

HARRY M. FLAGG & PAUL R. MILLER

A64-76

July 1, 1969

Mr. Clinton I. Shiraishi
Attorney and Counselor-at-Law
P. O. Box 1146
Lihue, Kauai 96766

Subject: Rezoning Application A64-76
Harry M. Flagg and Paul R. Miller
Tax Map Key: 2-3-02: 30 and 31, Kalaheo
37 acres from Agricultural
to Urban

Dear Mr. Shiraishi:

Act 187 of the 1961 Legislature, the State Land Use Law, provides for a mandatory periodic 5-year review of the State land use district boundaries as established by the Land Use Commission. Since the current boundaries were established in August of 1964, the Land Use Commission is about to reestablish these district boundaries. A meeting has been scheduled for July 8 at the Wilcox Elementary School Cafetorium at 7:00 p.m., Lihue, Kauai, to consider and enact the Kauai district boundaries.

Since the above petitioners requested and received a reclassification of their lands from Agricultural to Urban since the establishment of the permanent district boundaries in 1964, the Commission would like to receive a progress report on the development of this property before reclassifying the lands in the County of Kauai in the appropriate district.

You may submit a written statement to the Commission or appear at the Land Use Commission meeting on July 8 at Lihue, Kauai, and present a verbal status report.

Very truly yours,

RAMON DURAN
Executive Officer

July 1, 1965

Mr. Clinton I. Shiraishi
Attorney and Counselor-at-Law
P. O. Box 1146
Lihue, Kauai, Hawaii 96766

Dear Mr. Shiraishi:

HARRY
The petition (A64-76) by Henry M. Flagg and Paul R. Miller to incorporate into the Kalaheo-Kai Urban District on Kauai 37 acres of the parcels described by Fourth Division TMK 2-3-02: 30 and 31 was approved by the Land Use Commission at its meeting on June 25, 1965.

Sincerely,

RAYMOND S. YAMASHITA
Executive Officer

cc: Chairman Thompson
Mr. Harry M. Flagg
Dept. of Taxation
Kauai Planning and Traffic Commission

Eagle-A
Type-Erase

25% COTTON FIBER

STATE OF HAWAII
LAND USE COMMISSION

VOTE RECORD

ITEM A64-76 Flagg & Miller
DATE 6/25/65
PLACE LLC Hearing Room, Honolulu
TIME 4:30 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: Nishimura - Approve - Contiguous -
Ferry - Sec

June 18, 1965

MEMORANDUM

TO: Land Use Commission

FROM: Staff

SUBJECT: Harry M. Flagg and Paul R. Miller (A 64-76) and
Grove Farm Company (A 64-77)

1. The petition by Flagg and Miller was heard on April 9, 1965 in Lihue. Staff advised at that time that the petition for incorporating about 37 acres to the Kalaheo-kai Urban District be denied.

The staff report points out that the area under petition is not critical to agricultural needs, is appropriately located for urban expansion and is in fact proposed for urban use by the Kauai General Plan. However, the staff report emphasizes that the 37 acres would constitute a large addition to the Kalaheo-kai Urban District, that the Kalaheo-kai Urban District is even now sparsely settled (one house per two acres) and contains adequate room for urban expansion, that the addition would be excessive to Kalaheo's population growth experience and that employment potentials have not materialized to indicate further need for additional urban areas. The staff report cautions against lowering Kalaheo-kai densities further unless petitioner demonstrates a feasible plan.

The staff report concludes that there is no evidence of the need for additional urban lands and that the Standards for Determining District Boundaries have not substantially been met.

To date staff evaluation of the evidence has not been altered since the only evidence introduced in addition to that presented by the staff is that:

- 1) Kauai schools are not conveniently located to most schools, students or vice versa;
- 2) Only Eleele has a sewer system; and
- 3) In 1963 a boundary change petition A(T)63-35, by Mr. Sensuke Ueunten to add 2.42 acres to the Kalaheo-kai Urban District was approved.

Points one and two only serve to emphasize the need on Kauai to curtail indiscriminate urbanization so as to increase the efficiency of public services and concentrate public services in raising the standards of existing urban areas. Point three is best answered by the staff report on Sensuke Ueunten, A(T)63-35, November 30, 1963:

"In making these recommendations the staff is aware of a strain on water resources of the area if too large an area were urbanized or if urbanization were intensified to a material degree. While approval of the change to an urban classification does not mean approval of Mr. Ueunten's subdivision, the staff feels that even in the latter event the subdivision would not create an undue number of dwelling units causing a severe strain on water resources. If the petition were to have led to the formation of a large number of dwelling units, the staff recommendation would have been for denial. Such is not the case in this instance."

Since November 30, 1963 the final land use district boundaries were drawn which carries with it the presumption that lands adequate to accommodate a ten year growth in population were included in the Kalaheo Urban Districts. As of March 1965 there were only 48 houses in the over 100 acres comprising the Kalaheo-kai Urban District. Thus further urbanization in Kalaheo-kai would be premature not only in terms of water system capacities but also because of an excess in Urban lands.

2. The petition by Grove Farm Company was also heard on April 9, 1965 in Lihue.

Staff advised that the 920 acres under petition were in agricultural use and were not critically needed for a conservation use. It therefore recommended that the 920 acres be reclassified from Conservation to Agricultural.

At this date additional evidence has not been submitted which would alter this recommendation.

June 17, 1965

Mr. Clinton I. Shiraishi
P. O. Box 1146
Lihue, Kauai, Hawaii 96766

Dear Mr. Shiraishi:

On June 7 you were advised that the Land Use Commission meets on June 25 at 1:00 P.M. in Honolulu.

The agenda for that day is enclosed so that you may be advised of the approximate time your matter will be taken up.

Sincerely,

RAYMOND S. YAMASHITA
Executive Officer

Encl.
cc: Chairman M. Thompson

STATE OF HAWAII
LAND USE COMMISSION

Minutes of Public Hearing and Meeting

Lihue, Kauai

1:00 P.M. - April 9, 1965

Commissioners

Present:

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

Staff

Present:

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

The public hearing was called to order by Chairman Thompson who said an opening prayer. The procedures of the public hearing were outlined and the commissioners and staff were introduced. All interested persons and staff members who would be presenting testimonies were sworn in by the Chairman.

PETITION OF HARRY M. FLAGG AND PAUL R. MILLER (A64-76) FOR AN AMENDMENT OF THE URBAN DISTRICT BOUNDARY AT KALAHEO-KAI TO INCORPORATE APPROXIMATELY 37 ACRES FOR RESIDENTIAL USE: Described as Fourth Division, TMK 2-3-02: 30 and 31

Mr. Gordon Soh presented the background and analysis on the above petition. The staff recommended that the petition be denied on the basis that:

1. There is no evidence that the land is needed for a use other than that for which the district in which it is situated is classified;
2. The instant parcels do not substantially meet the standards for determining district boundaries adopted by the Land Use Commission.

Commissioner Nishimura corrected staff's statement that the residential lot prices in the subject area were 60¢ a sq. ft. He stated that they were 30¢ a sq. ft.

Mr. Matsuo Asari, practicing attorney, represented the petitioner. He informed the commissioners that Mr. Clinton Shiraishi was the petitioners' regular representative but due to prior commitments Mr. Shiraishi was not able to make this hearing. Mr. Asari stated that the overall impression he got from the staff report is that:

1. The land is physically unsuitable for farming;
2. The land is unsuitable for pasturing economically -- physically possible, but economically not; and
3. There is no demand for residential house lots and for that reason (in spite of the fact that it is agriculturally unsuitable) economically it should not be classified as Urban.

Mr. Asari stated that the rules of the Commission specify urban uses to be more than just residential and that the rules seem to define urban uses to be uses other than agricultural. He suggested that urban uses can be other than residential uses and that such uses could be restricted by an agricultural classification.

Mr. Asari pointed out that although the report mentions population concentration and housing development of only 12 homes built in the immediate vicinity in recent years, on an island with only 27,000 people, 12 homes are a considerable number.

Mr. Asari stated that the report's findings relative to the Commission's restricting standards are not directly unfavorable except for subparagraphs a and b. He stated the other findings indicate no specific objections.

He stated that there would be no drainage problems resulting because of small lot sizes. The petitioner does not propose small contiguous lots but large lots.

In rebuttal to a statement in the report that there is no sewer line, Mr. Asari informed the Commission that there is only one sewer system on the island of Kauai, that the only system is in Eleele, that no other place has one, and that there is in the foreseeable future no indication that there will be a sewer system in the other locale. By way of rebuttal to a statement in the report that the schools are $\frac{1}{2}$ mile away, Mr. Asari noted that a statistical report from the School Department cites that out of some 7,000 public school students, about 3,000 live between $\frac{1}{2}$ a mile and 1 mile, about 2,000 live more than a mile, and about 2,000 students live within the $\frac{1}{2}$ mile area.

In response to the inference that petitioner's lands are far removed from the Kalaheo-Uka area, Mr. Asari quoted a staff report prepared for the special permit application by Stanley Ueunten a year ago (pointing to map to show Mr. Ueunten's property which adjoins the property now under petition) in which staff recommended that Mr. Ueunten's petition be approved on the basis that the Kalaheo urban district was logically one.

Mr. Asari stated that the staff earlier argued that the two Kalaheo districts are essentially a unit, that the implication is that the staff would support any kind of urbanization to join the two districts and that this report was made only a year ago. Mr. Asari stated that it is his understanding that in approving Mr. Ueunten's petition, Mr. Ueunten's property was reclassified as Urban without a request from the landowner. It was reclassified Urban by the Commission without the request of Mr. Ueunten.

