A65-109 MAUNA KEA SUGAR CO., INC.

August 18, 1966

Mr. John T. Ushijima, Attorney
Mauna Kea Sugar Co., Ltd.
P. O. Box 964
Hilo, Hawaii 96720

Dear Mr. Ushijima:

At its meeting on July 8, 1966 in Honolulu, Hawaii, the petition by Mauna Kea Sugar Co., Ltd. (A66-109) to amend the Land Use District Boundaries from an Agricultural District to an Urban District for the following parcels were approved by the Land Use Commission:

Tax Map Key:	2-3-35: portion of 1	- 1.9 acres
	2-3-38: portion of 3)	- 5.4 acres
	2-3-44: portion of 9)	

On the matter of the 36-acre parcel at South Hilo, Hawaii, identifiable by Tax Map Key 2-5-08: portion 3, the Commission voted to defer action until a field investigation of the site could be made. Subsequently, at its meeting on August 5, 1966 at Hilo, Hawaii, the Commission voted to deny the request for change of district boundary from an Agricultural District to an Urban District for this 36-acre parcel.

Prior to taking action on the petition, the enclosed memorandums were presented to the Commission.

Should you desire any further information, or have any questions, please feel free to contact us.

Very truly yours,

GEORGE S. MORIGUCHI
Executive Officer

Encls.
cc: Chairman Thompson
Hawaii Planning Commission
Department of Taxation
Dept. of Land & Natural Resources

STATE OF HAWAII

LAND USE COMMISSION

VOTE RECORD

Item Mauna Kea Surf (36 ac) Date 8-5-66

Place Hwy Office Time

Commissioners	Yes	No	Abstain	Absent
S BURNS, C.E.S.	✓			
~~FERRY, J.~~				
M INABA, G.	✓			
MARK, S.		✓		
NISHIMURA, S.		✓		
OTA, C.		✓		
WENKAM, R.		✓		
WUNG, L.	✓			
THOMPSON, M.		✓		

Comments: for Approval

not carried

STATE OF HAWAII
LAND USE COMMISSION

Minutes of Meeting

State Highways Division
Hilo, Hawaii

9:50 a.m. - August 5, 1966

Commissioners Present: Myron B. Thompson, Chairman
C. E. S. Burns
Goro Inaba
Shelley Mark
Robert G. Wenkam
Leslie Wung
Charles Ota
Shiro Nishimura

Commissioners Absent: Jim P. Ferry

Staff Present: George S. Moriguchi, Executive Officer
Roy Takeyama, Legal Counsel
Ah Sung Leong, Draftsman
Dora Horikawa, Stenographer

Chairman Thompson opened the meeting with a short prayer, followed by an outline of the procedures to be followed, introduction of Commissioners and staff members, and swearing in of persons testifying during the hearings.

PUBLIC HEARINGS

PETITION OF LILIUOKALANI TRUST (A66-122) TO AMEND THE DISTRICT BOUNDARY FROM AN AGRICULTURAL DISTRICT TO AN URBAN DISTRICT FOR APPROXIMATELY 14½ ACRES, AND FROM AN URBAN DISTRICT TO AN AGRICULTURAL DISTRICT FOR APPROXIMATELY 1¼ ACRES OF LAND AT KAILUA, KONA, HAWAII, identifiable by TMK 7-4-08: Portion 2

Staff report (see copy on file) presented by Mr. George Moriguchi recommended favorable action of the petition since utility services and access facilities were available in the area, and topographic conditions were suited for urban development.

Chairman Thompson requested that he be excused from participating in this hearing since his employment by the petitioner constituted a conflict of interest.

Mr. Robert Belt of Belt, Collins & Associates, Ltd. requested that the boundary be modified to permit a more orderly development than would be possible

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under the original boundary which was established arbitrarily on the basis of earlier plans. He added that the treatment plant was presently in operation.

Since there was no further testimony, the hearing was closed thereafter.

PETITION OF W. H. SHIPMAN, LTD. AND KEAAU LAND CO., LTD. (A66-126) TO AMEND THE DISTRICT BOUNDARY FROM AN AGRICULTURAL DISTRICT TO AN URBAN DISTRICT FOR APPROXIMATELY 112 ACRES AT KEEAU, HAWAII

Staff recommendation (see copy on file) was for approval of 47.5 acres of the petitioners' lands as indicated by the limits of the orange line on the map, on the basis of the need for additional houselots to provide for families being phased out of plantation camps and the need of additional urban lands in the Keaau area.

Mr. Moriguchi pointed out the 80% planted in cane and the remaining vacant lands on the map, which left an agricultural strip right in the center of subject lands. He advised that reclassification of this strip would be considered as the next item on the agenda.

Recognizing the need for expansion of the Keeau area, the General Plan proposal is for development of the urban by phasing out the old homes and providing residential homes.

Commissioner Ota felt that prime agricultural lands would be exploited and that there were other areas suitable for the proposed urban development.

Mr. Moriguchi supported the General Plan since it proposed a logical expansion of an already existing urban complex with all of the necessary facilities such as schools, fire station, police station, plus the fact that the new civic center is located in this area.

Mr. L. N. Nevels, Jr. representing the petitioners advised that it was their desire to provide the requisite house lots so that people could move out of their dilapidated homes in the existing Keeau Village. The petitioners would also be willing to accede to staff's recommendation for reclassification of 47½ acres to an Urban District, with the hope that upon evidence of proof of demand for additional urban lands within the next 5 years, they would receive favorable consideration from the Commission.

Mr. Nevels submitted that there were almost no urban lands available for residential use in the Keaau area at the present time.

Commissioner Ota commented that it was almost incumbent on the part of large landowners to prepare a master plan involving their lands, and that without such a plan the Commission would find it difficult to arrive at a sound decision.

Mr. Suefuji, Hawaii County Planning Director, advised that such a master plan had been drawn up as represented by Ordinance 317 of the County of Hawaii, which was a reflection of coordinated efforts of the County and the private landowners. He also added that the Hawaii Planning Commission was in accord with the staff's recommendation. The hearing was closed thereafter.

PETITION OF THE LAND USE COMMISSION (A66-133) TO AMEND THE DISTRICT BOUNDARY FOR SEVERAL AREAS IN THE KEAAU DISTRICT

Staff report (see copy on file) submitted that the Land Use Commission, upon its own motion, was petitioning for boundary changes in the Keaau District, which would change 60.5 acres from Urban to Agricultural, and 43.5 acres from Agricultural to Urban. Mr. Moriguchi reported that the County of Hawaii was generally in concurrence with staff recommendation, although they felt that the 9½ mile camp should be retained in the Urban District.

Commissioner Ota reiterated his earlier comments with reference to the responsibility of the landowners to provide for an orderly phasing out program in a master plan to preclude the untimely eviction of the present tenants.

In response to Commissioner Nishimura's question, Mr. Moriguchi advised that presently there were 92 acres in the urban complex within Keaau town, which were densely developed, and that it would be unfeasible to phase out the whole structure within the urban complex until provisions were made in some other area for expansion. He felt that the 45 acres being considered under the Shipman petition could be considered a step in this direction.

It was also brought out that W. H. Shipman and Keaau Land Co. had engaged the services of Belt, Collins & Associates, Ltd. to prepare a master plan for the Keaau area, and that the County of Hawaii was also following a plan prepared by this same firm for the whole South Hilo area.

Mr. Suefuji reported that the Hawaii Planning Commission agreed with the staff's proposal except for the recommended change of Area #9 known as the 9½ mile camp. For purposes of facilitating rental transactions, and the fact that the owners would be compelled to apply for a special permit of the subdivision if the subject area were reclassified from Urban to Agriculture, the Hawaii Planning Commission complied with their request to retain the area in an Urban District for the next 10 years. Also, under the subdivision ordinance, roads would have to be brought up to County standards which would be impractical for a 10-year period.

Mr. Moriguchi advised that the primary concern here was continuation of the existing use, i.e. to permit present tenants occupancy until such time as they are able to relocate themselves, and that the present uses could be permitted even under a change in land designation. On the matter of the rental transactions, he wondered if some arrangement could not be worked out between the plantation and the tenants. Leaving Area #9 in urban would leave a pocket of urban lands in an agricultural area, Mr. Moriguchi concluded.

Mr. Nevels commented that Shipman and Keaau Land Co. were working on a community lease to enable the present occupants tenancy for a period of not more than 10 years, the expected life of the buildings. He said that the phasing out program involved making available good suitable lands within close proximity to those who may desire to situate themselves in the Keaau area. He agreed that the two firms concurred with the staff's recommendation except for Area #9 in the report.

It was pointed out by the Executive Officer that all of the individual landowners within the subject area of this petition, including Shipman and Keaau Land Co., were duly notified by mail of the hearing being held to reclassify the lands by this Commission, and in fact there were two such landowners present at this hearing.

The hearing was closed thereafter.

ACTION

PETITION OF MAUNA KEA SUGAR CO., INC. (A66-109) TO RECLASSIFY 36 ACRES PRESENTLY IN AN AGRICULTURAL DISTRICT TO AN URBAN DISTRICT IN HILO, HAWAII

Staff memorandum recommended denial of the reclassification involving the 36-acre since denuding these lands of the dense growth of trees can and will probably contribute to flood problems in the lower residential areas.

Mr. Kenneth Griffin, real estate broker, submitted that the developers were proposing a modified cluster type subdivision, after consulting with the Planning Director, which would allow for retention of some of the trees in the wooded areas. This would also permit 6 to 9 acres of the 36 acres to remain in its natural state. Mr. Griffin felt that these lands constituted prime residential areas and would be an asset to the City of Hilo.

Mr. Suefuji stated that flooding of Kaumana Terrace, Bay View and subdivisions surrounding subject lands resulted from waters coming from the mauka area 5½ miles away. Mr. Griffin added that there did not seem to be any appreciable flooding in the area under discussion.

The drainage problem would be taken care of by curbs and gutters in conformance with the County Engineer's requirements, although no detailed drainage system has as yet been drawn up. Mr. Griffin thought that the gutters would empty out into some pipe at the edge of the subdivision.

Commissioner Wenkam felt that the broad panoramic view of the Hilo Bay area would be enhanced by looking through the trees and felt that they should be kept tall and not topped off to 20 or 25' as suggested by Mr. Griffin.

Mr. Griffin also stated that fee simple lands were in demand in the area.

Mr. Moriguchi commented that although the runoff from the wooded area alone did not directly contribute to the flooding of the lower area during the recent storm, denuding the area would intensify the problem because of the topography.

Mr. Suefuji informed that in recommending approval of change from agriculture to urban, the County Planning Commission did not necessarily review the layout plan since the developers would be mandated to appear before the Commission prior to seeking approval of their subdivision plans.

Commissioner Wenkam felt that the question of leaseland versus fee simple lands should not be the concern of the Land Use Commission--that decision should

be based solely on good planning and on the need for urban use of the area in the City of Hilo.

Commissioner Inaba moved that the Land Use Commission grant the applicant the 36-acre boundary change from agriculture to urban based on petitioner's statement and the recommendation of the County of Hawaii, and also because the need has been shown, seconded by Commissioner Burns.

The Commissioners were polled as follows:

Aye: Commissioners Burns, Inaba, Wung

Nay: Commissioners Mark, Nishimura, Ota, Wenkam, Chairman Thompson

The motion was not carried.

PETITION OF ESTATE OF SOPHIE JUDD COOKE (DEC'D) (A66-110) TO RECLASSIFY APPROXIMATELY 4.9 ACRES FROM AN AGRICULTURAL DISTRICT TO AN URBAN DISTRICT AT MOLOKAI

Staff memorandum (see copy on file) presented two alternatives to the Commission involving the above-mentioned petition: (1) Process the original petition, or (2) accept the petitioner's request to withdraw the original petition and process the new petition for reclassification from Agricultural to Rural.

Chairman Thompson commented that the second alternative would require another public hearing since the request had changed from Agricultural to Rural rather than Urban.

Commissioner Ota moved to accept the petitioner's request for withdrawal of the original petition and process the new petition by scheduling another public hearing. It was seconded by Commissioner Burns.

In reply to Commissioner Nishimura's query, Mr. Moriguchi replied that the original request would contribute to the concept of scattered urban development.

The Commissioners were polled as follows:

Aye: Commissioners Burns, Inaba, Mark, Ota, Wenkam, Chairman Thompson

Nay: Commissioners Nishimura, Wung

The motion was carried.

PETITION OF FRANK & BESSIE MONIZ (A66-112) TO RECLASSIFY APPROXIMATELY 6.9 ACRES OF LAND AT KAONOULU, KULA, MAUI, FROM AN AGRICULTURAL DISTRICT TO A RURAL DISTRICT.

Staff memorandum (see copy on file) recommended denial of the petition because of the decreasing population trend in the Waiakoa area and the lack

of supporting data for need of additional rural lands.

