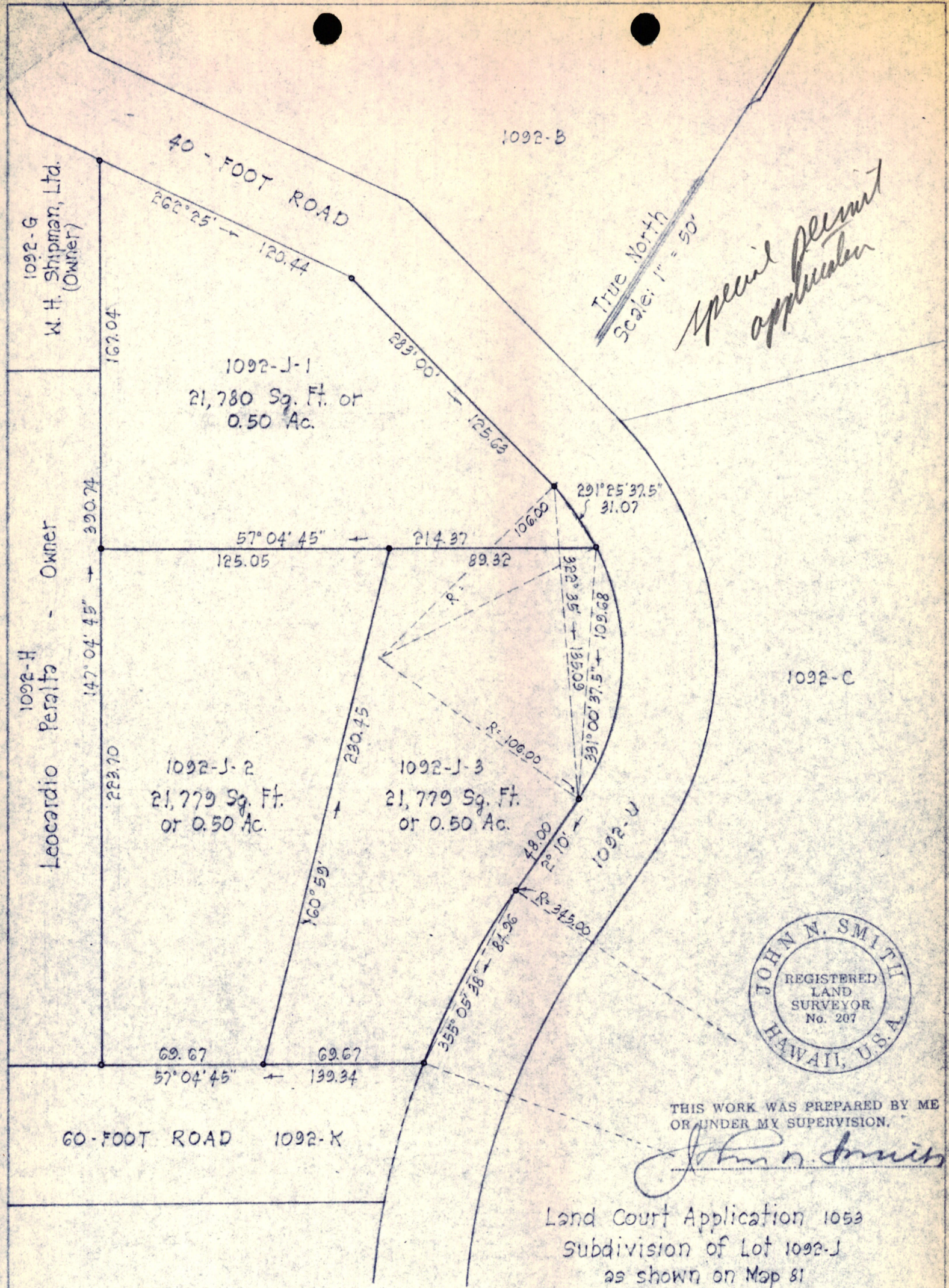
Owner: David Kekuawela
Address: 70 W. H. Shipman, Ltd.
230 Kekuanaoa St., Hilo
Tax Map Key: 1-G-141 : 14
September 4, 1964

1400

RECEIVED

SEP 9 1964

State of Hawaii
LAND USE COMMISSION



True North
Scale: 1" = 50'

*Special Permit
application*



THIS WORK WAS PREPARED BY ME
OR UNDER MY SUPERVISION.

John N. Smith

Land Court Application 1053
Subdivision of Lot 1092-J
as shown on Map 81
Into Lots 1092-J-1, 1092-J-2 and 1092-J-3
Kaeau, Puna, Hawaii

Survey & plan by Murray, Smith & Assoc., Ltd.
P.O. Box 612, Hilo

Owner: David Kekuawela
Address: % W. H. Shipman, Ltd.
230 Kekuanaoa St., Hilo
Tax Map Key: 1-G-141
September 4, 1964

1400

RECEIVED

SEP 9 1964

State of Hawaii
LAND USE COMMISSION

MAPS - A64-69

True North
Scale: 1 in. = 100 ft.

VOLCANO

ROAD

Preliminary
LAND COURT

STATE OF HAWAII

LAND COURT APPLICATION 1053

SUBDIVISION OF LOT A-1G-A-3-B

AS SHOWN ON MAP

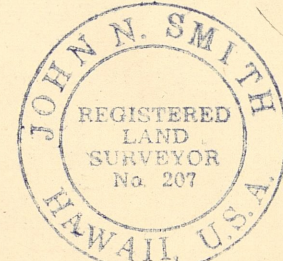
INTO LOTS A-1G-A-3-B-1, A-1G-A-3-B-2,
A-1G-A-3-B-3, A-1G-A-3-B-4 AND A-1G-A-3-B-5

KEAAU, PUNA, HAWAII

Final changed to
include

MURRAY, SMITH & ASSOCIATES, LTD.

By: *John N. Smith*
Registered Surveyor
Certificate Number 207-9



Hilo, Hawaii
July 23, 1964

OWNER: W.H. SHIPMAN, LIMITED
OWNER'S CERTIFICATE OF TITLE NUMBER

AUTHORIZED AND APPROVED BY ORDER OF THE
JUDGE OF THE LAND COURT DATED:
BY ORDER OF THE COURT.

REGISTRAR OF THE LAND COURT

NOTE:

— denotes no vehicle access permitted
— d — denotes access permitted

Total of 6.897 ACS

Tax Map Key: 1-G-03

15" x 21" = 2.2 Sq. Ft.

3846

For Land Use Comm
from Wheeler
Atty
Hilo Hawaii

See Pet. for Amendment
of Final Restud Boundary
W H Shipman Ltd.

→ To Panch

KEAAU, PUNA, HAWAII

REGISTRAR OF THE LAND COURT

3848

STATE OF HAWAII

Land Use Commission
426 Queen Street

Department, Bureau or Commission

OFFICIAL
RECEIPT

No.

87

RECEIVED from W. H. Shipman, Ltd. September 9, 1944

Fifty and 00/100

DOLLARS

To Change the district designation of Puna, Hawaii
from its present classification — 8 for public
leaving by the LUC.

\$150.00 ⁰⁰/₁₀₀ Palani Kaul
Check - No. 885

Amy Kamihira
Public Accountant