He stated that if it be agreed that the lands under petition are not city-like it should also be pointed out that there are many places on Kauai that do not have schools, do not have any public facilities, and still are classified Urban in the immediate Lihue area. These areas have no sewer system, no public facilities whatsoever, and yet are classified Urban. He stated he could not reconcile the basic argument of less than a year ago that the Kalaheo Urban Districts should be physically integrated and now stating that it should not be so. The parcel under petition lies directly between the areas classified as Urban.

Mr. Asari felt that there is some justification that this parcel would perhaps not be a booming residential area with thousands of people living there. This lot was intended to be subdivided and a good deal of money spent on it. However, the Urban classification will not restrict the owner to residential use alone. Mr. Asari's understanding, from Mr. Shiraishi -- and not from the petitioner -- is that the petitioner has in mind the development of cabins in the area taking advantage of the existing small but expanding golf course. Mr. Asari asserted that agricultural use of the parcel is not possible and there is no economic value in using it for pasture.

Mr. Asari stated that the parcel is in an area where there is great demand for development. He questioned whether demand is a proper criteria relative to development. He pointed out that the Kalaheo area is not a situation where there are a 100 people looking for a house and lot and taking what is referred to them. He suggested that such a situation may possibly exist in Lihue where only a limited number of residential lots are available. He argued that the instant case is not a situation where the land is offered to known buyers. Mr. Asari stated that perhaps the problem of the demand for houselots on the outside islands can be explained.

In response to questions raised by the Commission, Mr. Asari stated that he did not agree with staff's contention that the land is not good for urban purposes. He stated that the lack of an industry is no basis for arguing that the land under petition be kept in agricultural use. He explained that he is not talking about economics in the sense of money making but rather economics relative to the best use of the land and what would be best insofar as the people are concerned.

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

The public hearing was closed on the petition by Flagg and Miller.

PETITION BY GROVE FARM COMPANY (A64-77) FOR REMOVAL FROM THE CONSERVATION DISTRICT OF 920 ACRES TO BE PLACED IN AN AGRICULTURAL DISTRICT: Described as a portion of Fourth Division TMK 3-4-01: 1

Mr. Gordon Soh presented the background and analysis on the above petition (see report on file). The staff recommended approval, stating that the agricultural use of the land might be better fostered if the land is placed in an Agricultural District. Planting the site to cane would be a more productive use, the benefits from which could be reflected in higher standards of living and a broader tax base. In the absence of any conservation need for the site, productive uses should be encouraged.

Mr. W. M. Moragne represented Grove Farm. He was very pleased with staff's recommendation. He had nothing to add except to bring the Commission up-to-date on Grove Farm's proposed plan for this area.

There were no additional testimonies or comments made and the Chairman announced that this Commission will receive additional written testimonies or protests within the next 15 days and will take action on this petition 45 to 90 days from this hearing.

The public hearing was closed.

PETITION BY TOMITA SAKAI (KAUAI SP64-4) FOR A SPECIAL PERMIT TO ADD TWO HOUSES ONTO 40.139 SQ. FT. OF PROPERTY SITUATED IN A RURAL DISTRICT IN THE HEIGHTS ABOVE KALAHEO: Described as Fourth Division TMK 2-4-05: 84

Mr. Gordon Soh presented the staff's analysis and background on the above petition (see report on file). The staff's recommendation was for denial on the bases that:

1. The proposed use is not "unusual and reasonable."
2. The proposed use would not promote the effectiveness and objectives of the law because:
 - a. It would violate the integrity of Rural District zoning.
 - b. It would confuse rather than clarify districting as a basis for real property assessments and force lands from uses for which Rural Districts were devised to protect.

Correction to staff's statement in regard to the area involved was made after questions were raised by the Commission. The area under petition contains 40,139 sq. ft. instead of 49,139 sq. ft. as stated. Mr. David Wong, Kauai Planning and Traffic Commission Planning Director, confirmed that the parcel contains 40,000 sq. ft.

Discussion relating to this petition and Ann Kali's request was held. A commission member of the Kauai Planning and Traffic Commission requested that the Land Use Commission reconsider their action made on the Ann Kali petition.

Commissioner Nishimura asked whether the application was for one or two additional homes. It was pointed out by Commissioner Ota that the applicant was seeking to construct two additional homes on his lot.

Commissioner Nishimura moved to deny the petition for a special permit for construction of two additional homes. Commissioner Ferry seconded the motion. The Executive Officer polled the commissioners as follows:

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

Disapproval: None

The motion to deny was carried.

ACTION ON PETITION BY JOSEPH R. PAO (A64-71) FOR A BOUNDARY CHANGE

The Executive Officer read into the record a letter from Joseph R. Pao dated 4/6/65 (see files) requesting that the Commission defer action on his petition until their next meeting. The Commission unanimously agreed to defer action until the Commission's next meeting.

DISCUSSION ON SENATE BILL 262

The Chairman informed the Commission that Senate Bill 262 has been passed and was now in the House Lands and Agricultural Committee. The Commission discussed the merits and demerits of the bill. It was the consensus of the Commission that it continue in opposition of this bill.

REVIEW OF THE ANN KALI'S PROPERTY

The Chairman stated that at its last meeting it was decided that a field survey of the Ann Kali property be made by the Commission to review the possibility of reclassifying a portion of the Hanapepe Rural District to Urban. He stated that this has been made this morning.

Commissioner Nishimura stated that the boundary lines should be changed from Rural to Urban. He stated that there were areas in there for possible house lot development. He pointed out that prime agricultural lands had been taken away for the Hanapepe house lot subdivision. He objected to the staff making an evaluation of the area and requested that the Commission initiate a public hearing for a boundary change in this area.

Commissioner Ferry stated that this Commission should consider whether this land is Urban in nature.

The Chairman stated that the staff will make an evaluation of this area to determine whether this area should be urbanized and to have its recommendation ready at the Commission's next meeting.

TENTATIVE SCHEDULE FOR MAY 7 and 8, 1965

The tentative schedule for May 7 and 8, 1965 Lihue, Kauai and Lahaina, Maui was approved by the Commission. The consensus of the Commission was that action on the Joe Pao petition would also be held at this meeting.

DISCUSSION ON UNUSUAL AND REASONABLE USES FOR HARDSHIP CASES

Discussion was held on whether or not the Land Use Commission should allow subdivision of family properties for the exclusive use of family members and for a given period under special permit.

The Executive Officer summarized the ensuing discussion and stated that the issues involved are:

1. to alleviate social problems
2. to alleviate family financial hardship and
3. to discriminate between lands that are usable for agriculture and lands that are not.

He stated that it would seem proper to think about where most of our people are living. The way the land use is set up almost 80% or more are living in the urban areas. The Commission is solving only about 20% of this problem. He stressed that granting of special permits should be made on facts whether it is an unusual and reasonable use.

COMMUNICATIONS

Letters from Thomas O. Wells, Chairman, Community Beautification Committee, Chamber of Commerce of Honolulu, dated April 8, 1965; and from David C. Sanford, Historic Sites Committee Chairman, Conservation Council for Hawaii, dated April 6, 1965 were read into the record (see files for letters). In essence these letters requested that the Commission review and redetermine the Conservation District lines in the Diamond Head area.

Commissioner Wenkam stated that the Commission should inquire whether there is a need to change the boundary lines and to determine where the lines are in this area.

A lengthy discussion was held on this subject. The Chairman, however, stated that the staff will make a study and a review of this area to report back to the Commission at its next meeting.

The Commission adjourned this meeting at 4:45 p.m.

June 7, 1965

Mr. Clinton I. Shiraishi
Attorney and Counselor-at-Law
P. O. Box 1146
Lihue, Kauai, Hawaii 96766

Dear Mr. Shiraishi:

The Land Use Commission next meets on June 25, 1965, at 1:00 p.m., in the Land Use Commission hearing room, 426 Queen Street, Honolulu, Hawaii.

At that time the Commission will conduct a hearing on petitions for boundary change. Following this hearing, the Commission will hold a meeting at which time your petition, on behalf of Messrs. Flagg and Miller, for a change of district boundary for TMK 2-3-02: 30 and 31, Fourth Division, will be considered and action taken.

Although there is no requirement for you to be present, you may nevertheless wish to be.

Very truly yours,

RAYMOND S. YAMASHITA
Executive Officer

cc: Chairman M. Thompson
Kauai Planning and Traffic Commission
Messrs. Flagg & Miller

Land Use Commission To Stick Closer to Law

The requirement to comply with the purpose of the State's land use law, rather than yielding on grounds of personal hardships, was emphasized at the State Land Use Commission's meeting Friday afternoon in the County board room.

The point was emphasized by the commissioners in denying Tomita Sakai's application for a special permit to allow two

additional houses on his 49,139 square feet property in the rural area above Kalaheo, as well as in a brief discussion of the topic invited by Myron Thompson, commission chairman.

The commission began with a public hearing on two appeals for changes in the district boundaries—by Harry M. Flagg and Paul R. Miller for their 37-acre parcel near Kukuilono Park, from the agricultural to the urban district, and by Grove Farm Co. on a 920-acre section on Kilohana slopes, from conservation to agricultural district.

Gordon Soh presented the staff report for denial of the Flagg-Miller request on the grounds there was no need for additional urban land at Kalaheo and that the land didn't meet the standards for such district boundaries.

No Good for Other Use

Attorney Tatsuo Asari appeared in place of Clinton Shirashi, representing the petitioners. He stressed the staff report which acknowledged this land is unsuitable for agriculture and not economical even for a pasture operation.