In support of the need for additional rural lands in the Kula District, Commissioner Ota submitted that cost of land was an important consideration, and the minimum cost of land per acre in this area would run close to $3,000. The construction of the new highway definitely contributed toward change in land use of subject parcel by separating it from the Kaonoulu Ranch. It was also pointed out by Commissioner Ota that contrary to staff's report, population was on the upward swing in the Kula area. The idea of vast amounts of rural lands and small percentage of development were not indications of population growth or adequate lands in the Kula area. As far as the subject parcel was concerned, Commissioner Ota commented that the terrain was uneven, bounded by two highways, adjacent to an Urban area with urban facilities available, appropriate for half-acre house sites. He continued that subdividing the parcel into 6 lots would not constitute an urban-like concentration, and that the Commissioners should take all of these factors into consideration.

Commissioner Ota agreed that an element of hardship did exist for the petitioner since he had purchased the land from the Kaonoulu Ranch with the intention of subdividing it for houselots, in reply to Chairman Thompson's question.

The mere fact that the petitioner was requesting reclassification of the land from Agricultural to Rural did not preclude the use of it for agricultural purposes; that supplemental income could be derived from agricultural pursuits on subject land, Commissioner Ota concluded.

Commissioner Wenkam agreed with staff that the fact petitioner claims the land is not feasible for ranching, truck crops or other related uses, should not place the land in rural or urban. However, at this particular highway junction, rural and urban uses already existed and it was highly probable that, upon subdivision of subject lands, they would be bought and built upon long before other vacant lots in the Kula area due to its proximity to the already existing residential areas.

Commissioner Nishimura expressed his concern for agricultural lands in Maui and felt that petitioner could come up with a subdivision of 2-acre minimum lot sizes without undue financial hardship.

Referring to Commissioner Wenkam's earlier comment, Mr. Moriguchi stated that even within the Urban District, lands were being used for pasture. Therefore, the Commission should be concerned with the need for urban lands and not so much with the fact that these lands are suitable and located near existing facilities.

It was moved by Commissioner Ota and seconded by Commissioner Wenkam that the petition be approved since the land is appropriate for rural development and on the basis of the petitioner's arguments in his petition. The Commissioners were polled as follows:

Aye: Commissioners Wenkam, Wung
Nay: Commissioners Burns, Inaba, Mark, Nishimura, Ota, Chairman Thompson

The motion was not carried.

SPECIAL PERMITS

APPLICATION OF SHIGE HIRANO (SP66-29) TO CONSTRUCT A SERVICE STATION, GENERAL MERCHANDISE STORE AND RESIDENCE ON AGRICULTURAL LANDS IN GLENWOOD, PUNA, HAWAII

Staff Report (see copy on file) recommended approval of the special permit application since no adverse factors were present.

Commissioner Burns moved to approve the special permit application on the basis of the staff's report, seconded by Commissioner Nishimura.

Chairman Thompson wondered whether the unsuitability of the land for agricultural or farming uses brought out in the staff report should not be deleted since this might set a precedent. Instead it was suggested that the reasonableness of the use requested might be substituted.

Mr. Moriguchi informed that this was just a quotation taken from documented information and that it should remain part of the report.

The Commissioners voted for unanimous approval of the petition.

The hearing was adjourned at 12:00 noon.

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The hearing was resumed at 2:45 p.m.

ACTION

PETITION OF MAUI COUNTY (IAO) (A66-113) TO RECLASSIFY 15,300 SQUARE FEET OF LANDS FROM THE CONSERVATION DISTRICT TO THE RURAL DISTRICT IN IAO VALLEY, MAUI

Staff maintained its original recommendation for denial of the petition (see copy of report) due to lack of substantiation for the need of additional rural lands and the existence of several inconsistencies involving the proposed use of the subject lands.

During the discussion that ensued, the following points were brought out:

1. It was Mr. Duarte's desire to merely append the subject parcel to his property.

2. It was possible to effect land exchange without reclassification.

3. Mr. Duarte was not willing to exchange lands unless County's conservation land could be reclassified to rural.

4. The benefit to the people of Maui by this proposed land exchange was not obvious.

5. The County of Maui should be encouraged to expand Kepaniwai Park by purchasing this land outright from Mr. Duarte rather than going through a land exchange and using this parcel for the caretaker's home.

6. The Commission's decision should be based on the merits of the reclassification of subject land.

Commissioner Burns moved to deny the petition based on the staff recommendation, seconded by Commissioner Wung. The motion was passed with Commissioner Nishimura casting the only dissenting vote.

PETITION OF HAWAII COUNTY (A66-115) LALAMILO) TO RECLASSIFY 12.1 ACRES OF AGRICULTURAL LANDS INTO URBAN LANDS AT LALAMILO, SOUTH KOHALA, HAWAII

It was moved by Commissioner Wenkam and seconded by Commissioner Wung to accept the staff recommendation (see copy on file) for approval of the petition. The motion was carried unanimously.

PETITION OF HAWAII COUNTY (A66-117) (HILO) TO RECLASSIFY 3.25 ACRES OF LAND FROM AGRICULTURAL TO URBAN AT HILO, HAWAII

Commissioner Burns moved to approve the petition on the basis of staff's recommendation as presented by the staff report (see copy on file), which was seconded by Commissioner Wung and carried unanimously.

PETITION OF EDWIN & ELSIE IGE (A66-120) TO RECLASSIFY APPROXIMATELY 58 ACRES OF AGRICULTURAL LANDS TO A RURAL CLASSIFICATION AT WAIAKOA, MAUI

Staff report (see copy on file) recommended denial of the petition due to lack of evidence of demand for rural lots and the population decline in the Waiakoa area.

Commissioner Ota emphasized the lack of half-acre residential lots in the Kula area and the demand for such lands by people who desire a more spacious lot size than is usually available under an urban classification.

Commissioner Burns moved that the petition be denied on the basis of the staff report, seconded by Commissioner Wenkam. The motion was carried with Commissioner Wung casting the only negative vote.

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RURAL DISTRICT STANDARDS

The floor was opened for a discussion of the Rural District standards. Chairman Thompson pointed to the fact that the present provisions under the Rural Districting allowed for only a grid-type subdivision of one house per ½ acre. The question was raised as to whether an amendment of the law was in order to afford a more attractive, creative type of rural development, such as a cluster-type subdivision.

Mr. Moriguchi explained that in establishing the Rural District, the law indicated that it shall include small farms mixed with very low density residential lots. However, the actual uses within the Rural District have deviated

considerably from the original intent of the law, as evidenced by the Pukalani Subdivision which is at present primarily in intensive residential use.

Mr. Moriguchi continued that our law was specific in that it specified that the lot sizes in the Rural District shall be ½ acre and not on the overall density of the subdivision.

Commissioner Ota expressed the idea that the foremost consideration should be whether the area was prime agricultural lands within the Rural District. If so, that area considered as prime agricultural lands could possibly be spot-zoned as an Agricultural District and the remainder permitted for intensive residential purposes within a Rural District.

Commissioner Wenkam expressed the view that he was opposed to any attempt to rewrite the Rural District Regulations increasing the density, since he felt that the rural areas were specifically designated for low density residential uses mixed with farm activities. Any change in the regulations would merely place into the rural areas, activities which are primarily urban. He added that the Rural District was established to afford the neighbor islands greater control and flexibility over their lands. Commissioner Wenkam suggested that perhaps it would behoove the Land Use Commission to abolish the Rural District and establish it as a non-conforming use within the Agricultural District, thereby confining urban uses to the Urban District.

Commissioner Inaba commented that the Mauna Loa Development's Volcano subdivision should have been more properly reclassified to Rural rather than Urban. However, due to the restrictions imposed by the rural classification, the developers could not pursue their cluster-type plan under this designation.

Commissioner Burns felt that it was difficult to associate each house with half-acre lots and still come up with an attractive cluster-type plan with open spaces between.

Mr. Roy Takeyama, legal counsel, advised that if the Commission were seeking control within a Rural District, petitioners could be encouraged to take the special permit approach. The only test to be applied here would be the unusual and reasonable use of the lands. The developers could proceed with their proposed plans and keep to the permitted density. He suggested that the Commission make a study of the special permit regulations to see how similar requests could be channeled through this method. This would also require amendment of Section 2.29 (b) of the Regulations concerning guidelines to aid petitioners whenever they are seeking an urban or rural use of lands in either a Rural, or Agricultural, or Conservation District, in determining which avenue they should follow.

In reply to Commissioner Mark's question, Mr. Takeyama advised that conditions could be imposed on special permits as opposed to boundary changes, since the petitioner would be bound by the plans that he submits at the time of the application.

Mr. Takeyama continued that he could not see how a residential subdivision could be considered as an unusual use under a special permit, but that a resort complex could conceivably fall within this description.

Chairman Thompson felt that a legal opinion was in order as to whether the Land Use Commission could impose conditions on special permits. However, he commented that this still did not solve the problem experienced by this Commission in the past whereby developers deviated from the intent of the law for uses within the Rural District. The basic issue here was one of assisting the developers to keep to the proposed plans and still keep within the intent of the law.

Along the lines proposed by Commissioner Wenkam, Mr. Moriguchi felt that by eliminating the Rural Districts and allowing for residential uses in Agricultural Districts under special permits, the Land Use Commission would have control over the actual final development of the land. The Rural District stipulation of "small farms mixed with residential uses" could also be satisfied in this way.

Mr. Takeyama was doubtful that this could be accomplished without changing the test to be applied under the special permit procedure.

Since considerable concern was expressed over the use of rural lands following reclassification, Mr. Takeyama advised that if the special permit procedure had been followed instead by the petitioner, control over the development of the lands could have remained with the Commission since its approval of the permit would have mandated the petitioner to adhere to the development plans as submitted during the hearing.

Commissioner Ota commented that rural districting had its place on the neighbor islands since it allowed for limited animal farming which would not be permitted in an Urban District. He was also of the opinion that eliminating the Rural District and employing the special permit procedure for marginal lands within an Agricultural District would not always be feasible.

Mr. Takeyama agreed that there was a definite need for rural districting and that perhaps the Commission should be more restrictive and selective in approving requests for rural classification.

Chairman Thompson took exception to this and submitted that the Commission had been very selective in granting rural districting and fully aware of the problem of implementing the intent of the law.

Commissioner Mark felt that Mr. Takeyama's suggestion of employing the special permit method with explicit instructions could possibly handle the situation.

As a result of the foregoing discussion,the following are some of the points that were brought out:

1. To maintain the Rural District as presently stipulated in the rules, but to amend and strengthen the special permit procedure to afford stricter controls over rural lands.

2. Request staff and legal counsel to report on a proposal to implement the above intent of the Commission, a sketchy one in September and a detailed report in October.

3. Look into the matter of assisting developers to follow original plans submitted at the time of public hearing, which was the basis for the Commission's reclassification approval.

4. The County could not impose conditions under the County Zoning Ordinances; that conditions could only be imposed under a zoning variance.

In summary, Chairman Thompson outlined the problems confronting the Land Use Commission:

1. Is there any way of holding the petitioner to the development plans and facts presented at the time decision was made?

2. If conditions or circumstances change necessitating alterations in the original plans, how can the regulations be implemented to enable Commission to negate the boundary change and require the petitioner to come in with amended plans for a new decision.

3. The Commission had the responsibility of seeing that State and County funds were expended judiciously.

With reference to the County's jurisdiction over petitioner's lands, Commissioner Mark suggested that perhaps the County Planning Commission might give tentative approval to a plan to be presented to the Land Use Commission, and grant final approval after the boundary change had been effected.

Mr. Moriguchi advised that the County Planning Commission develops a detailed land use map and the developer's plans would have to adhere to this.

Chairman Thompson requested legal counsel to research the possibility of having the County Planning Commission set conditions on the petitioner's plans before they apply to the Land Use Commission, by strengthening the County Ordinances.

CONSERVATION DISTRICT ADMINISTRATION

Commissioner Wenkam opened the discussion by expressing his fears and concerns over the administration of the Conservation District. Our regulations provide for procedures to amend district boundaries and within this section it provides for guidelines which the Commission established, namely: "Whenever a petition covers substantial acreage of land and petitioner seeks a use other than that for which it is districted, he should seek a boundary change."

Commissioner Wenkam pointed to three occasions recently where he felt the intent of the regulations had been violated: 1) Waialae-Iki special permit for use of 26 acres of conservation lands for subdivision purposes; 2) Lihue Plantation special permit to grow sugar cane on 372 acres of conservation land; 3) Church College of Hawaii special permit for 100 acres to establish a church college on conservation lands.

Commissioner Wenkam continued that when a major change of land use is proposed involving substantial acreage, the Land Use Law clearly states that the

petitioner should come in for a boundary change. He felt that the intent and essence of the Land Use Law were being injured, and that it was not being administered properly when such changes were allowed to occur under a special permit procedure with the Department of Land & Natural Resources. He did, however, advise that he felt that the uses in all three instances were reasonable and appropriate--he was only arguing from the standpoint that the proper procedure should have been through a boundary change following a public hearing.

Commissioner Ota argued that in the case of Lihue Plantation, if a boundary change had been effected from conservation to agricultural, abuse of the lands could have resulted since there would be no control over agricultural uses in an Agricultural District. Commissioner Wenkam replied that damage could occur by extensive, excessive use of the lands under any circumstances.

Commissioner Wenkam pointed out that in the past the Commission had rejected special permit applications when the requests involved large areas of land and he felt that the Department of Land & Natural Resources should respect our regulations and also do likewise under similar circumstances, especially since the Land Board was not mandated to conduct a public hearing. He thought the Land Board should guide the petitioner to seek boundary change in such instances.