As to the staff report that there is no present demand for more residential houselots in the area and hence the land should not be reclassified for urban uses, Mr. Asari said urban use could mean something other than residential. He mentioned a statement that had reached him indirectly about the possibility of cabins on the property for use by visitors interested in the golf course.

Jim P. Ferry, commission member in his role as chairman of the Board of Land and Natural Resources, remarked that cabins could be allowed under a special permit in an agricultural district.

Standards Are Different

Mr. Asari reviewed the staff report in reference to schools, (Continued on page 8)

THE GARDEN ISLAND

SECTION I—PAGE 8

WEDNESDAY, APRIL 14, 1965

Land Use—

(Continued from page 1)

sewer system and other facilities under the urban definition, and urged the commission not to apply big-city standards to urban requirements on Kauai.

He stressed that the commission almost a year ago had approved another such request for boundary change, in which the report emphasized the two residential sections in the Kukuilono area actually are one. Mr. Asari said the Flagg-Miller parcel fits into this single urban area.

The staff report recommended the requested boundary change for the Grove Farm land so that the area now used for pasture could be put into cane in late 1966 or early 1967.

The report said the land is suitable for new cane varieties, Grove farm already is putting some 950 additional acres leased from the Knudsen Trust into cane, and this Kilohana land is not needed for forestry or watershed.

Agricultural use could involve even more effective land reclamation and erosion control measures, it would not impair the scenic aspect. Instead, cane would add to the economy of the company and the state.

William Moragne said the study was so thorough, there was little more he could add. He spoke on what cane in this area could mean in economic terms and recent tests on overcoming the silica deficiency for successful growing of cane.

Policy in Special Cases

After unanimous rejection of Mr. Sakai's application for a special permit, the commission was invited to discuss the policy governing this sphere, involving substandard size subdivisions or additional building in below standard size lots.

Shiro Nishimura, the Kauai member, strongly favored a lenient policy, contending that

only a very small percentage of cases required such leniency to take care of the personal hardship factor.

Mr. Ferry asked, if personal hardship was the basis for granting special permits, what would the commission's stand be if Raymond Aki applied for relief from the Land Use requirements to take care of his children?

Without Pressure

The commission's next meeting will start May 7 on Kauai and continue the following day on Maui. At the Kauai session action will be taken on the Joe Pao petition to amend district boundaries on Oahu. Delaying action from Friday was decided on to allow petitioner to submit additional statements.

This application has run into some opposition on Oahu.

Robert Wenkam suggested a Honolulu meeting for action on this Honolulu application, so others interested could be on hand. Mr. Ferry inquired whether it was contended that the meeting place is a factor in the decision to be made.

Mr. Thompson ruled the Joe Pao petition is coming up for decision, not public hearing, and the Kauai meeting could do as well.

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APR 19 1965

State of Hawaii
LAND USE COMMISSION

*Copies
made for
Commission*

STATE OF HAWAII
LAND USE COMMISSION

REBUTTAL TO STAFF REPORT
A64-76 - HARRY M. FLAGG AND PAUL R. MILLER

The Petitioners do not disagree with the Staff Report that the lands in question are not fit for agricultural use. Rather, therein lies the Petitioners' ground for reclassification. That if the best use of the land is to be realized, it must be in a classification other than agricultural. The Staff Report's recommendation is based on two reasons:

The first is that "There is no evidence that the land is needed for a use other than that for which the district in which it is situated is classified. However, the "background" contained in your Staff Report contradicts said reason that there is no evidence that the land is needed for a use other than that for which the district in which it is situated is classified. If the land is admittedly unfit for agricultural use due to the soil composition, climatic conditions and topographical nature, and that "there is a modest market for residential sites in the area" and "the climate and general atmosphere appears to have some attractions to visitors to the area" (Staff Report pages 2 and 3), then the land should not, to the detriment of the public interest, be placed in a classification for which there is no use, but placed in a classification in which there is a use, though it be "modest".

In its recommendations, the Staff Report states further as its second reason that "the instant parcels substantially do not meet the Standards for Determining District Boundaries adopted by the Land Use Commission as guides for the granting of amendments."

The standards are taken separately and reasons spelled out in detail in pages 5 and 6 of said Report.

A casual glance gives the impression that the land in question does not meet the requirements of sub-paragraphs (a) through (j). But a more careful examination of each discloses the following:

(1) Sub-paragraph (c) has reference to plantation camps and hence properly excluded here.

(2) Sub-paragraph (d) requires sufficient reserve areas for urban growth which admittedly exists in this situation.

(3) Sub-paragraph (e) requiring proper drainage is satisfied herein.

(4) Sub-paragraph (f) which requires the land to be contiguous to existing urban areas is herein satisfied.

(5) Sub-paragraph (g) requiring appropriate locations is herein met.

(6) Sub-paragraph (h) is inapplicable, as the land in question does not have a high capacity for intensive cultivation.

(7) Sub-paragraph (i) does not apply, for the land in question is not a "small area".

(8) Sub-paragraph (j) does not apply as reclassification of this area would not "contribute towards scattered urban developments".

This leaves only sub-paragraphs (a) and (b). The Staff Report states that the site is not characterized by "city-like" concentrations of people, structures, streets and urban land uses. If such be the case, there would be a very few places on the Island of Kauai that would meet this requirement.

Sub-paragraph (b) provides that the "site under consideration is over one-half mile to centers of trade and to the heart of Kalaheo. It is served by a water system but not by sewer facilities. Nor is the site being planned for sewer service by the County of Kauai. Schools and playgrounds are located over a half-mile away."

For the Commission's information, there is only a single sewer system in the entire Island of Kauai serving the small community of Eleele. Also, there are some 5,500 public school students out of a total of 7,000 students that live more than 1/2 mile from their respective schools. The petitioners strongly argue that the facts do not warrant the findings as set forth in said sub-paragraphs (a) and (b). Perhaps, the most lucidly enunciated reason for reclassifying the site in question to Urban was given in Staff Report A(T) 63-35, dated November 30, 1963, involving a parcel adjoining petitioners' parcel of which the analysis and the recommendations are herein set forth.

Analysis:

Harland Barthomew and Associates has included the area between Kalaheo-Uka and Kalaheo-Waena in its proposals for final district boundaries.

For this reason, the Planning & Traffic Commission of Kauai has expressed its support of Mr. Ueunten's petition.

Your staff concurs in the action taken and further concurs in the proposal by Harland Bartholomew and Associates to combine the Kalaheo-Waena and Kalaheo-Uka urban districts into a single urban district. The two districts are essentially one community with Public facilities located in Kalaheo-Uka.

Recommendation:

Your staff recommends approval of Mr. Ueunten's petition not as an endorsement of his plans to subdivide but because the Kalaheo urban districts are logically one.

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APR 19 1965

STATE OF HAWAII
LAND USE COMMISSION

State of Hawaii
LAND USE COMMISSION

REBUTTAL TO STAFF REPORT
A64-76 - HARRY M. FLAGG AND PAUL R. MILLER

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In its recommendations, the Staff Report states further as its second reason that "the instant parcels substantially do not meet the Standards for Determining District Boundaries adopted by the Land Use Commission as guides for the granting of amendments."

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(1) Sub-paragraph (c) has reference to plantation camps and hence properly excluded here.

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This leaves only sub-paragraphs (a) and (b). The Staff Report states that the site is not characterized by "city-like" concentrations of people, structures, streets and urban land uses. If such be the case, there would be a very few places on the Island of Kauai that would meet this requirement.

Sub-paragraph (b) provides that the "site under consideration is over one-half mile to centers of trade and to the heart of Kalaheo. It is served by a water system but not by sewer facilities. Nor is the site being planned for sewer service by the County of Kauai. Schools and playgrounds are located over a half-mile away."

For the Commission's information, there is only a single sewer system in the entire Island of Kauai serving the small community of Eleele. Also, there are some 5,500 public school students out of a total of 7,000 students that live more than 1/2 mile from their respective schools. The petitioners strongly argue that the facts do not warrant the findings as set forth in said sub-paragraphs (a) and (b). Perhaps, the most lucidly enunciated reason for reclassifying the site in question to Urban was given in Staff Report A(T) 63-35, dated November 30, 1963, involving a parcel adjoining petitioners' parcel of which the analysis and the recommendations are herein set forth.

Analysis:

Harland Barthomew and Associates has included the area between Kalaheo-Uka and Kalaheo-Waena in its proposals for final district boundaries.

For this reason, the Planning & Traffic Commission of Kauai has expressed its support of Mr. Ueunten's petition.

Your staff concurs in the action taken and further concurs in the proposal by Harland Bartholomew and Associates to combine the Kalaheo-Waena and Kalaheo-Uka urban districts into a single urban district. The two districts are essentially one community with Public facilities located in Kalaheo-Uka.

Recommendation:

Your staff recommends approval of Mr. Ueunten's petition not as an endorsement of his plans to subdivide but because the Kalaheo urban districts are logically one.