Commissioner Wenkam recommended transmitting a letter to the Department of Land & Natural Resources, with a copy of the Land Use Regulations, pointing out the boundary change procedure whenever substantial lands were involved. He was of the opinion that the Division of Forestry could administer these conservation lands to evaluate whether or not the water shed areas were being observed, in much the same way the Counties administered agricultural lands. He continued that change of land use of substantial areas constituted a change in zoning and that the Land Use Law specifically spells out that urban uses shall occur within the Urban District and agricultural uses shall occur in an Agricultural District. Therefore, granting non-conservation uses in a Conservation District under a special permit was circumventing the intent of the Land Use Law. He thought perhaps the Land Board was not aware of these stipulations in the Land Use Law.

Mr. Moriguchi quoted that portion of the law, Section 19-70, which vested in the Department of Land & Natural Resources the authority to govern Conservation Districts, and that the Department of Land had no choice but to process special permit applications upon receipt.

Chairman Thompson commented that interpretation of the law was the prime consideration here and expressions of opinion from the other Commissioners in this respect were in order.

Commissioner Ota stated that at the time the Conservation District boundaries were drawn, the Commission included the grey areas suitable for limited agricultural pursuits as were areas of asthetic value.

Commissioner Wenkam argued that provisions for residential uses within a Conservation District under Section 19-70 in the Revised Laws should not be construed to include subdivisions, in reply to Mr. Takeyama's reference to the law. At the time of the Conservation District hearings, it was clearly expressed

that permissible uses were cabin communities, casual beach houses, and not subdivisions or plantations or schools.

Mr. Takeyama disagreed entirely with Commissioner Wenkam's contention that the Land Use Regulations stipulated that applicant come to the Land Use Commission for boundary change for lands of substantial nature. If petitioner chose to go before the Land Board for use within a Conservation District and the Department of Land & Natural Resources approved the request, the Land Use Commission had no say in the matter.

Commissioner Wenkam replied that he was not contesting the authority of the Department of Land & Natural Resources. He was only challenging the decision of the Land Board to accept the petition for a special permit involving substantial lands.

Commissioner Burns commented that following the establishment of boundaries, Conservation Districts were turned over to the Department of Land & Natural Resources to administer, urban lands fell under the jurisdiction of the counties. The Commission may not always agree with their decisions, but to superimpose one agency over another did not necessarily insure better administration of the lands. In essence, we would be arguing that the Land Use Commission was more knowledgeable and astute in making decisions.

Mr. Moriguchi pointed out that our own regulations stipulated that "any and all uses permitted by the regulations of the Department of Land & Natural Resources shall be allowed in this district".

Commissioner Mark observed that it was clear that the Land Use Commission had discharged its responsibility within the Conservation District very well, and that if there were any complaints over the administration or uses of these lands, they should be properly taken up with the Department of Land and Natural Resources.

Chairman Thompson summarized that basically Commissioner Wenkam's and the other Commissioners' interpretation and intent of the law differed. Therefore, a clear definition of the intent of the law was necessary before any decision could be reached.

Commissioner Wenkam countered that the Land Use Commission was the zoning power of the State and if any interpretation were going to be made, it should be rendered by this Commission.

Commissioner Wung moved that a letter be sent to the Department of Land & Natural Resources to consider the referral of petitioner to the Land Use Commission whenever petition involved change of land use for substantial acreage in a Conservation District. Commissioner Burns seconded the motion.

Mr. Takeyama cautioned that a letter of this nature might suggest the implication that the Department of Land & Natural Resources was not carrying out its responsibilities and tend to destroy the good rapport established between the Land Use Commission and the Land Board. In other words, it would be akin to advising the Land Board of the proper execution of its responsibilities.

The Commissioners were polled as follows:

Aye: Commissioners Ota, Wenkam, Wung

Nay: Commissioners Burns, Inaba, Mark, Nishimura, Chairman Thompson

The motion was not carried.

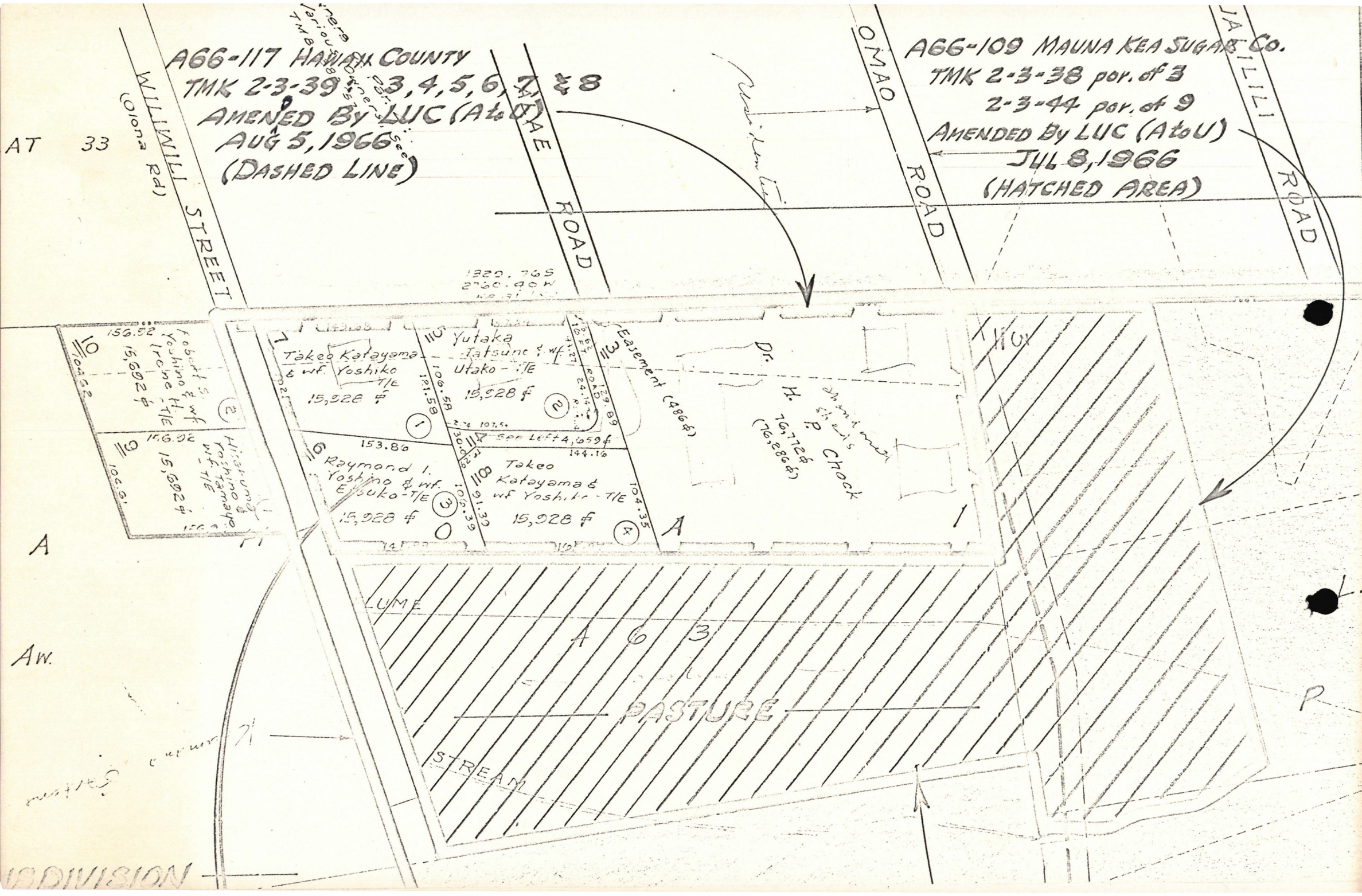
Chairman Thompson wondered whether staff might confer with a member of the Department of Land & Natural Resources staff to define the term "substantial" so that both agencies might have some guidelines to follow in determining whether a petition should come in for a special permit or a boundary change. He suggested that this might be accomplished on an administrative level. However, the final decision to accept a special permit application within a Conservation District or refer the matter to this Commission should be left to the discretion of the Land Board, since they would be more knowledgeable and in a better position to determine uses within a Conservation District.

Mr. Takeyama expressed doubt that a determination could be reached over the definition of "substantial" since there was no planning basis, nor legal basis one could be guided by--it was a very arbitrary matter and would depend largely on the circumstances.

Commissioner Wung moved to recommend that the Land Use Commission staff confer with the Department of Land & Natural Resources staff to discuss what constitutes substantial use, which was seconded by Commissioner Burns. The motion was passed with only Commissioner Ota voting in the negative.

SALT LAKE GOLF COURSE

Chairman Thompson felt that the Salt Lake Golf Course involved a jurisdictional matter which had been lengthily discussed under the foregoing heading of "Conservation District Administration" and therefore should be considered as having been covered under that discussion.


A66-117 HAWAII COUNTY
TMK 2-3-39: 3,4,5,6,7 & 8
AMENED BY LUC (A to U)
AUG 5, 1966
(DASHED LINE)
A66-109 MAUNA KEA SUGAR CO.
TMK 2-3-38 por. of 3
2-3-44 por. of 9
AMENDED BY LUC (A to U)
JUL 8, 1966
(HATCHED AREA)
WILIWILI STREET
(Olona Rd)
AT 33
OMAO ROAD
JALILILI ROAD
Takeo Katayama & wf. Yoshiko T/E
15,928 ¢
Yutaka Tatsuno & wf. Utako - T/E
15,928 ¢
Easement (486¢)
Dr. H. P. Chock
76,772¢
(76,286¢)
Raymond I. Yoshino & wf. Eisuko - T/E
15,928 ¢
Takeo Katayama & wf Yoshiko - T/E
15,928 ¢
See Left 4,659¢
Robert S. Yoshino & wf. Irene H. - T/E
15,692 ¢
Hisakuma Yoshino & wf. Tamayo - T/E
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LUME
A 6 3
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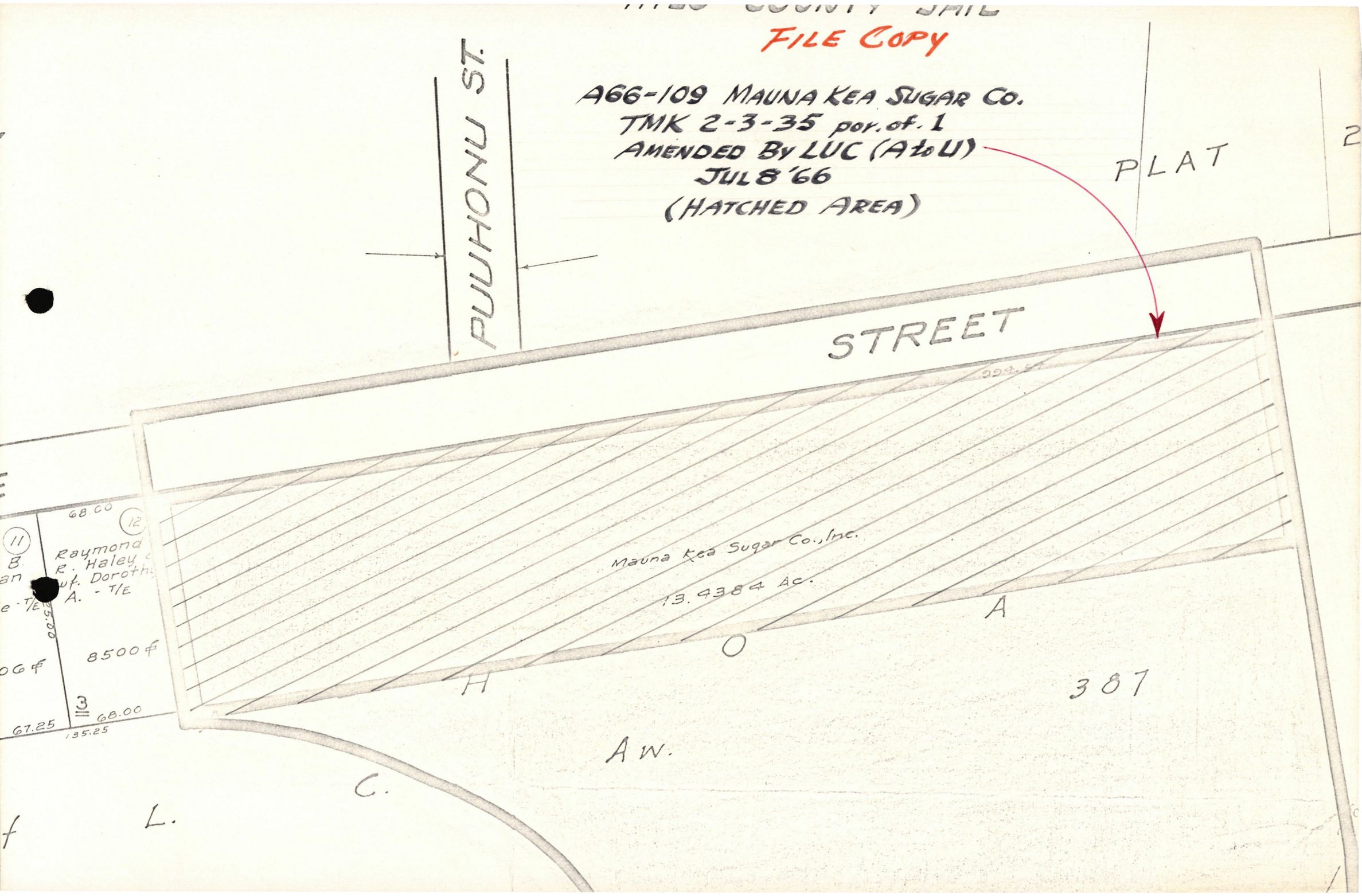
FILE COPY

A66-109 MAUNA KEA SUGAR CO.
TMK 2-3-35 por. of 1
AMENDED BY LUC (A to U)
JUL 8 '66
(HATCHED AREA)



STATE OF HAWAII
LAND USE COMMISSION

August 5, 1966
Hilo, Hawaii

MEMORANDUM

TO: Land Use Commission

FROM: Staff

SUBJECT: A66-109 - MAUNA KEA SUGAR CO., INC.; A66-110 - ESTATE OF SOPHIE JUDD COOKE (DEC'D); A66-112 - FRANK & BESSIE MONIZ; A66-113 - MAUI COUNTY (IAO); A66-115 - HAWAII COUNTY (LALAMILO); A66-117 - HAWAII COUNTY (HILO); A66-120 - EDWIN & ELSIE IGE

A66-109 - MAUNA KEA SUGAR CO., INC.

A public hearing was held on May 6, 1966, on the matter of this petition, which requested the change in district designation for three separate parcels of land from an Agricultural District to an Urban District. The three parcels involve two acres of cane land, 5.4 acres of cane land and grazing lands, and a 36-acre parcel of wooded lands in the upper Hilo area.

On July 8, 1966, the Land Use Commission voted to approve the requested change from Agricultural to Urban for the two-acre parcel and the 5.4-acre parcel and to defer final action on the requested change for the 36-acre parcel of wooded lands. Deferral on the matter of the 36-acre parcel was based on a proposed field trip to inspect the site during the August 5 meeting of the Commission in Hilo. The petitioners have formally indicated that they would not have any objection on the deferral.

During the meeting of July 8, 1966, the staff maintained its original recommendation for denial of the reclassification involving the 36-acre parcel since:

1. The parcel contains the last vestige of handsome wooded lands in the mauka Hilo area.

2. Denuding these lands of the dense growth of trees can and will probably contribute to flood problems in the area which is presently developed for residential purposes.

3. Additional data submitted by the petitioners during the public hearing were not of such significance to warrant a change in the staff's original recommendation for denial.

Having made the field trip to inspect the 36-acre parcel under consideration, the matter of a final decision is now before this Commission.

A66-110 - ESTATE OF SOPHIE JUDD COOKE (DEC'D)

The public hearing on the matter of this petition involving the reclassification of approximately 4.9 acres from an Agricultural District to an Urban District was heard by the Commission on June 17, 1966. At that time, the staff recommended that the petition be disapproved.

Since that time, attorneys for the petitioners have submitted a new petition requesting a reclassification of the same lands from an Agricultural classification to a Rural classification. They also propose to withdraw the original petition. Accordingly, the Commission is now faced with the following alternatives:

1. Process the original petition on the basis of the public hearing held on June 17, 1966.

2. Accept the petitioners' request to withdraw the original petition and process the new petition by scheduling another public hearing for the reclassification from Agricultural to Rural.

Should it be the Commission's decision to process the original petition, it would then be the staff's recommendation that the petition be denied on the basis of the analysis of the staff report of June 17, 1966.

A66-112 - FRANK & BESSIE MONIZ

Reclassification of approximately 6.9 acres of land located at Kaonoulu, Kula, Maui, from Agricultural to Rural was the subject of a hearing held on June 17, 1966. It was recommended by the staff at that time that the petition submitted by Frank & Bessie Moniz be denied since:

1. Data submitted by the petitioners consisted primarily of statements indicating the potential uses other than agricultural for the subject lands which do not substantiate the need for additional rural lands.

2. A change of the configuration of lands due to the construction of a new highway is not a change in trends of development.

3. The U. S. Census reports a 20 per cent decline in the population of the Waiakoa area during the period from 1950 to 1960 and this decreasing trend is also predicted for the period from 1960 to the present.

4. Examination of development trends within the existing Rural Districts in the area does not support the petitioners' suggestion of need for additional rural lands.

5. The petitioners have not considered the condition that only approximately 100 acres of the total 400-acre Rural District in the Kealahou to Kaonoulu area have actually developed to date as rural lands.

6. The 915-acre Rural District situated at Pulehu contains extensive acreage of approximately 645 acres that have not been developed to date as rural lands.

During the public hearing, a representative of the petitioners submitted that the U. S. Census report, which indicated a decline in population for the Waiakoa area, was a fallacy as evidenced by the tremendous upsurge of construction taking place in the Kula area. The petitioners' representative also stated that:

1. There were many reasons why approximately 400 acres presently classified in the Rural District were not fully developed. These were land ownership, cost of developing these properties, and topography and inadequate water supply.

2. Lands approved for development under special permit involving 14 acres for residential purposes had not been carried out since the owner had gone into a financial bind.

3. It would be unjust to allow lands to lie idle merely on the premise that there were other ample lands provided for expansion.

4. The rate of sales at Pukalani Terrace, a Rural District, has been very high.

Statements made by the petitioners at the public hearing rationalizing on matters of extensive vacant rural lands and the apparent lack of success of several developments in the rural lands, do not contribute to justification of the need for the proposed boundary change from Agricultural to Rural. Moreover, there would be questions on the validity of these rationalizations.

Statements by the petitioners purporting that the U. S. Census figures of declining population are incorrect needs no further comment. However, statements relating to a tremendous upsurge of construction in the Kula area have been merely statements without substantiation. Field investigations throughout the area have not turned up any evidence of an upsurge in construction. Also, contrary to the petitioners' statements, a count of building permits issued for construction in the Kula area does not indicate a significant upsurge in construction. During the period from 1960 to 1965, only an average of less than 16 building permits per year have been issued for construction in this area. This can hardly be construed to reflect an upsurge in construction in an area containing more than 1,000 acres of Rural District lands that are undeveloped.

It is recommended that this Commission take action to disapprove the petition based on the staff's presentation at the public hearing and the discussion submitted above.

A66-113 - MAUI COUNTY (IAO)

A petition submitted by the County of Maui via the County Attorney and the County Engineer for the reclassification of approximately 15,300 square feet of lands from the Conservation District to the Rural District was heard by this Commission on June 17, 1966. The subject lands are located at the northeastern boundary of the Kepaniwai Park located in Iao Valley, Maui.

It was the staff's recommendation that the petition be denied since the need for additional rural lands in the area had not been substantiated. This recommendation was based upon evaluation of the petitioner's submittal that the reclassification is sought to effectuate a land exchange between the County and an adjoining property owner, Mrs. Adelaide Duarte. Moreover, Mr. John Duarte (the owner's spouse) had submitted that in the event that the reclassification is approved and the land exchange is effectuated, he would merely append the subject lands to his parcel. A mere appendage of the subject lands to Mr. Duarte's property, in essence, does not require a change in district classification since this can be done even with its present Conservation classification.

It is also noted that the County's proposal to relocate the existing caretaker's home to another site can be accomplished instead by using the subject lands although an expression to the contrary was made by the County. Mr. Duarte also indicated that he owned the present right-of-way to the County lot area and, therefore, his approval to move the caretaker's quarters to the County lands must be sought. However, the County Engineer's map clearly indicates that quite the opposite is the situation with Mr. Duarte presently gaining access to his lands through the County park lands and, therefore, should obtain County permission to use the access road.

In addition to the lack of substantiation for the need of additional rural lands, it is the opinion of the staff that the several inconsistencies involving the proposed land use of the subject lands, which have not been satisfactorily clarified, behoove the staff to maintain its original recommendation for denial.

A66-115 - HAWAII COUNTY PLANNING COMMISSION (LALAMILO LANDS, S. KOHALA)

This petition to change the district classification for approximately 12.1 acres of agricultural lands into urban lands at Lalamilo, South Kohala, Hawaii, was heard on June 17, 1966. It was the staff's recommendation that the petition be approved since the subject parcels were actually subdivided and sold over a period of five years from 1954 to 1958 before adoption of the State Land Use District Regulations. It was also noted that this established urban use is immediately adjacent to lands classified urban.

During the public hearing, no additional significant presentations were received and, therefore, the staff recommends approval of the petition.

A66-117 - HAWAII COUNTY (HILO)

A Hawaii County petition for the reclassification of approximately 3.25 acres of land from Agricultural to Urban was heard on June 17, 1966. It was the staff's recommendation that the petition be approved since these lands were first subdivided in 1951 and again in 1953 into lot sizes primarily suited and developed for urban purposes. Since that time, the County Planning Commission has obtained signatures of four of the five land owners involved indicating their concurrence with the proposed boundary change.

No other significant data were received at the public hearing and to date and, therefore, it is recommended that the petition be approved.

A66-120 - EDWIN & ELSIE IGE

Mr. and Mrs. Edwin T. Ige's petition requesting reclassification of approximately 58 acres of agricultural lands to a Rural classification was heard by the Land Use Commission on June 17, 1966. These lands are located approximately 1/2 mile mauka of the Waiakoa Urban District along the Lower Kula Highway.

A recommendation of disapproval of the petition was made by the staff since the petitioners had not provided any evidence to support their statement that there is a definite demand for rural lots in the Waiakoa area. No further evidence was submitted by the petitioners during the public hearing.

The staff recommendation for denial was also based upon its findings indicating that population growth in the Waiakoa area showed a 20 per cent decline during the decade from 1950 to 1960. Data was also presented relating to extensive vacancies and use of rural lands for agricultural purposes within a mile of the subject lands and, also, throughout the entire Kula area.

Further investigation into the matter of development trends in the Kula area has been made by the staff and it has been found that the Keokea area has declined in population over the past years from 1940 to 1960 as with the Waiakoa area. Another item of considerable significance is the building permit count for the Kula area which indicated that less than 16 building permits per year on an average were issued. This data evaluated in light of the more than 1,000 acres of undeveloped Rural District lands in the Kula area establishes, without any doubt, that there has been no construction boom in the Kula area.

It is recommended that the Commission take action on the basis of the staff's original recommendation for denial.

August 2, 1966

Mr. Raymond Suefuji, Director
Planning Commission
County of Hawaii
Hilo Armory
Honolulu, Hawaii

Dear Ray:

We hope to have the Commissioners inspect the Mauna Kea Sugar Co. lands in Hilo Friday morning before the meeting. Action will probably be taken the same day.

See you Friday.

Very truly yours,

GEORGE S. MORIGUCHI
Executive Officer

1993

RECEIVED
JUL 29 1966
State of Hawaii
LAND USE COMMISSION

COUNTY PLANNING COMMISSION
COUNTY OF HAWAII
HILO, HAWAII

July 27, 1966

Mr. George S. Moriguchi
Executive Officer
State Land Use Commission
426 Queen Street
Honolulu, Hawaii 96813

We have received the agenda for your Commission meeting of August 5, 1966 in Hilo. We are wondering whether the portion of the Mauna Kea Sugar application in Hilo which was left out from action by your Commission would be taken up at that meeting. Also, the field trip as suggested by the Commissioners.

We would like your answer so our staff can substantiate further on the need of this area for urban use.

Raymond H. Suefuji
Director

PIY:RHS:mh

File

1978

LAW OFFICE
OF
USHIJIMA AND NAKAMOTO

JOHN T. USHIJIMA
ROY K. NAKAMOTO
GEORGE S. YUDA

P. O. BOX 964
HILO, HAWAII
96720

July 11, 1966

RECEIVED
JUL 13 1966
State of Hawaii
LAND USE COMMISSION

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

Attention: Mr. George S. Moriguchi

Gentlemen: Re: Application No. A66-109,
Mauna Kea Sugar Co., Inc.

This is to advise you that the Applicant, Mauna Kea Sugar Co., Inc., has no objections over the deferral of its application from the meeting of July 8, 1966 to a subsequent date. It is our understanding that of the three matters contained in the said application, two of the parcels of property had been acted upon and the third matter had been deferred.

We would appreciate receiving further word from you as to when the matter deferred will again be considered.

Thank you for your cooperation in the above matter.

Very truly yours,

JTU:sas

STATE OF HAWAII

LAND USE COMMISSION

VOTE RECORD

ITEM A66-109 Maui Kea Sugar Co.

DATE 7-8-66

PLACE L. U. C. Hon.

TIME

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

COMMENTS:

Act on 2 lower portions

defer action 3b on

Carried

STATE OF HAWAII
LAND USE COMMISSION

July 8, 1966
Honolulu, Hawaii

MEMORANDUM

TO: Land Use Commission

FROM: Staff

SUBJECT: A66-109 - MAUNA KEA SUGAR CO., INC.