1541
RECEIVED

APR 10 1965

STATE OF HAWAII
LAND USE COMMISSION

State of Hawaii
LAND USE COMMISSION

REBUTTAL TO STAFF REPORT
A64-76 - HARRY M. FLAGG AND PAUL R. MILLER

The Petitioners do not disagree with the Staff Report that the lands in question are not fit for agricultural use. Rather, therein lies the Petitioners' ground for reclassification. That if the best use of the land is to be realized, it must be in a classification other than agricultural. The Staff Report's recommendation is based on two reasons:

The first is that "There is no evidence that the land is needed for a use other than that for which the district in which it is situated is classified. However, the "background" contained in your Staff Report contradicts said reason that there is no evidence that the land is needed for a use other than that for which the district in which it is situated is classified. If the land is admittedly unfit for agricultural use due to the soil composition, climatic conditions and topographical nature, and that "there is a modest market for residential sites in the area" and "the climate and general atmosphere appears to have some attractions to visitors to the area" (Staff Report pages 2 and 3), then the land should not, to the detriment of the public interest, be placed in a classification for which there is no use, but placed in a classification in which there is a use, though it be "modest".

In its recommendations, the Staff Report states further as its second reason that "the instant parcels substantially do not meet the Standards for Determining District Boundaries adopted by the Land Use Commission as guides for the granting of amendments."

The standards are taken separately and reasons spelled out in detail in pages 5 and 6 of said Report.

A casual glance gives the impression that the land in question does not meet the requirements of sub-paragraphs (a) through (j). But a more careful examination of each discloses the following:

(1) Sub-paragraph (c) has reference to plantation camps and hence properly excluded here.

(2) Sub-paragraph (d) requires sufficient reserve areas for urban growth which admittedly exists in this situation.

(3) Sub-paragraph (e) requiring proper drainage is satisfied herein.

(4) Sub-paragraph (f) which requires the land to be contiguous to existing urban areas is herein satisfied.

(5) Sub-paragraph (g) requiring appropriate locations is herein met.

(6) Sub-paragraph (h) is inapplicable, as the land in question does not have a high capacity for intensive cultivation.

(7) Sub-paragraph (i) does not apply, for the land in question is not a "small area".

(8) Sub-paragraph (j) does not apply as reclassification of this area would not "contribute towards scattered urban developments".

This leaves only sub-paragraphs (a) and (b). The Staff Report states that the site is not characterized by "city-like" concentrations of people, structures, streets and urban land uses. If such be the case, there would be a very few places on the Island of Kauai that would meet this requirement.

Sub-paragraph (b) provides that the "site under consideration is over one-half mile to centers of trade and to the heart of Kalaheo. It is served by a water system but not by sewer facilities. Nor is the site being planned for sewer service by the County of Kauai. Schools and playgrounds are located over a half-mile away."

For the Commission's information, there is only a single sewer system in the entire Island of Kauai serving the small community of Eleele. Also, there are some 5,500 public school students out of a total of 7,000 students that live more than 1/2 mile from their respective schools. The petitioners strongly argue that the facts do not warrant the findings as set forth in said sub-paragraphs (a) and (b). Perhaps, the most lucidly enunciated reason for reclassifying the site in question to Urban was given in Staff Report A(T) 63-35, dated November 30, 1963, involving a parcel adjoining petitioners' parcel of which the analysis and the recommendations are herein set forth.

Analysis:

Harland Barthomew and Associates has included the area between Kalaheo-Uka and Kalaheo-Waena in its proposals for final district boundaries.

For this reason, the Planning & Traffic Commission of Kauai has expressed its support of Mr. Ueunten's petition.

Your staff concurs in the action taken and further concurs in the proposal by Harland Bartholomew and Associates to combine the Kalaheo-Waena and Kalaheo-Uka urban districts into a single urban district. The two districts are essentially one community with Public facilities located in Kalaheo-Uka.

Recommendation:

Your staff recommends approval of Mr. Ueunten's petition not as an endorsement of his plans to subdivide but because the Kalaheo urban districts are logically one.

April 7, 1965

Mr. Clinton I. Shiraishi
Attorney and Counselor-at-Law
P. O. Box 1146
Lihue, Kauai, Hawaii 96766

Dear Mr. Shiraishi:

Enclosed is a report that we have just prepared on your petition, on behalf of Messrs. Flagg and Miller, to amend the Urban District boundaries at Kalaheo-Kai. The report will be presented to the Land Use Commission when it meets in the County Board Room in Lihue on April 9 to hold a public hearing on your petition.

The Land Use Commission will not receive the staff report until the actual public hearing on this issue is opened. In accordance with appropriate procedures, the staff does not discuss nor submit the staff report to the Land Use Commission until the public hearing is opened. This procedure is followed to protect the petitioner's interest.

Please note that the staff report is not favorable to your petition. You may wish to take advantage of the few days remaining before the public hearing to pull together data and reasons to strengthen your petition.

Sincerely,

RAYMOND S. YAMASHITA
Executive Officer

Enclosure - 1

cc: Chairman M. Thompson

Messrs. H. Flagg and P. Miller

STATE OF HAWAII
LAND USE COMMISSION

Board of Supervisors' Board Room
Lihue, Kauai

1:00 P.M.
April 9, 1965

STAFF REPORT

A64-76 - HARRY M. FLAGG
AND PAUL R. MILLER

District Classification: AGRICULTURAL

BACKGROUND

The attorney for Henry M. Flagg and Paul R. Miller petitions for an amendment of the Urban District boundary at Kalaheo-Kai so as to incorporate approximately 37 acres owned by Messrs. Flagg and Miller. The apparent reason the change is requested is that residential use of the 37 acres is proposed.

Maps and materials submitted with the petition do not indicate the exact nature of development contemplated. Description and comments on the development consequently must be minimal at the present time.

The site is described by Fourth Division parcels TMK 2-3-02: 30 and 31, except for a lot approximately 26,645 square feet in area located along Papalina Road.

The site lies north of the Kalaheo-kai Urban District, an area in excess of 100 acres and occupied by approximately 48 homes. To the west is Kukuilono Park. To the north is an area of pineapple land, idle since the closing of the Kauai Pineapple Company cannery. Further to the north is the Kalaheo-uka Urban District and a number of dedicated lands. The dedicated lands form an incomplete arc from the north to the west.

The site appears to have been in agricultural use at one time. As late as 1958, it does not appear to have been in pineapple although it may have been in times prior to the introduction of mechanical field techniques.

Grazing may also have been attempted. The soil is generally of Alaeloa silty clay, severely eroded moderately steep phase. This class of land "was at one time used mostly for pineapple but is now mainly in pasture."^{1/} The soil produces "a moderately large quantity of forage."

The class of land generally contains slopes of 15 to 30%. Half the site under petition is in slopes of 20% or more. Cultivating machinery "can be used but only with difficulty."

Median annual rainfall is approximately 60 inches. Monthly medians range only between 3 and 7 inches thus offsetting the low water-holding qualities of this steep land. At lower elevations, however, annual variations in rainfall may have serious effects on such long-term agricultural enterprises as cattle raising. In a competitive market situation the difference may be decisive.

Much of the area in and around Kalaheo was formerly State land released as homesteads. Kalaheo is one of two areas on Kauai where quantities of fee simple land can be found by persons not employed by sugar plantations.

^{1/} Soil Survey, Territory of Hawaii, USDA and HAES, 1955.

There is a modest, but undocumented, market for residential sites in the area. The climate and general atmosphere appears to have some attraction to visitors to the area. This may be evident in one of three subdivisions in the Kalaheo-kai area, where a small number of non-Kalaheo residents have reportedly purchased large residential lots at prices up to 60¢ a square foot.

Between 1950 and 1960 the population of nearby Kalaheo-uka increased from 972 to 1,185, a modest increase of about 1.15% a year.

Residents of the area reportedly find employment in various sections of the island with significant numbers of young employees finding employment with Grove Farm. Employment potentials possible by the development of the Poipu area are slow in materializing, but this picture could change if an entrepreneur could be found to finance a large hotel and conclude an operation agreement with the Sheraton chain. It is reported that almost all of the nearly 100 employees released by the closing of the Kauai Pineapple Company cannery have found re-employment.

Because of the land tenure situation on Kauai, some residents are optimistic that any increase in employment potential will result in increased demands for residential areas where fee simple lands are available. They point out that the most centrally located fee simple lands are available primarily in Kapaa and Kalaheo. At odds with this position is the casual way in which landowners in the area appear to make homesites available. A few landowners reportedly sell as they feel inclined.

Perhaps the most recent developments occurred in the Kalaheo-kai area. As many as three roadside subdivisions were created prior to 1958 resulting

in a little more than a dozen homes. A third containing 9 lots was begun about that time resulting in five homes. Prior to January 1963, the first increment of the Royal Grove Estates subdivision, containing about 26 lots, was begun. There are now three homes in that subdivision.

Aside from Papalina and Waha Roads, roadway development in the Kalaheo-kai area is minimal. An 8" line leads into the area. This line becomes a six inch line along the southern extremity of the Royal Grove Estates subdivision and a 1½" line in the vicinity of the Dang Subdivision.

Along Papalina Road an eight inch line is available to the petitioner; along Waha Road, a six inch line. Just off Waha Road is a low yield, high water quality, exploratory well recently completed by the State.

All schools are located in Kalaheo-uka as is a six-man fire station.

Police stations are located in Lihue and Waimea.

ANALYSIS

At a meeting on December 3, 1964 the Kauai County Planning and Traffic Commission voted to recommend approval of this petition on the basis that the desired use will not adversely affect surrounding properties, and that it concurred in the petitioner's opinion that the site is not suitable for agricultural use and should be placed in residential use.

In determining the boundaries for Urban Districts, Rule 2.7 of the Land Use Commission's regulations requires that certain standards shall apply. These standards were observed in drafting the final district boundaries which became effective about 8 months ago. Since but a short time has elapsed, your staff would reason that compelling and convincing reasons must exist why those boundaries should now be changed.