A public hearing was held on May 6, 1966 on the matter of this petition which requests the change in district designation for three separate parcels of land from an Agricultural District to an Urban District. The three parcels involve 2 acres of cane land, 5.4 acres of cane land and grazing lands, and a 36 acre parcel of wooded lands in the upper Hilo area.

A recommendation for denial of the petition was made by the staff since:

1. The petitioner has not substantiated the need for additional urban lands in the Hilo area.

2. Approximately 300 acres of vacant lands or lands used for other than urban purposes exist within the Hilo Urban District, located less than a mile from the three parcels under consideration.

3. Conditions and trends in the Hilo area relating to district boundaries have not changed significantly since the original request for change was denied for Parcels A and B some 10 months ago.

4. Parcel C contains the last vestige of handsome wooded lands in the mauka Hilo area, and denuding these lands of the dense growth of trees can and will probably contribute to flood problems in the area which are presently developed for residential purposes.

During the public hearing, Mr. Roy Nakamoto, representing the Mauna Kea Sugar Co., called upon Mr. Kenneth Griffin, real estate broker, for comments related to the need for additional urban lands. At that time, Mr. Griffin admitted to the fact that vacant lands were available in the Hilo area. However, he reported that demand for lots was peculiar to certain areas and the subject lands were in a highly desirable area for residential use. He also reported on the high rate of sales in the area as experienced by recent subdivisions, and commented that he had not noticed any flooding in the last 1½ years although Hilo has experienced considerable rain.

It is the staff's consensus that the success of sales and development in recent subdivisions cannot be used to justify the need for additional urban lands in view of the extensive vacant lands within a mile of the subject lands, and in view of the extensive vacant lands throughout the entire Hilo Urban District estimated to be approximately 2,400 acres. The request for three additional parcels for urban purposes involving 2 acres, 5.4 acres and 36 acres

is overshadowed by the 300 acre vacancy in the immediate area and by the 2,400 acre vacancy within the entire Hilo Urban District.

Additional data submitted by the petitioners during the public hearing have not been of such significance as to warrant a change in the staff's original recommendation for denial of the petition.

June 24, 1966

Mr. John T. Ushijima, Attorney
Mauna Kea Sugar Co., Inc.
P. O. Box 964
Hilo, Hawaii 96720

Dear Mr. Ushijima:

The Land Use Commission next meets at 8:30 a.m. at the Land Use Commission Hearing Room, 426 South Queen Street, Honolulu, Hawaii, on July 8, 1966.

On or about that time a decision of the petition by Mauna Kea Sugar Co., Inc. (A66-109) will be rendered.

There is no requirement for you to be present. However, should you wish to attend, please feel free to do so.

Very truly yours,

GEORGE S. MORIGUCHI
Executive Officer

cc: Chairman Thompson

STATE OF HAWAII
LAND USE COMMISSION

Minutes of Meeting

County Board of Supervisors Chambers

Hilo, Hawaii

3:10 P.M. - May 6, 1966

Commissioners Present:	Myron B. Thompson, Chairman Jim P. Ferry Charles S. Ota Leslie Wung Goro Inaba Shiro Nishimura
Absent:	C. E. S. Burns, Jr. Robert G. Wenkam Shelley Mark
Staff Present:	George S. Moriguchi, Executive Officer Roy Takeyama, Legal Counsel Ah Sung Leong, Draftsman Dora Horikawa, Stenographer

The meeting was called to order by Chairman Thompson who offered a short opening prayer. This was followed by an explanation of the procedures to be followed during this hearing and persons testifying before the Commission were duly sworn in.

PETITION OF R. E. ALLISON, ET AL (A65-107) TO AMEND THE DISTRICT BOUNDARY FROM AN AGRICULTURAL DISTRICT INTO AN URBAN OR A RURAL DISTRICT AT PANAEWA HOUSELOT SUBDIVISION, HILO, HAWAII, identifiable by TMK 2-2-51 and 52.

Mr. Moriguchi presented staff report recommending denial of the petition on the basis that the proposed subdivision would require substantial governmental expenditure for improvements and necessary facilities, and also on the basis of the lack of substantiating data to support the petitioners' claim that additional lands are needed for urban purposes in the Hilo area.

A detailed map showing the location of the subject area in relation to its surroundings was also presented. It was noted by the Executive Officer that the request was for redistricting of the entire area from Agricultural to Urban or Rural although the petition was not signed by all of the landowners involved.

Mr. Moriguchi advised that recommendation was for denial of Urban as well as Rural classification due to the inadequacy of facilities in the area, in reply to Chairman Thompson's question.

See page - 10

Mr. Philip Yoshimura of the Hawaii County Planning Commission stated that the County recommendation was for approval of a Rural classification in lieu of an Urban classification based on further studies made by the Commission with respect to the need for additional subdivisions, the water system, roads, etc.

Mr. Moriguchi commented that the report from the County indicated that it would not approve any subdivision plans for the area until further improvements are completed, even if the Land Use Commission were to approve the petition. Mr. Yoshimura replied that this was up to the County Planning Commission since the matter of the inadequate water system and roads had yet to be resolved.

Mr. Yoshimura advised that the County General Plan for this area designated it for residential-agricultural uses similar to a Rural designation. In reply to Commissioner Ferry's query, Mr. Yoshimura informed that presently a residential-agricultural classification stipulated lot sizes of 5,000 to 7,500 square feet. However, the proposed zoning for this classification would require minimum lot sizes of from 1/2 acre to 5 acres, which hopefully will be adopted this year.

Mr. Curtis Carlsmith, representing the petitioners, was advised that he would be given an opportunity to ask questions of governmental representatives after his presentation.

Mr. Carlsmith handed out to each petitioner a copy of a prepared argument in favor of the petition and proceeded to present it in the following manner: (See copy on file.)

1. Staff contends that sufficient lands have been allocated for residential purposes. In rebuttal Mr. Carlsmith quoted the following figures:

   a. Population projection for 1980 (according to General Plan for Hilo) - 40,000. Increase of 15,000 in next 14 years.

   b. 10 years from now there will be an increase of 10,000 people. 10 years from now 4,000 additional homes will be needed.

   c. 2,400 acres presently available for urban residential uses will not provide for the 4,000 additional homes, plus lands for schools and roads, that will be needed in 1976.

2. Insufficient urban lands presently zoned in Hilo.

   a. Substantiated by the grossly over-inflated price of urban houselots in the Hilo area, due to insufficient urban lands.

      Referring to the matter of grossly over-inflated price of urban lands in the Hilo area, Mr. Carlsmith called on Mr. Kenneth Griffin, principal broker and manager of the Real Estate Department of the Realty Investment Company in Hilo, to give the Commissioners an idea of the relative costs of residential lands in the Hilo area, the high and low figures of per square foot prices and the availability of such lands.

Mr. Griffin submitted the following data:

Residential A - 15,000 square feet and above	- 25¢ to 45¢ a foot
Residential B - 10,000 square feet) Residential C - 7,500 square feet)	- 35¢ to 50¢, depending on the size of lot since much of the land sales are based on unit cost of lots
Agricultural lands fairly close to Hilo area	- Latest sale at the Waikea area for 30-acre piece sold for $1,500 an acre

Conservation lands carry a lesser price per acre than Agricultural lands.

Chairman Thompson asked Mr. Griffin for comparative prices on Residential A, B and C lands two years ago and today. Mr. Griffin replied that the difference would be anywhere from 5¢ to 10¢ a foot on A lands and from 10¢ to 20¢ a foot on B and C lands. He added that perhaps there was a 10% difference five years ago.

In reply to Mr. Moriguchi's question, Mr. Griffin commented that he attributed the rise in land prices to the increased interest in individual home ownership and upgraded County standards requiring curbs and sidewalks in new subdivisions.

3. Both the County and the State have an obligation to provide relatively inexpensive lands so that the people can buy and build own homes on own land.

   a. Hawaii Constitution provides that individual home ownership be encouraged. By limiting amount of urban lands, actually discourages this.

4. The land is needed for another use because it is not presently usable for the use for which it is districted--namely, agricultural. This was based on questionnaires sent to all the landowners named in the petition concerning their success or failure in agricultural pursuits, soil composition of the lands, etc.

   a. Mr. Carlsmith presented an aerial photograph showing the cleared areas, the jungle and virgin forest areas of the subject parcels. He noted that approximately two-thirds to three-fourths of the lands were undeveloped under the present zoning.

   b. General Information on Panaewa Houselots:

      63 lots privately owned by 61 landowners

      177 acres involved in rezoning

71 houses now built - 46 owner-occupied
6 occupied by members of owners' families
19 rented to outsiders

6 lots have more than 1 house, 2 lots have 3 houses, 4 lots have 2 houses

5. People living here are neither farmers nor agriculturists and do not have the knowledge, skill or time to grow crops economically. They bought the lands as residences for their families and also to possibly build houses for rental purposes.

6. Mr. Carlsmith submitted that the highest and best use of subject lands was for urban residential subdivision purposes.

Mr. Carlsmith continued that the lands were usable for the proposed use since they were very close to the centers of shopping, recreational and employment facilities. They were also only a short drive to the shopping and business centers of Hilo. Adequate basic services were close by, available at relatively low cost, and it was not necessary to construct additional telephone or electric power facilities. There is one six-inch water line and one eight-inch line running along the highway adjacent to the subdivision. There would be a defect in the water system only if many, many more homes were built in the area. However, this was a matter that should be considered only at the time of the subdivision of the lands. If at that time it develops that more water facilities are needed, Mr. Carlsmith felt that possibly the subdividers and the people in the area may agree on a plan or the County may bring about an improvement district for additional facilities.

It was also brought out by Mr. Carlsmith that all except two roads in the subdivision were paved and that they had been informed by the Department of Land and Natural Resources in Hilo that the money for paving these roads had been allocated by the government, and that it was in the last stages of processing before actual construction.

Mr. Carlsmith continued that subject lands were entirely free from flood dangers, an excellent area in which to channel urban growth, and while not absolutely contiguous to urban Hilo, it was located 900' from lands presently zoned urban, separated only by a small number of 10-acre farm lots. Mr. Carlsmith called on Mr. Allison to give an idea of the actual distances to various points in Hilo and nearby urban areas:

Keaau Police Department	-	3.6 miles
Hilo Police Department	-	4.5
Nearest Fire Station	-	2.3
Keaau Fire Station	-	3.6
Keaau Post Office	-	3.6
Hilo Post Office	-	4.5
Hilo Airport	-	3.7
Hilo Shopping Center	-	3.5

New Taniguchi Shopping Center	-	2.
Bank of Hawaii	-	2.7
First National Bank	-	3.5
New County Building	-	4.3
Municipal Golf Course	-	1.5

Mr. Carlsmith commented that the statutes suggest changing conditions as possible grounds for amendment of district boundaries. In support of this, Mr. Carlsmith noted that subject area was a rapidly changing portion of Hilo where new businesses, new shopping centers were coming up and increased power lines were being installed along the Volcano Road.

Mr. Carlsmith then turned to several legal theories (see copy on file) on which he elaborated as follows:

1. The State had entered into a contract with the purchasers of the Panaewa Houselots, giving them the right to subdivide the lots into 10,000 square foot properties. To support this theory, Mr. Carlsmith passed around the Special Sale Agreement and Land Patent issued to Mr. Allison. He also made available to each Commissioner xeroxed copies of relevant sections of the Sale Agreement, Land Patent and the Legal Notice of sale of territorial government lots on the Island of Hawaii (see copies on file).

2. Notice of Sale. It was pointed out that land was restricted to residential purposes only for 10 years next following the issuance of Land Patent or Deed. It was further stated in the notice that "subdivision of lot permitted with certain lot size and building requirements." Therefore, the purchasers had relied upon this when they showed up for the auction, and they paid as much as they did for the land because they anticipated the land would be worth much more if it were subdividable.

3. Land Patent Grant. Not only does the Land Patent specify residential use only, it goes much further and states that if the lot is used for any use other than residential purposes (and this includes agricultural pursuits), the land "shall forthwith be forfeited and resume the status of government land." In other words, if the landowners attempt to put the land to agricultural uses, by the terms of the Land Patent Grant, the State not only can revert the land to government status, but no provisions have been made for reimbursement of the land price. The landowners are caught in the middle of two conflicting statements.

Mr. Carlsmith felt that the Executive Officer had misunderstood his argument on the contract theory whereby the staff states "that the landowner is governed by the ordinances in effect at the time he proposes to subdivide, and not by the ordinances that were in effect at the time he first purchased his lands." Mr. Carlsmith agreed that there was no doubt that generally this was a sound statement of law. However, in the present case under discussion, there was an additional fact to be considered. The State had expressly contracted to allow these people to subdivide their lands into 10,000 square foot lots and it was a

contract binding on the State. In fact, this contract was upheld in Hilo in the Third Circuit Court by Judge Felix in the decision of July 30, 1965.

Mr. Carlsmith argued that the restrictive covenants were incorporated in the deed to protect everyone in the subdivision. If the State attempts to supercede the restrictive covenant and perhaps allow one landowner to bring a noxious use into the subdivision, this would be held to deprive every lot owner without due process of law. Presently, pig-raising, for instance, is an allowable use of the land and this would break down the essential residential nature of the area.

Mr. Carlsmith further argued that the original boundary was an improper district boundary, relying on the statement made by Judge Felix in the decision to the effect that at the time boundaries were enacted, they were supposed to represent the present use of the land. At that time, the use was urban-residential as restricted by the State in the Land Patent. Mr. Carlsmith quoted the section of Judge Felix's decision in point:

> "It should be noted that the second sentence of Section 5, Act 187, Session Laws, 1961, (the original Land Use Law) reads, 'These temporary districts shall be determined so far as practicable and reasonable to maintain existing uses...' There is no doubt that by said sentence the Legislature in enacting Act 187 intended the Land Use Commission to place land which had been put into urban (residential) use prior to enactment of said Act to be continued in an urban district."

Mr. Carlsmith explained the reason for the alternate request for a Rural classification in the petition. He said that the landowners were primarily interested in an Urban classification but that they would also like a ruling on the Rural classification at the same time.

However, it was Mr. Carlsmith's contention that Rural was not the proper classification for this area for the following reasons:

1. Minimum lot sizes in a Rural area would require 1/2 acre lots. This is in conflict with the use promised by the State.

2. Theoretically, Rural lands are used for vegetable or flower gardens and production of crops to supplement income. Subject lands are rocky and unsuitable for gardens.

3. The State Land Use District Regulations designate Rural lands to "include parcels of land where 'city-like' concentration of people, structures, streets and urban level of services are absent." A high degree of urban services are presently available in the area and there existed a city-like concentration of people. The Regulations also state that land not contiguous to urban lands shall not be used for urban purposes. The three reasons for the latter statement and why they were not applicable in this case were presented as follows:

a. To cut down amount of scattered urban areas by reason that scattered urban areas would burden the State and County with costs for services and facilities. - Services are already available in subject area.

b. Urban sprawl would not be aesthetically pleasing. - The subdivision would not be visible from the highway since it was hidden by a 300' wide strip of virgin forest.

c. Additional tax burden resulting from need for services and facilities--this is adequately covered in (a) above.

In summary, Mr. Carlsmith submitted that there were several fingers of urban land uses which extended out a significant distance from the central urban area. He contended that the Panaewa Houselots were closer to the Hilo area than some of these urban fingers on the map.

Commissioner Nishimura wondered whether the State would have to bear the cost of installing water lines and building roads should the classification be changed to Rural. Mr. Carlsmith assured him that he believed there was no way the subdividers could demand this of the State--that these costs would be allocated among the people of the subdivision.

Commissioner Ferry wondered whether Mr. Carlsmith would consider that there was a taking of property if a piece of property he owned, zoned for hotel-apartment, on which improvements had not been made, was subsequently rezoned for single-family dwelling. Mr. Carlsmith replied that the law was clear in this case--since there was no construction or improvement on the property, one could not complain at the time of rezoning.

Commissioner Ferry likened this to the present petition under discussion and wondered how these people, who had not subdivided their lands, could consider that there was a taking of property now that the lands had been rezoned for another use by the Land Use Commission. The difference here, Mr. Carlsmith argued was that in one instance there was a contractural right of property under the Constitution of the United States, whereas in the other case there was no contract.

Commissioner Ferry pointed to the fact that the sale of the Panaewa Houselots had been conducted by the State Commissioner of Public Lands and did Mr. Carlsmith feel that the Land Use Commission should concede to the Commissioner of Public Lands. By the same token if a governmental agency wanted to subdivide its lands, they would not need to go to the County Planning Commission or the Land Use Commission for proper approval. Commissioner Ferry felt that a permissive use contained in a deed document or land patent grant by the State on a previous disposition could not be weighed by this Commission.

Mr. Carlsmith argued that this was not a mere case of permissive use. This was a contract and it was ruled to be so and upheld in the Court of Law in Hilo.

Commissioner Ferry pointed to page 3 second line of the staff report which read "only one owner indicated intention to subdivide and sell lots, while the rest plan to keep all of their land." Mr. Carlsmith agreed that this was true. Commissioner Ferry then referred to page 3, seventh argument in Mr. Carlsmith's written presentation, which indicated that these lots were needed for subdivision purposes.

Mr. Carlsmith admitted that substantially more than one land owner would want to subdivide their lands, but stated that his point in the argument was to stress that these people were not land speculators. They had bought these lands for their own and their family's use, with possible additions of rental units.

Commissioner Ferry wondered why it would be necessary to subdivide the land at all if ownership were to be retained by one person. If the zoning were established at 10,000 square foot for a home and there were 100,000 square feet of land, 10 homes could be built on the land without subdividing.

Mr. Carlsmith replied that he had approached the County Planning Commission and they had informed him that they would not issue any building permit until the land was subdivided.

In reply to Commissioner Wung's question, Mr. Carlsmith felt that a 1,000-acre macadamia nut orchard would be economically profitable whereas a 3-acre farm would not. The economy of large farms is being recognized all over the United States.

He did not know whether vandas would be an economic success since he did not know the cost of hapu, etc.

Mrs. Becky Arquero, one of the landowners in the Panaewa Houselots, testified that the only reason she wanted to subdivide was to be able to deed the land to her children, and that many of the others felt the same way.

Chairman Thompson brought up the point that Mr. Carlsmith seemed to negate the request for rural in his testimony. Mr. Carlsmith replied that the petitioners actually sought an urban designation. However, he had submitted the petition in the alternative with the request that the Commission rule on urban and rural so that in the event urban is denied, taken to court and upheld, the

petitioners would not have to go through the entire proceedings for a rural classification. Mr. Carlsmith agreed that he would take the matter to court if the petition were denied in either case.

Mr. Carlsmith questioned the source of Mr. Moriguchi's information relative to the sufficient amount of reserved areas for urban growth in Hilo as stated in the staff report. Mr. Moriguchi replied that this was based on a survey made of the Urban District in the Hilo area during the latter part of 1965 using aerial photographs and field inspections.

Mr. Carlsmith wondered what factors were considered in making this survey to which Mr. Moriguchi replied that vacancy of urban lands was the only consideration. Mr. Carlsmith implied that within the 2,400 acres of vacant urban lands, portions may already be subdivided and owned by many different landowners and not available to other people in Hilo. Mr. Moriguchi clarified that staff did not consider availability--only vacancy of urban lands.

For purposes of appeal, Mr. Carlsmith requested that these figures be incorporated in the records.

Mr. Carlsmith asked whether the land area that would be necessary for roads, schools, additional facilities, etc., had been deducted from the 2,400 acres to which Mr. Moriguchi replied that staff referred only to vacant lands.

Mr. Moriguchi submitted that staff was only mandated by the statutes to provide for sufficient urban lands and was not required to specify whether they were for homes or business, in direct reply to Mr. Carlsmith's question.

Mr. Carlsmith contended that staff was required to delve into the matter of availability of urban lands as well. In Hilo, 90% of the lands were owned by either the Mauna Kea Sugar Company or the State of Hawaii, neither of which had any intention of making these lands available in Hilo.

Referring to Mr. Carlsmith's earlier statement with respect to insufficient urban lands in the Hilo area, Chairman Thompson pointed out that the statutes clearly place the responsibility of proving this on the petitioner.

Mr. Carlsmith agreed that the burden of proof of insufficient lands rested with the petitioner. However, to plan for urban needs on the basis of vacant urban lands, he did not feel was a proper application of the statutes.

Mr. Takeyama, legal counsel, commented that Mr. Carlsmith was interpreting the term "available" to mean that the Land Use Commission should pry into the minds of property owners as to their intention, which was an impossible task.

Mr. Carlsmith replied that he meant it was necessary to make a reasonable inference whether these lands were available to the people of Hilo.

In reply to Mr. Carlsmith's question, Mr. Moriguchi advised that he had not made an estimate of the lands that would be needed in the next 10 years on the population projection, since the Commission had ruled that the Urban District would provide for that.

Referring to staff's statement in the report that 2,400 acres of urban lands in Hilo would be sufficient to take care of the urban needs, Mr. Carlsmith wondered about the reasoning behind this contention. Staff replied that he was relying on the fact that the Commission had found it adequate within the bounds established in August, 1964, to take care of the urban needs. Mr. Carlsmith argued that the mere statement that it is adequate was not sufficient grounds for upholding the regulations--that it had to be based upon substantial evidence.

Mr. Takeyama advised that population projection was a consideration in determining the urban needs of the Hilo area since, at the time of adoption of the final boundaries in August, 1964, by the Land Use Commission, this was taken into consideration.

The hearing was closed at 5:00 p.m.

Chairman Thompson called for a five-minute recess.

PETITION BY MAUNA KEA SUGAR CO., INC. (A66-109) TO AMEND THE URBAN DISTRICT BOUNDARIES AT HILO, HAWAII, identifiable by Tax Map Keys 2-3-35: 1, 2-3-39: 2, 2-5-08: 3

Staff Report (see copy on file) as presented by Mr. Moriguchi, recommended denial of the petition since the petitioners had not substantiated the need for additional urban lands and since there were other vacant urban lands within the immediate Urban District.

Mr. Philip Yoshimura advised that the Planning Commission had recommended approval of the petition because the subject lands were included in the General Plan for urban development, they were prime residential lands, urban facilities were available, available houselots in the Hilo area were limited.

In response to the Chairman's and Commissioners' requests, Mr. Yoshimura pointed out the areas planted in cane, park areas, and the uses of adjoining lands.

Mr. Yoshimura agreed that the General Plan followed essentially the plan drawn up by Belt Collins. A detailed study for need had not been made. Mr. Yoshimura commented that the Kaumana Gardens were fully developed although he was not sure whether they were all sold.

Mr. Roy Nakamoto of the law firm of Ushijima and Nakamoto, representing the Mauna Kea Sugar Co., testified that the three parcels in question were immediately adjacent to built-up urban areas, and included as urban lands in the General Plan and earmarked for residential use. They were also very close to community facilities such as the hospital, school, roads. The importance of proximity to the Hilo urban center was also pointed out by Mr. Nakamoto as a result of the poor transportation system.

Since these were relatively small parcels, Mr. Nakamoto submitted that district reclassification would not affect the over-all agricultural picture. Presently, the lands were being taxed for residential use and they were uneconomical for agricultural use. Therefore, the highest and best use was for residential purposes.

Referring to the staff's statement that proof had not been submitted for additional urban lands Mr. Nakamoto called on Mr. Kenneth Griffin, reat estate broker, for comments along this line.

Mr. Griffin stated that although it was true that vacant lands were available in the Hilo area, the demand for lots was peculiar to certain areas and the subject lands were in a highly desirable area for residential use. He cited the Halai Hills, selling around 85¢ to $1.25, as having 100% use. The Kaumana Terrace, selling around $1.35 to $1.40, has been completely sold. The first 40 lots in the Bay View Subdivision developed by Mr. Griffin's firm, sold within 6 months after they were put on the market, and an additional 20 lots were offered later. Of this total, Mr. Griffin stated that there were about 18 lots with homes already built or under construction

On the matter of the wooded area, Mr. Griffin thought that the upper area more than compensated for the cutting of the trees. He submitted that the danger of flooding had been alleviated by natural drainage and through built-up drainage. He said that he had not noticed any flooding in the last 1½ years, although Hilo has experienced considerable rain during that time.

In reply to Commissioner Ferry's query as to the type of subdivision contemplated for the subject parcels, Mr. Griffin informed that Mauna Kea Sugar had made no commitments in this respect. However, his firm would probably plan for 10,000 square foot lots with 100' frontage, storm drainage, sidewalks, taking advantage of the natural terrain and view of the bay. Mr. Griffin was not able to say whether it would be a grid or cluster-type subdivision.

Mr. Moriguchi pointed to the 45 acres of land in the Urban District, owned by Mauna Kea Sugar, presently vacant and asked whether any consideration had been given to these lands.

Mr. Claude Moore of Mauna Kea Sugar commented that these lands were highly impractical to develop. A stream cuts right through this land and a road will be required which could only be served from one side. He added that this land was located in the County watershed area.

Mr. Griffin offered additional data on the 45-acre parcel under discussion. He identified the parcel as being right behind the De Silva School with drops of approximately 25 to 30'. He said that there were almost no usable land and most of the lots would be down in a hole. He thought perhaps that the lower area could be subdivided into 10 or 12 lots.

Since there was no further testimony, the hearing was closed thereafter.

APPLICATION BY GERALDINE L. CARVALHO (SP66-22) FOR A SPECIAL PERMIT TO CONVERT A GREASE RACK SECTION OF AN EXISTING SERVICE STATION INTO A LAUNDROMAT AT PEPEEKEO, SOUTH HILO, HAWAII, identifiable by Tax Map Key 2-8-16: 25

Staff recommended approval of the special permit on the basis that the proposed use would not adversely affect the surrounding property nor alter the essential character of the land or burden public agencies and also on the basis that the proposed use could be considered an unusual and reasonable use within an Agricultural District. (See copy of staff report on file.)

Commissioner Ferry moved to accept the staff recommendation, seconded by Commissioner Inaba. The motion was carried unanimously.