By letter dated December 21, 1964, attorney for the petitioner advised that it was his intention to submit supporting evidence and data for the petition at the time of its hearing. By letter dated December 28, 1964 he was advised of paragraphs 2.7 and 2.8 of the Commission's regulations. The staff's views and comments on paragraph 2.7 follow:

- (a) The site under petition is not characterized by "city-like" concentrations of people, structures, streets and urban land uses.
- (b) The site under consideration is over one-half mile to centers of trade and to the heart of Kalaheo. It is served by a water system but not by sewer facilities. Nor is the site being planned for sewer service by the County of Kauai. Schools and playgrounds are located over a half-mile away.
- (c) (Standard c is not applicable.)
- (d) Over one hundred acres have been placed in the Kalaheo-kai urban district. There are now only four dozen homes in the area. Population growth in Kalaheo-uka has been slight averaging but 1.15% a year. Employment potentials have not yet materialized to foster much optimism for more rapid population expansion.
- (e) The site in question is well drained primarily because half the site is in steep slopes and much of the remainder in moderate slopes.
- (f) The site is contiguous to the Kalaheo-kai Urban District, but the overall density of the district is low, amounting to only one home per two acres.
- (g) The site in question may be appropriately located for expansion of present Urban District since it lies on the Kalaheo-uka side of the Kalaheo-kai district. However, it is proposed for urban development by the Kauai General Plan which looks 20 years into the future.
- (h) The site does not have a high capacity for intensive cultivation, but it is of value for grazing purposes.
- (i) The site in question is 37 acres in size or over one-third the area of lands now in the Kalaheo-kai district.

- (j) Urban districting of the site could only tend to lower the density of development in the Kalaheo-kai area unless it can be shown by the petitioner that his development proposal is not purely speculative and that homes within the site can be economically developed and competitively marketed.

RECOMMENDATION

The conclusion reached by the staff is that expansion of the Kalaheo-kai Urban District is not warranted at this time. It is recommended that, in the absence of strong and compelling reasons to the contrary, the district boundaries be maintained substantially along the lines proposed by the Kauai General Plan. On the basis of available information, field survey and analysis, staff recommends disapproval of this petition for the following reasons:

1. There is no evidence that the land is needed for a use other than that for which the district in which it is situated is classified.
2. The instant parcels substantially do not meet the Standards for Determining District Boundaries adopted by the Land Use Commission as guides for the granting of amendments.

**NOTICE OF PUBLIC HEARING
TO CONSIDER PETITIONS FOR CHANGE
OF DISTRICT BOUNDARY WITHIN THE
COUNTY OF KAUAI BEFORE THE LAND
USE COMMISSION OF THE STATE OF HA-
WAIL.**

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

TIME AND PLACE

In the Board Room of the Board of Supervisors, County of Kauai, Lihue, Kauai, on April 9, 1965, at 1:00 p.m., or as soon thereafter as interested persons may be heard.

DOCKET NUMBER AND PETITIONER:

(1)	(2)
A64-76, Harry M. Flagg and Paul R. Miller	A64-77, Grove Farm Company, Ltd.

TAX MAP KEY:

Fourth Division, 2-3-02: 30 and 31	Fourth Division, 3-4-1: 1 (Portion)
---------------------------------------	--

PRESENT DISTRICT CLASSIFICATION:

Agriculture

Conservation

CHANGED REQUESTED:

To amend District Boundaries near Palalina Road as to incorporate approximately 37 acres within the Kalaheo-Kai Urban District for an unspecified urban use.

To amend District Boundaries in the vicinity of the Lihue-Koloa Forest Reserve and Kiloohana Crater so as to incorporate approximately 350 acres into an Agricultural District for the purpose of raising sugar cane.

Maps showing the areas under consideration for change of District Boundary, and copies of the Rules and Regulations governing the petitions above are on file in the offices of the Planning and Traffic Commission, County of Kauai, 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 petitions may be filed with the Land Use Commission, 426 Queen Street, Honolulu, Hawaii before the date of public hearing, or submitted in person at the time of the public hearing, or up to fifteen (15) days following the hearing.

LAND USE COMMISSION
M. THOMPSON, Chairman
R. YAMASHITA, Executive Officer
(Hon. Adv.: April 2, 1965)

**NOTICE OF PUBLIC HEARING
TO CONSIDER PETITIONS FOR CHANGE
OF DISTRICT BOUNDARY WITHIN THE
COUNTY OF KAUAI BEFORE THE LAND
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Fourth Division, 2-3-02: 30 and 31	Fourth Division, 3-4-1: 1 (Portion)
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Conservation

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To amend District Boundaries near Palalina Road as to incorporate approximately 37 acres within the Kalaheo-Kai Urban District for an unspecified urban use.

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Maps showing the areas under consideration for change of District Boundary, and copies of the Rules and Regulations governing the petitions above are on file in the offices of the Planning and Traffic Commission, County of Kauai, 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 petitions may be filed with the Land Use Commission, 426 Queen Street, Honolulu, Hawaii before the date of public hearing, or submitted in person at the time of the public hearing, or up to fifteen (15) days following the hearing.

LAND USE COMMISSION
M. THOMPSON, Chairman
R. YAMASHITA, Executive Officer
(S.B.: April 2, 1965)

March 25, 1965

Ref. No. LUC 600

Mr. Clinton I. Shiraishi
Attorney and Counselor-at-Law
P. O. Box 1146
Lihue, Kauai, Hawaii 96766

Dear Mr. Shiraishi:

This is to inform you of the public hearing called by the Land Use Commission of the State of Hawaii on April 9, 1965, at 1:00 p.m. in the Board of Supervisors' Board Room, County of Kauai, Lihue, Kauai. Your petition, on behalf of Messrs. Harry M. Flagg and Paul R. Miller, for change of district boundary from an Agricultural to an Urban district classification for TMK 2-3-02: 30 and 31, Fourth Division, will be heard at that time

Publications of Legal Notice will appear in the Garden Isle on March 31 and April 7, 1965, and the Honolulu Star-Bulletin and Honolulu Advertiser on April 2, 1965.

Very truly yours,

RAYMOND S. YAMASHITA
Executive Officer

cc: Chairman M. Thompson
Messrs. H. Flagg and P. Miller
Kauai Planning and Traffic Commission

NOTICE OF PUBLIC HEARING
TO CONSIDER PETITIONS FOR CHANGE OF DISTRICT BOUNDARY WITHIN THE COUNTY
OF KAUAI 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 Kauai by the Land Use Commission of the State of Hawaii to consider petitions for a Change in the District Boundary as provided for in Section 98H-4, Revised Laws of Hawaii 1955, as amended.

TIME AND PLACE

In the Board Room of the Board of Supervisors, County of Kauai, Lihue, Kauai, on April 9, 1965, at 1:00 p.m., or as soon thereafter as interested persons may be heard.

	(1)	(2)
<u>Docket Number and Petitioner:</u>	A64-76, Harry M. Flagg and Paul R. Miller	A64-77, Grove Farm Company, Ltd.
<u>Tax Map Key:</u>	Fourth Division, 2-3-02: 30 and 31	Fourth Division, 3-4-1: 1 (Portion)
<u>Present District Classification:</u>	Agriculture	Conservation
<u>Change Requested:</u>	To amend District Boundaries near Papalina Road as to incorporate approximately 37 acres within the Kalaheo-Kai Urban District for an unspecified urban use.	To amend District Boundaries in the vicinity of the Lihue-Koloa Forest Reserve and Kilohana Crater so as to incorporate approximately 850 acres into an Agricultural District for the purpose of raising sugar cane.

Maps showing the areas under consideration for change of District Boundary, and copies of the Rules and Regulations governing the petitions above are on file in the offices of the Planning and Traffic Commission, County of Kauai, 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 petitions may be filed with the Land Use Commission, 426 Queen Street, Honolulu, Hawaii before the date of public hearing, or submitted in person at the time of the public hearing, or up to fifteen (15) days following the hearing.

(Legal ad - 2 cols. w/border to appear:)
(MARCH 31 AND APRIL 7, 1965 - GARDEN ISLE)
(APRIL 2, 1965 - HONOLULU STAR-BULLETIN)
HONOLULU ADVERTISER)

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

December 28, 1964

Ref. No. LUC 559

Mr. Clinton I. Shiraishi
Attorney and Counselor At-Law
P. O. Box 1146
Lihue, Kauai, Hawaii 96766

Dear Mr. Shiraishi:

Thank you for your letter of December 21. The map you sent did clear up the minor question on the land area involved. We made a copy of the map and the original is enclosed herein.

It would be perfectly all right for you to submit the supporting evidence and data at the time of the hearing and, the style and form of your petition are also acceptable. Our earlier concern was the apparent lack of evidence that "the subject property is needed for a use other than that for which the district in which it is located is classified." The concern is based on the fact that Act 205 does not permit the Land Use Commission to approve a petition without such evidence. Since you intend to submit the supporting evidence and data at the time of the hearing, there is no need for our concern on this point. Some of the previous petitions have been handled similarly.

As added information, our legal counsel has advised the Land Use Commission to process all petitions as "contested cases." On this basis, the staff's analysis and recommendation is not discussed or divulged to the Commission until the hearing has been initiated. After the hearing, any aspect of the petition may then be discussed. At the hearing, the staff's analysis and recommendation is based on whatever information was then available. The petitioner will have an opportunity to question, discuss or rebut the staff report. The Commissioners may, likewise

Mr. Clinton I. Shiraishi
Page 2
December 28, 1964

question, discuss or request further information from the petitioner or staff. The petitioner may submit further written testimony up to 15 days subsequent to the hearing. The Land Use Commission must then deliberate and decide on the petition in not less than 45 nor more than 90 days from the hearing.