APPLICATION BY HILO ELECTRIC LIGHT CO., LTD. (SP66-23) FOR A SPECIAL PERMIT TO PROVIDE STORAGE SPACE FOR EQUIPMENT AT KAULEOLI, SOUTH KONA, HAWAII, identifiable by Tax Map Key 8-5-5: 19

It was recommended by staff that the application for the special permit be approved on the basis of the evaluation performed, using the guidelines set up by the Land Use District Regulations. (See copy of staff report on file.)

Mr. Moriguchi advised the Commissioners that he had talked with Mr. Niyao of the Hilo Electric Light Co. who indicated that they might not need the storage space.

Mr. Niyao explained that the additional equipment which they had proposed to store in the storage area were all circuit breakers used to protect the transmission lines.

Mr. Moriguchi confirmed that this was a permissible use within an Agricultural District, in reply to Chairman Thompson's question.

Mr. Moriguchi recommended that this matter be referred back to the Hawaii County Planning Commission for re-evaluation in light of the latest data submitted by Mr. Niyao.

Commissioner Ferry moved that the application for special permit be referred back to the Planning Commission in the County of Hawaii, seconded by Commissioner, and the motion was carried unanimously.

APPLICATION BY GEORGE M. HUDSON, ET AL (SP66-24) FOR A SPECIAL PERMIT TO ESTABLISH INDIVIDUAL ONE-ACRE HOME SITES WITHIN THE AGRICULTURAL DISTRICT AT GLENWOOD, PUNA, HAWAII, identifiable by Tax Map Key 1-8-7: 25

Mr. Moriguchi presented the staff report which recommended denial of the application since the proposed use could be accomplished without subdividing the land and it could not be considered "unusual" in any sense.

Mr. Suefuji referred to page 2, second paragraph, in the staff report which read "Under the State Land Use Regulations involving Agricultural Districts....., the construction of six residential dwelling units can be permitted since minimum lot sizes are established at three acres. It is also noted that it may be possible to construct the homes in the manner suggested by the applicants without subdividing the 29-acre parcel."

Mr. Suefuji commented that he got the impression staff was recommending that the six dwellings be treated as one dwelling and the three acres be used without parcelization.

Mr. Moriguchi replied that the petitioner had indicated that the land was going to be used for agricultural purposes, and that a residential dwelling was permitted.

Mr. Suefuji stated that the applicant was informed to go through this procedure since he had implied that the homes were being built for future heirs of the family.

Commissioner Ferry suggested that this could be accomplished by subdividing the land into three-acre parcels.

Commissioner Ferry moved that staff recommendation be accepted and the special permit be denied. The motion was seconded by Commissioner Nishimura and carried unanimously.

The remaining items on the agenda were all deferred.

The meeting was adjourned at 5:10 p.m.

STAT E OF HAWAII
LAND USE COMMISSION

County Board of Supervisors Chambers
Hilo, Hawaii

3:00 P. M.
May 6, 1966

STAFF REPORT

A66-109 - MAUNA KEA SUGAR CO., INC.

Mauna Kea Sugar Co., Inc. has submitted a petition to amend the district designation of three separate parcels of land from an Agricultural District into an Urban District. The first parcel, which will be referred to as Parcel A, involves approximately 2 acres of cane land fronting on Punahele Street opposite Puu Honu Street, immediately adjacent the present Hilo Urban District. The second parcel, which will be referred to as Parcel B, involves approximately 5.4 acres, located adjacent the Kaumana Gardens Subdivision, with approximately 2 acres planted in cane and the remainder consisting of open grazing lands. The third parcel, which will be referred to as Parcel C, involves approximately 36 acres of wooded lands off Ainako Street, adjacent the mauka areas of the Hilo Urban District.

In support of its petition for amendment to the district boundary as requested, the petitioner reports that:

> "All three parcels either abut or are located near properties already in urban use. All are located near Hilo, near schools, and major streets, and there is a definite need for residential developments of these parcels inasmuch as they are ideally suited and needed for such purpose."

No other data other than the paragraph indicated above have been submitted to support the petition.

Parcel A and Parcel B were the lands involved for a similar petition

submitted by the then Hilo Sugar Co., Ltd., predecessors of the Mauna Kea Sugar Co., Inc., which was considered and denied by this Commission on July 23, 1965. Very little change in the urban picture and the agricultural picture surrounding the subject parcels has occurred over the past 10-month period since that time.

Soils at Parcel A are well suited for sugar cane crops and moderately suited for vegetables and can also be used for pastures. Soils at Parcel B can support sugar crops and is also suitable for any forage crops.

Parcel C is a 36-acre portion of an extensive 350 acre wooded area, surrounded on three sides by established residential areas. This area is primarily rock land with Pahoehoe lava topped by Kealakekua, Olaa, or Ohia soil material. It has been found difficult to improve pastures or control guava or other shrubs on this land. The carrying capacity is low and the forage is of poor quality. However, verdant, handsome stands of trees completely cover Parcel C and extend mauka into the wooded area.

The Hawaii County Planning Commission has recommended approval of this petition, submitting essentially the same reasons for its recommendation of approval involving the original petition. These are:

1. That the County General Plan provides for residential use in this area.
2. That all of these properties are contiguous to existing Urban Districts.
3. Most of the existing Urban Districts in this area are presently built-up.
4. That the areas are ideal for urbanization because of the close proximity to community facilities and utility services.
5. That the parcels are not ideal for agricultural use and that the

land is taxed for residential purposes.

Conditions and trends in the Hilo area relating to district boundaries have not changed significantly since the original request for change was denied for Parcels A and B some 10 months ago. At that time, it was noted that considerable vacant lands occur within the Hilo Urban District, and that the present density of residential development in this district was generally lower than that for a Rural District, being approximately one dwelling unit per 1.2 acres. Latest estimates of population for the Hilo area indicate that there has been a slight decline since 1960. Parcel C, although not involved in the earlier petition, is affected similarly by data relating to Parcels A and B due to their proximity to the Hilo Urban District.

It is estimated that approximately 300 acres of vacant lands or lands used for other than urban purposes exist within the Urban District within a mile of the three parcels under consideration. It is recognized that approximately 75 of these acres are planted to cane by the Mauna Kea Sugar Co., Inc. under an agricultural lease from the State of Hawaii. However, this Commission has found it prudent to classify these cane lands for urban purposes and the staff concurs. The other remaining vacant urban lands are not used for intensive agricultural purposes. It logically follows that these vacant urban lands, whatever the circumstances may be concerning their land tenure, should be considered for expansion of residential areas before other agricultural lands.

Although Parcel C involves agricultural lands that are poorly suited for such purposes, it is noted that the area contains the last vestige of handsome wooded lands in the mauka Hilo area. Denuding these lands of the dense growth of trees can and will probably contribute to flood problems in the area developed for residential purposes immediately adjacent Parcel C.

Existing storm drainage facilities consist of open roadside drainage ditches. Some evidence of minor flooding under existing conditions are apparent. Denuding the wooded area would certainly add to this problem.

On the basis that parties requesting approval and recommending approval of the petition have not substantiated a need for additional urban lands, and on the basis that other vacant urban lands exist within the immediate Urban District, and on the basis of the discussion presented above, the staff recommends that the petition be denied.

April 20, 1966

Mr. John T. Ushijima, Attorney
Mauna Kea Sugar Co., Inc.
P. O. Box 964
Hilo, Hawaii 96720

Dear Mr. Ushijima:

The Land Use Commission next meets on May 6, 1966 at 3:00 p.m. in the County Board of Supervisors Chambers at Hilo, Hawaii. At that time the petition by Mauna Kea Sugar Co., Inc. (A66-109) for amendment of the Agricultural District into an Urban District at Hilo, Hawaii will be heard.

Very truly yours,

GEORGE S. MORIGUCHI
Executive Officer

Eaglebrand
Type-Erase
25% COTTON FIBER

File

Applicant Mauna Kea Sugar Co., Inc.
Date petition received by Planning Commission February 11, 1966
Date of Planning Commission Meeting March 18, 1966
Date petition and recommendations forwarded to LUC March 23, 1966

COUNTY OF HAWAII
COUNTY PLANNING COMMISSION

RECEIVED
MAR 30 1966
State of Hawaii
LAND USE COMMISSION

AMENDMENT OF ZONE DISTRICT BOUNDARY

The County Planning 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:

TMK: 2-3-35:1
~~2-3-39:2~~, and 2-3-38:3 ← TMK 2-3-38 por of 3
2-5-08:3 → 2-3-44 por of 9

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 adopted County General Plan indicates these properties under residential use.

2. All of these properties are contiguous to existing urban districts.

3. Most of the existing urban districts in this area are presently built-up.

4. Because of the close proximity to the business center and schools and because of the fact that all amenities such as county water system, electricity and telephone are available, the areas are ideal for urbanization.

5. In all cases, the parcels involved are not ideal for intensive agricultural use because of topography, soil conditions, and existing uses. One parcel is in forest land, another in pasture, and one is in cane land but taxed for residential purposes.

The Commission also recommended that the parcels covered by tax map key 2-3-39:3, 5, to 8 be changed from agricultural to urban. (See separate amendment request.)

(Signed) Philip Yoshimura
for Acting Director, County Planning Commission

COUNTY OF HAWAII

COUNTY PLANNING COMMISSION

Applicant Mauna Kea Sugar Co., Inc.
Date petition received by
Planning Commission February 11, 1966
Date of Planning Commission
Meeting March 18, 1966
Date petition and recommendations
forwarded to LUC March 23, 1966

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The Commission also recommended that the parcels covered by tax map key 2-3-39:3, 5, to 8 be changed from agricultural to urban. (See separate amendment request.)

(Signed) Shigeo Yoshimura
Acting Director, County Planning Commission

State Form B14

STATE OF HAWAII

Department of Planning and Economic Development
Department, Bureau or Commission

OFFICIAL RECEIPT No. 100

2/15 19 66

RECEIVED from Uchijima & Nakamoto.

Fifty and no/100 DOLLARS

Public Hearing Fee - Land Use Commission

$ 50.00

Henry D. Funkuda
Public Accountant

February 9, 1966

Mr. Raymond Suefuji
Acting Director
Planning Commission
Hilo Armory
Hilo, Hawaii

Dear Mr. Suefuji:

Pursuant to Section 98H-4, RLH 1955, as amended, and Act 32/SLH 1965, a copy of a petition for amendment to the land use district boundaries, submitted by Mauna Kea Sugar Co., Inc., together with supporting data and maps, is forwarded to you for your comments and recommendations.

Thank you for your cooperation.

Very truly yours,

GEORGE S. MORIGUCHI
Executive Officer

Encls. - Petition, etc.

February 9, 1966

Mr. John T. Ushijima, Attorney
Mauna Kea Sugar Co., Inc.
P. O. Box 964
Hilo, Hawaii 96720

Dear Mr. Ushijima:

This is to acknowledge the receipt of a check in the amount of $50.00 for an application by Mauna Kea Sugar Co., Inc. to amend the land use district boundaries as shown on Tax Map Key 2-3-35: 1, 2-3-39: 2 and 2-3-38: 3, 2-5-08:3, South Hilo, Hawaii.

In accordance with Section 98H-4, RLH 1953, as amended, and Act 32/SLH 1965, this Commission must schedule a public hearing on your petition no sooner than 60 days and no more than 120 days. After 45 but within 90 days following the public hearing, the Land Use Commission is obliged to render a decision on your petition.

A hearing schedule will be determined at a later date to consider the several pending petitions, including yours, in the County of Hawaii. We will inform you of the date of the hearing as soon as it is determined.

Should any questions develop in the meantime, we will contact you. If you should have any questions, please feel free to contact us.

Very truly yours,

GEORGE S. MORIGUCHI
Executive Officer

cc: Chairman Thompson
Planning Commission, Hawaii

State Form B14

STATE OF HAWAII

Land Use Commission
Department, Bureau or Commission

OFFICIAL RECEIPT No. 125

February 7 19 65

RECEIVED from Ushijima & Nakamoto

Fifty & no/100 **DOLLARS**

Petition by Marina Kea Sugar Co., Inc. for boundary change

$ 50.00

Don G. Horikawa
Public Accountant

1865

LAW OFFICE
OF
USHIJIMA AND NAKAMOTO

JOHN T. USHIJIMA
ROY K. NAKAMOTO
GEORGE S. YUDA

P. O. BOX 964
HILO, HAWAII
96720

February 5, 1966

RECEIVED
FEB 7 1966
State of Hawaii
LAND USE COMMISSION

A65-109

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

Gentlemen:

Please find enclosed a Petition for Amendment to the Land Use Commission District Boundary, together with our check of $50.00 filing fee on behalf of our client, Mauna Kea Sugar Co., Inc.

The parcels of land requested for change of designation from agricultural to urban are identified by red markings to the maps herewith attached.

All three (3) parcels either abut or are located near properties already in urban use. All are located near Hilo, near schools, and major streets, and there is a definite need for residential developments of these parcels inasmuch as they are ideally suited and needed for such purpose.

Your favorable consideration to the above petition will be appreciated.

Very truly yours,

JTU:mn
encls.

cc: Mr. Pete Ewart
Mauna Kea Sugar Co.

Mr. Richard Henderson
Realty Investment Co.