If I may express a personal opinion, it would seem more favorable to the petitioner if the staff did pre-analyze or discuss all evidence at the public hearing. In the event that an adverse recommendation should be made by staff, the petitioner could question or rebut the staff's comments more effectively at the hearing or can prepare a better written rebuttal in the 15 days allowed after the hearing.

In response to your request, we are enclosing copies of other petitions and some staff reports. These petitions were considered prior to the effective date of the final regulations and boundaries but should still be helpful. Since the effective date, we have processed very few petitions for amendments to district boundaries. In these, much of the considerations have been tied to para. 2.6, Standards for Determining District Boundaries, in the enclosed Part II State Land Use District Regulations. A review of para. 2.7 and 2.8 may provide some help in the presentation of your petition.

Should you have further questions on this petition or any aspect of the Land Use Law, please do not hesitate to contact us. And, should you have any opportunity to drop in on us when you are in town, we would be most happy to see you.

We wish you a very Happy New Year.

Very truly yours,

RAYMOND S. YAMASHITA
Executive Officer

Enclosures (11)
cc: M. Thompson

OFFICE
LIHUE TEL. 23-361

CLINTON IKUZO SHIRAISHI

ATTORNEY AND COUNSELOR AT-LAW
P. O. BOX 1146

RESIDENCE
WAIMEA TEL. 382-941

LIHUE, KAUAI, HAWAII 96766

December 21, 1964.

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DEC 22 1964

State of Hawaii
LAND USE COMMISSION

Mr. Raymond S. Yamashita
Executive Officer
Land Use Commission
Department of Planning & Economic Development
State of Hawaii
426 Queen Street
Honolulu, Hawaii 96813

Re: Your reference number LUC 535

Dear Mr. Yamashita:

Thank you for your letter of November 30, 1964.

The area of 37.03 acres mentioned in my Petition for Amendment of District Boundary is from the subdivision map which was approved by our Board of Supervisors on October 18, 1964. A copy of this subdivision is enclosed for your examination. Kindly return same to me for my files. *Copy on file original mailed back.*

It was my intention to submit the supporting evidence and data at the time of the hearing, but perhaps the commission members would prefer to have such information prior to the hearing. I must admit that this is my first Petition before your commission and it probably is not in the style and form acceptable to you. Is it possible for you to send me some copies of past petitions filed in your office which I might follow as guide-lines. I do appreciate your willingness to help me.

Wishing you and your staff a Merry Christmas and a Happy New Year.

Yours very truly,

Clinton I. Shiraishi
CLINTON I. SHIRAISHI

CIS:hs

encl. 1

November 30, 1964

Mr. Clinton Shiraishi
P. O. Box 1146
Lihue, Kauai, Hawaii 96766

Dear Mr. Shiraishi:

Your Petition for Amendment of District Boundary and filing fee of \$50.00, transmitted by letter dated November 18, 1964, has been received and will be processed.

In the meanwhile we would appreciate your clarification of a minor point. Your petition describes the property as: "Lot 129-A net area 37.03 acres, Kalaheo, Kauai, tax key 3-3-02". In checking TMK 2-3-02, it appears that the property includes TMK 2-3-02: 30 & 31 and an area of 35.06 acres. We would appreciate your confirmation for the records.

Also, the Land Use Commission sincerely desires to render as fair a decision as possible in the interests of all concerned. In this respect, there appears to be a lack of sufficient evidence in support of the several statements indicated in the application. In the event that you are planning to submit further evidence, at a future date, then our concern has no basis. If not, we may be able to point out other areas or issues for your consideration and which may add support to your petition. In addition, there are numerous past petitions on file in our office which you are free to examine and which may help you.

In any event, please feel free to contact us should you have any questions.

Very truly yours,

RAYMOND S. YAMASHITA
Executive Officer

cc: Kauai Planning and
Traffic Commission
Mr. Myron B. Thompson

DEC 7 1964

State of Hawaii
LAND USE COMMISSION

LIHUE, KAUAI, HAWAII

December 4, 1964

Gentlemen: Subject: Your Ref. No. LUC 533
Petition for Amendment to Land
Use District Boundaries

In reviewing the petition, the Commission concurs with the petitioner's reasons for a boundary change as stipulated in the application. The desired use will not adversely affect the surrounding properties.

Very truly yours,

PLANNING AND TRAFFIC COMMISSION

PLANNING AND TRAFFIC COMMISSION

David F. Wong, Planning Director

Ref. No. LUC 533

November 25, 1964

Mr. David Wong
Planning Director
Planning & Traffic Commission
County of Kauai
P. O. Box 111
Lihue, Kauai

Dear Mr. Wong:

Pursuant to Section 98H-4, SLH 1955 (1961 Supplement), a copy of a petition for an amendment to the Land Use District Boundaries, submitted by Mr. Clinton Shiraishi on behalf of Harry M. Flagg and Paul R. Miller, is forwarded to you for comments and recommendations.

Thank you for your cooperation in this and other matters.

Very truly yours,

RAYMOND S. YAMASHITA
Executive Officer

Enclosure

OFFICE
LIHUE TEL. 23-361

CLINTON IKUZO SHIRAISHI

ATTORNEY AND COUNSELOR AT - LAW
P. O. BOX 1146

RESIDENCE
WAIMEA TEL. 382-941

LIHUE, KAUAI, HAWAII 96766

November 18, 1964

RECEIVED

NOV 24 1964

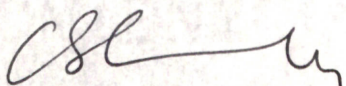
State of Hawaii
LAND USE COMMISSION

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

Gentlemen:

I enclose herewith, for your consideration,
the Petition for Amendment of District Boundary
on behalf of Harry M. Flagg and Paul R. Miller,
with reference to land at Kalaheo, Kauai, to-
gether with my check for \$50.00.

Yours very truly,


CLINTON I. SHIRAISHI

CIS:hs

encl. 2

STATE OF HAWAII
LAND USE COMMISSION

426 Queen Street
Honolulu, Hawaii

RECEIVED

NOV 24 1964

State of Hawaii
LAND USE COMMISSION

This space for County or DLNR use

Date Petition and Fee received
by County or DLNR 11/24/64

Date forwarded to County LUC
with recommendation 11/25/64

Date Petition, Fee and
County/DLNR recommen-
dation received by LUC _____

PETITION FOR AMENDMENT OF ~~TEMPORARY~~ DISTRICT BOUNDARY

(I) (We) hereby request an amendment of Land Use Commission ~~Temporary~~
District Boundary respecting the County of Kauai, Island of Kauai,
map number and/or name K-3, Koloa-Poipu to change the district
designation of the following described property from its present classification in
a(n) agricultural district into a(n) urban district.

Description of property:

Lot 129-A, net area 37.03 acres, Kalaheo, Kauai, tax key 2-3-02-

Petitioner's interest in subject property:

Purchasers under agreement of sale dated August 6, 1964.

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

Lot is not suitable for agricultural; better use is residential; adjoining area is urban.

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

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

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

(a) The land is not usable or adaptable for use according to its present district classification.

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

HARRY M. FLAGG and
PAUL R. MILLER

Signature(s) By: Shirou S. Shiraishi

Their Attorney

Address: Lihue, Kauai

Telephone: 23-361

STATE OF HAWAII

Land Use Commission
426 Queen Street

Department, Bureau or Commission

OFFICIAL
RECEIPT

No.

92

November 24, 1964

RECEIVED from

Clinton L. Shiraishi for Harry M. Flagg and
Paul F. Miller / Fifty and 00/100 DOLLARS

For public hearing for boundary change from
Agriculture to Urban on Kaunoi by the Land
Use Commission.

\$ 50.00 Check #416
First National Bank

Amy Namikawa
Public Accountant

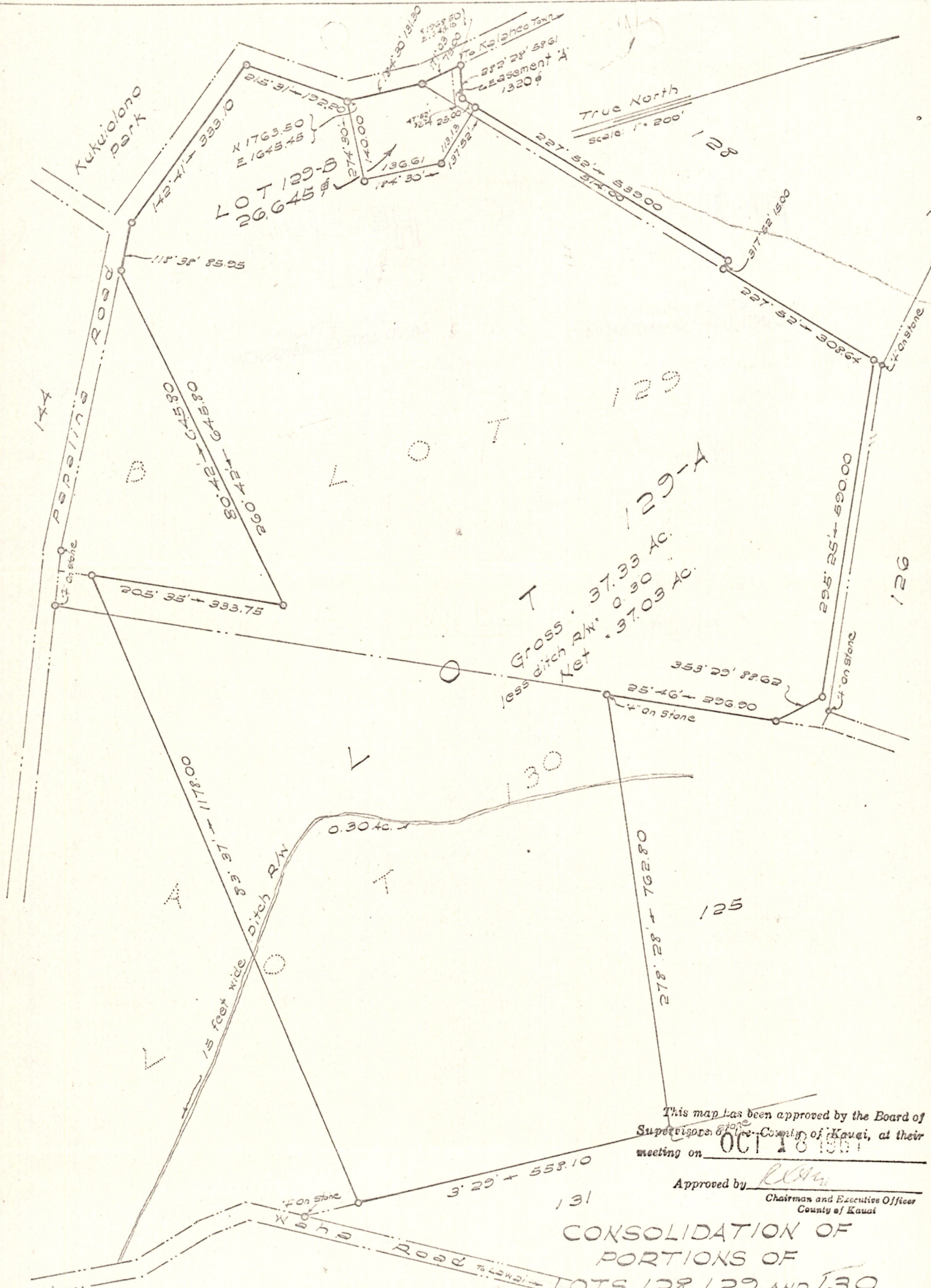
Map - Alt 64-76 Harry M. Flagg & Paul E. Miller

RECEIVED

DEC 22 1964

State of Hawaii
LAND USE COMMISSION

Submitted w/lt
dated 12/21/64 from
C. Shiroishi for
A64-76 Flogg & Miller



This map has been approved by the Board of Supervisors of the County of Kauai, at their meeting on **OCT 18 1961**

Approved by *[Signature]*
Chairman and Executive Officer
County of Kauai

**CONSOLIDATION OF
PORTIONS OF
LOTS 128, 129 AND 130
KALAHEO HOMESTEADS
(SECOND SERIES)
AND SUBDIVISION OF
SAID CONSOLIDATION
INTO
LOT 129-A AND LOT 129-B
KALAHEO, KAUAI, HAWAII**
Scale: 1 inch = 200 feet.

Note:
o designates galv. pipes unless otherwise noted.
Coordinates referred to "Kahikawa".

This map is from an actual survey made on the ground by the undersigned on November 26, 1960, and may be checked in my field books Nos. 4 and 14 and calculations books Nos. 3 and 27.

R. S. SURVEY
Registered Professional Surveyor
Certificate No. 216-ES

Tax Map Key: 2-3-02

RECEIVED

DEC 22 1964

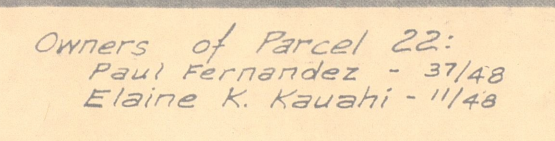
State of Hawaii
LAND USE COMMISSION

RECEIVED

DEC 22 1964

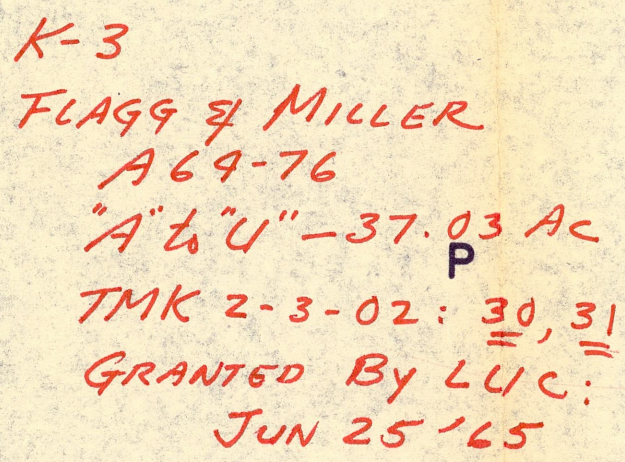
State of Hawaii
LAND USE COMMISSION

Submitted
w/ltz dated
12/21/64 from
C. Shiroishi
for A64-76
Flegg + Miller



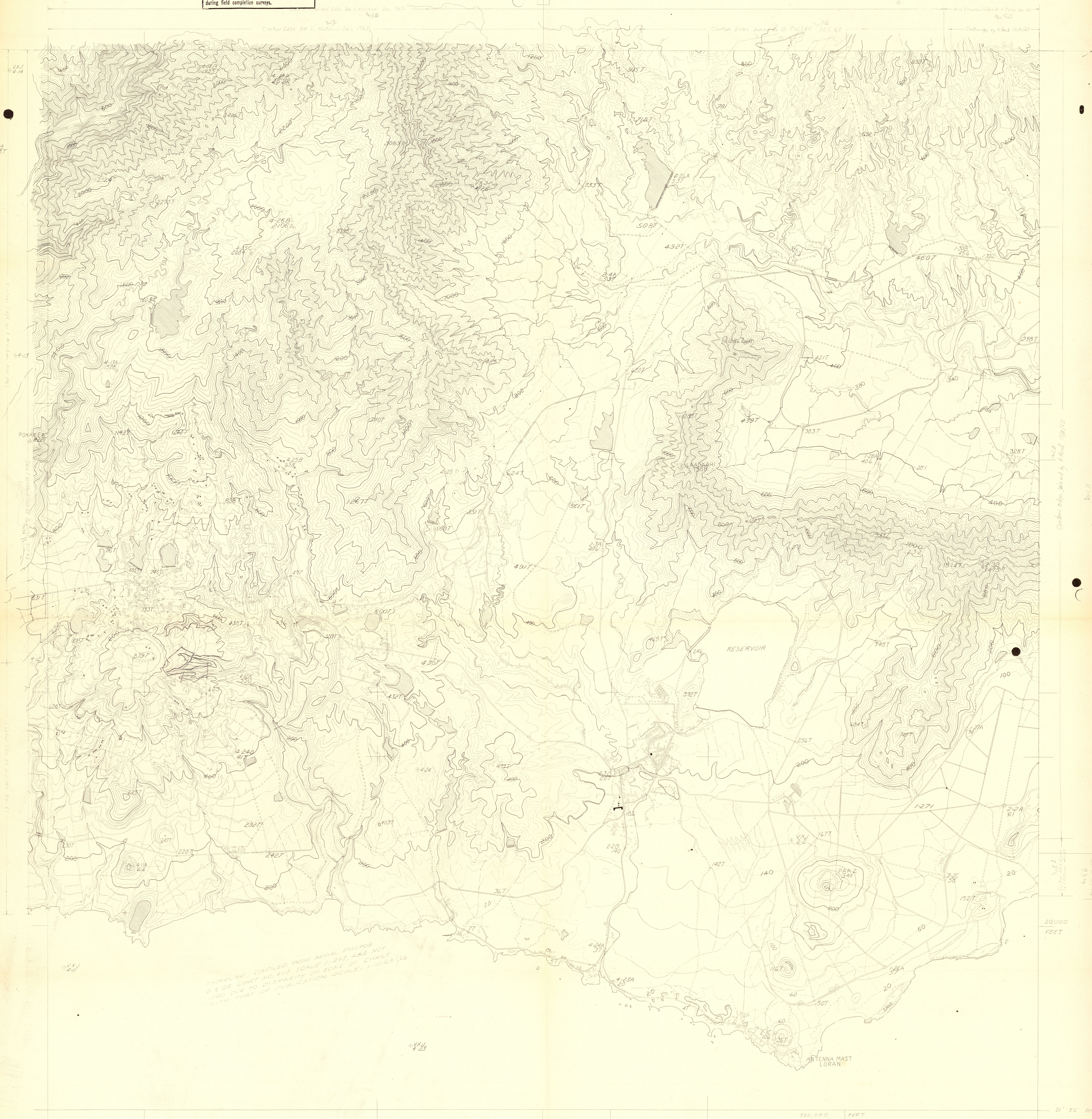
PRINTED NOV 24 1964

TAXATION MAPS BUREAU		
TERRITORY OF HAWAII		
TAX MAP		
FOURTH DIVISION		
ZONE	SEC.	PLAT
2	3	02
CONTAINING PARCELS		
SCALE: 1 in. = 200 ft		



BEFORE FIELD COMPLETION
This is a copy of a U. S. Geological Survey manuscript compiled by photogrammetric methods. It does not include information to be obtained during field completion surveys.

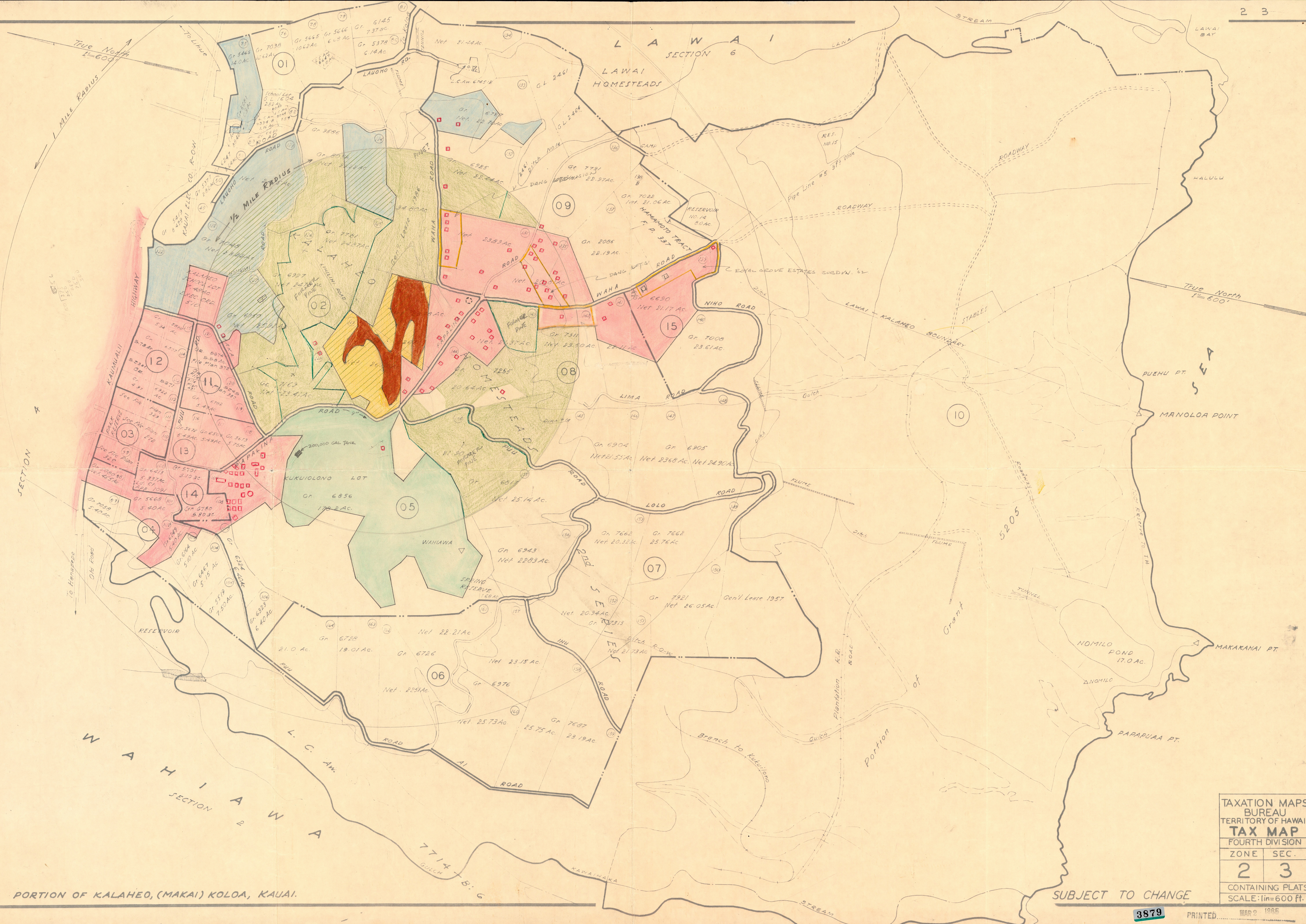
KOLOA HAWAII
N 21 52 00 W 159 25 00/7.5
SCALE 1:24,000 C.I. 40
KAUAI PROJ.



SHORELINE COMPILED FROM AERIAL PHOTOS
U.S.G.S. CHART NO. 4117 SCALE 1:12,471, 45R NOT
USED DUE TO DISPARITY OF SCALE OF CHART
WITH THAT OF PUBLICATION SCALE 1:10,000

KOLOA HAWAII
N 21 52 00 W 159 25 00/7.5
SCALE 1:24,000 C.I. 40
KAUAI PROJ.

Source : Taxation Maps Bureau
By : P.K. & A.L. Aug. 1936



PORTION OF KALAHEO, (MAKAI) KOLOA, KAUAI.

SUBJECT TO CHANGE

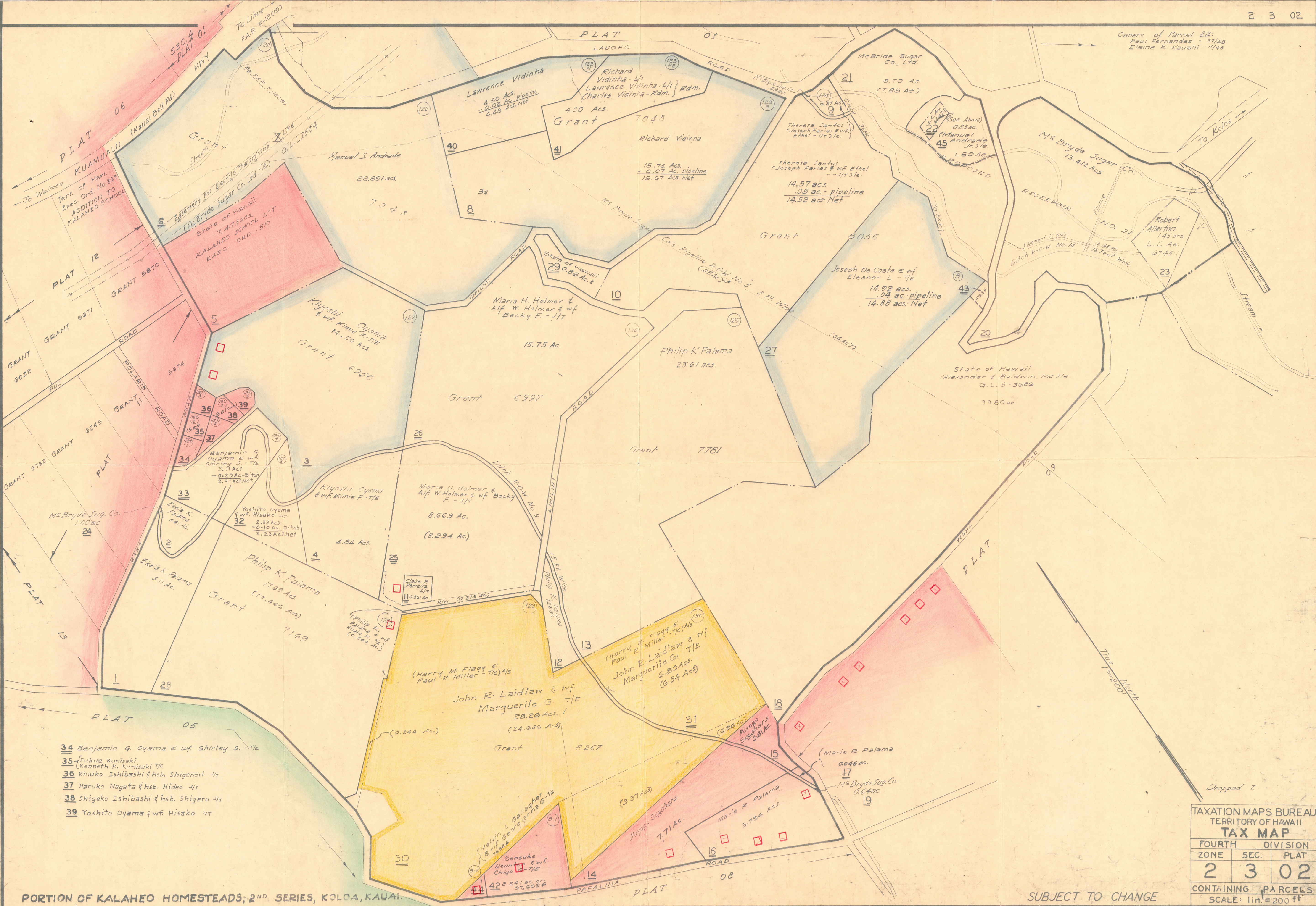
3879

PRINTED MAR 2 1965

REGISTERED
DEC 18 1938
JAN 10 1939
MAY 2 1947

RECORDED
DEC 18 1938
JAN 10 1939
MAY 2 1947

Dwg. No.: 28558
Source: Taxation Maps Bureau (Reg. Map 2551)
By: P.K.E. AL. Aug. 1936



Owners of Parcel 22:
Paul Fernandez - 37/48
Elaine K. Kawahi - 11/48

- 34 Benjamin G. Oyama & wf. Shirley S. - T/E
- 35 Fukue Kunisaki
(Kenneth K. Kunisaki T/E)
- 36 Kinuko Ishibashi & hsb. Shigenori J/T
- 37 Haruko Nagata & hsb. Hideo J/T
- 38 Shigeo Ishibashi & hsb. Shigeru J/T
- 39 Yoshito Oyama & wf. Hisako J/T

PORTION OF KALAHEO HOMESTEADS, 2ND SERIES, KOLOA, KAUAI.

SUBJECT TO CHANGE

TAXATION MAPS BUREAU
TERRITORY OF HAWAII
TAX MAP

FOURTH DIVISION	
ZONE	SEC. PLAT
2	3 02

CONTAINING PARCELS
SCALE: 1 in. = 200 ft

3880

PRINTED MAR 2 1936