STATE OF HAWAII
LAND USE COMMISSION

426 Queen Street
Honolulu, Hawaii

RECEIVED
FEB 7 1966
State of Hawaii
LAND USE COMMISSION

This space for LUC use

Date Petition and Fee received by LUC _____

Date forwarded to County for recommendation _____

Date Petition, and County recommendation received by LUC _____

A65-109

PETITION FOR AMENDMENT TO THE LAND USE COMMISSION DISTRICT BOUNDARY

~~(I)~~ (We) hereby request an amendment to the Land Use Commission District Boundary respecting the County of Hawaii, Island of Hawaii, map number and/or name TMK- 2-3-35: 1 por, TMK- 2-3-39: 2 & 2-3-38: 3 por, TMK- 2-5-08: 3 por to change the district designations of the following described property from its present classification in a(n) Agricultural districts into a(n) Urban districts.

Description of property:

TMK: 2-3-35: 1 por - Map 1
TMK: ~~2-3-39: 2 & 2-3-38:3~~ 2-3-33: por of 3 - Map 2
2-3-44 por of 9
See attached maps - TMK: 2-5-08: 3 por - Map 3

Petitioner's interest in subject property:

Owner

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

See attached Letter

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

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

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

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

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

MAUNA KEA SUGAR CO., INC.

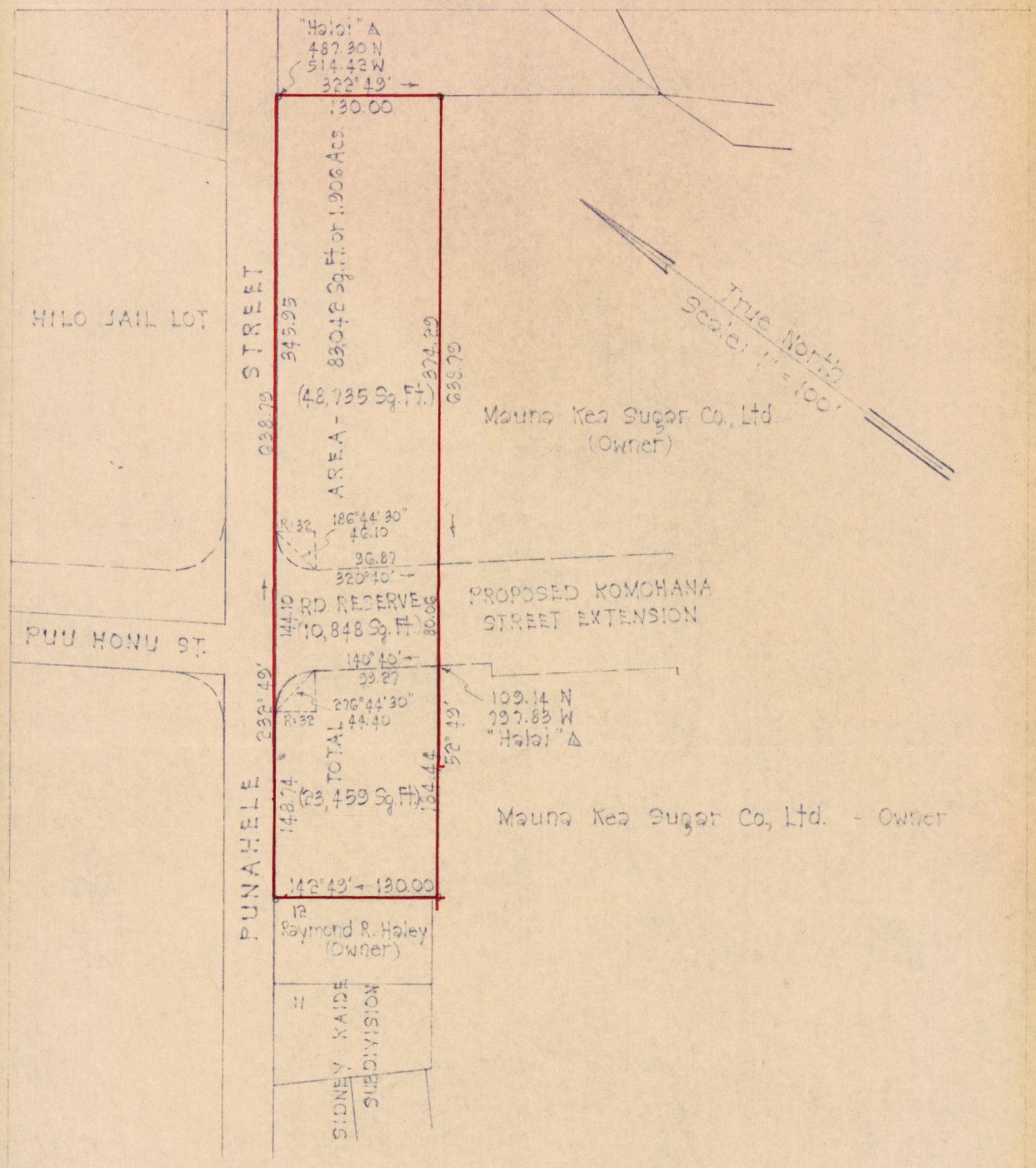
Signature(s) by its attorney,

JOHN T. USHIJIMA

Address: Box 964, Hilo, Hawaii

Telephone: 50801

MAP #1



A portion of L. C. Aw. 387, Part 4, Section 1,
A.B.C.F.M., R.P. on Confirmation Number 1913
Number 1 to D. B. Lyman
Punahoa 2nd, South Hilo, Hawaii
Survey & plan by Murray, Smith & Assoc. Ltd.
P.O. Box 618

JOHN N. SMITH
REGISTERED LAND SURVEYOR No. 207
HAWAII, U.S.A.

Owner: Mauna Kea Sugar Co., Ltd.
Hilo, Hawaii
Tax Map Key: 2-3-35
December 21, 1965

THIS WORK WAS PREPARED BY ME OR UNDER MY SUPERVISION.

John N. Smith

HUALILILI STREET

B L O C K N H O N U

T R A C T 4 Sec. Missions

Part 387, Foreign

18 George and Rose O. Oliveira

2 Nd Vivian Soares Oliveira - Owners

Mauna Kea Sugar Co., Ltd. - Owner

True North
Scale: 1" = 50'

320° 30' — 427.10

Kahakumakaliua 1st

(73,505 Sq. Ft. or 1.6874 Acs)

155,150 Sq. Ft. or 3.5619 Acs.

183.99

Stream

Pitman A Owner

2-3-33 por 43

"Halai" Δ
1156.03 S
2414.51 W

18.08
316° 15'

27.00
316° 15'

243° 25' — 184.31
46.48

→ To Kaumana Drive

OMAO STREET (Paved)

ET W

145° 53' — 212.97

145° 53' 325° 53' ← Electric & Telephone Line

40 - FOOT ROAD (17,192 Sq. Ft. or 0.3947 Ac.) (Gravel Road)

W ET & Water Line W

439.79
408.79
405.72
192.75

31.00
40.00

P U U on portion of Commissioners

H. P. Chock - Owner

H. Kuihelani A Owner

(64,459 Sq. Ft. or 1.4798 Acs.)

317.39

623.95

276.92

604.37

TOTAL

Benjamin A Co., Ltd. to Sugar

Charles H. Wetmore American Board A

AKEKEKE STREET

137° 35' — 250.03
317° 35' — 250.03

1502.68 S
2602.41 W
"Halai" A

Takeo Katayama (Owner)

L. C. Aw. 463

2-3-44 por 49

306.56

287.45

79,708 Sq. Ft. or 1.8298 Acs.

R. P. 5707

Grant 252 to Mauna Kea

Raymond I. Yoshino (Owner)

136° 15' — 304.66

→ To Kaumana Drive

WILIWILI STREET (Paved)

Water Line W W W
ET ℄ Electric & Telephone Line ET

K A U M A N A

3 2 1

G A R D E N S

102

101

MAP #2

Portions of
R. P. 5707, L. C. Aw. 463
to Kuihelani no E. Kahakumakaliua
and Grant 252 to Benjamin Pitman
Punahoa 1st and Ponahawai
South Hilo, Hawaii

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

JOHN N SMITH
REGISTERED LAND SURVEYOR No 307
HAWAII, U.S.A.

Owner: Mauna Kea Sugar Co, Ltd.
Address: Wainaku St., Hilo
Tax Map Key: 2-3-39 ← SEE ABOVE
January 5, 1966

7891

7892

Scale: 1"=100'

164-52 530.00

156-42 1071.24

36.42 ACRES

AVE.

165-42-10 64.18

51.46

167-32-10

156-02-10 28.28

45-03-10 28.28

270.03

270.03

AINAKO

270-02-10 64.18

361.24 97.87 S 30-45-05 E 176.54

45-03-10 28.28

to Keumana Drive

361.24 207.14

S 55-40 125.01

675-06 16.50

S 4-00 662.30

S 54-53 172.25

165-42-05 7.50

S 51-41-20 50.00

MANULELE ST.

Scale: 1"=2000'

36.42

ANAHOU AVE

MANULELE ST.

KAUMANA DRIVE

KAUMANA BAPTIST CHURCH

VICINITY MAP

PROPOSED CHANGE OF LAND USE BOUNDARY FROM AGRICULTURAL TO URBAN

BEING PORTION L. C. Aw. 463 & PORTION OF PUNAHOA 1ST
SOUTH HILO, HAWAII

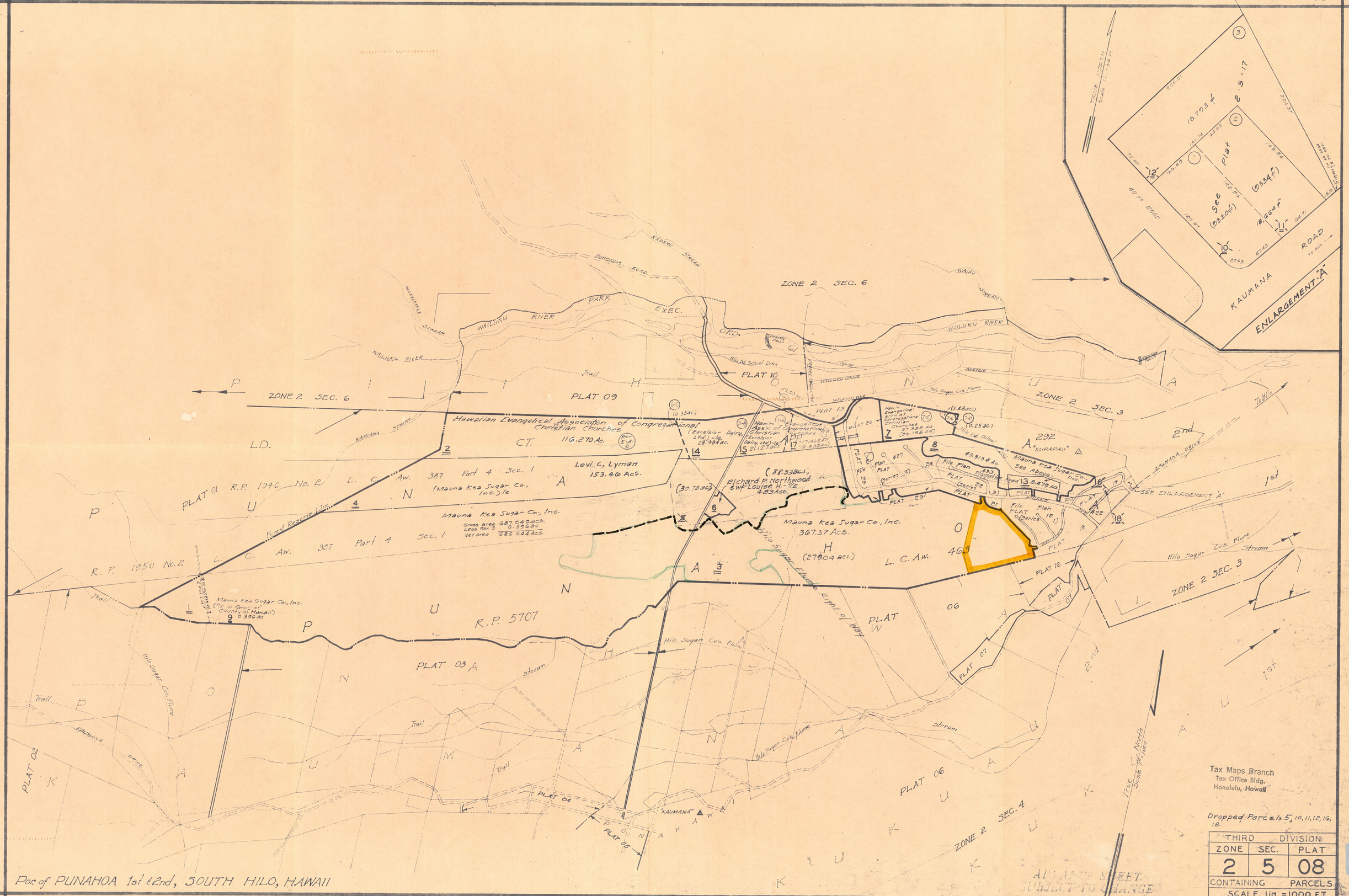
OWNER: MAUNA KEA SUGAR CO., INC.

MAP #3

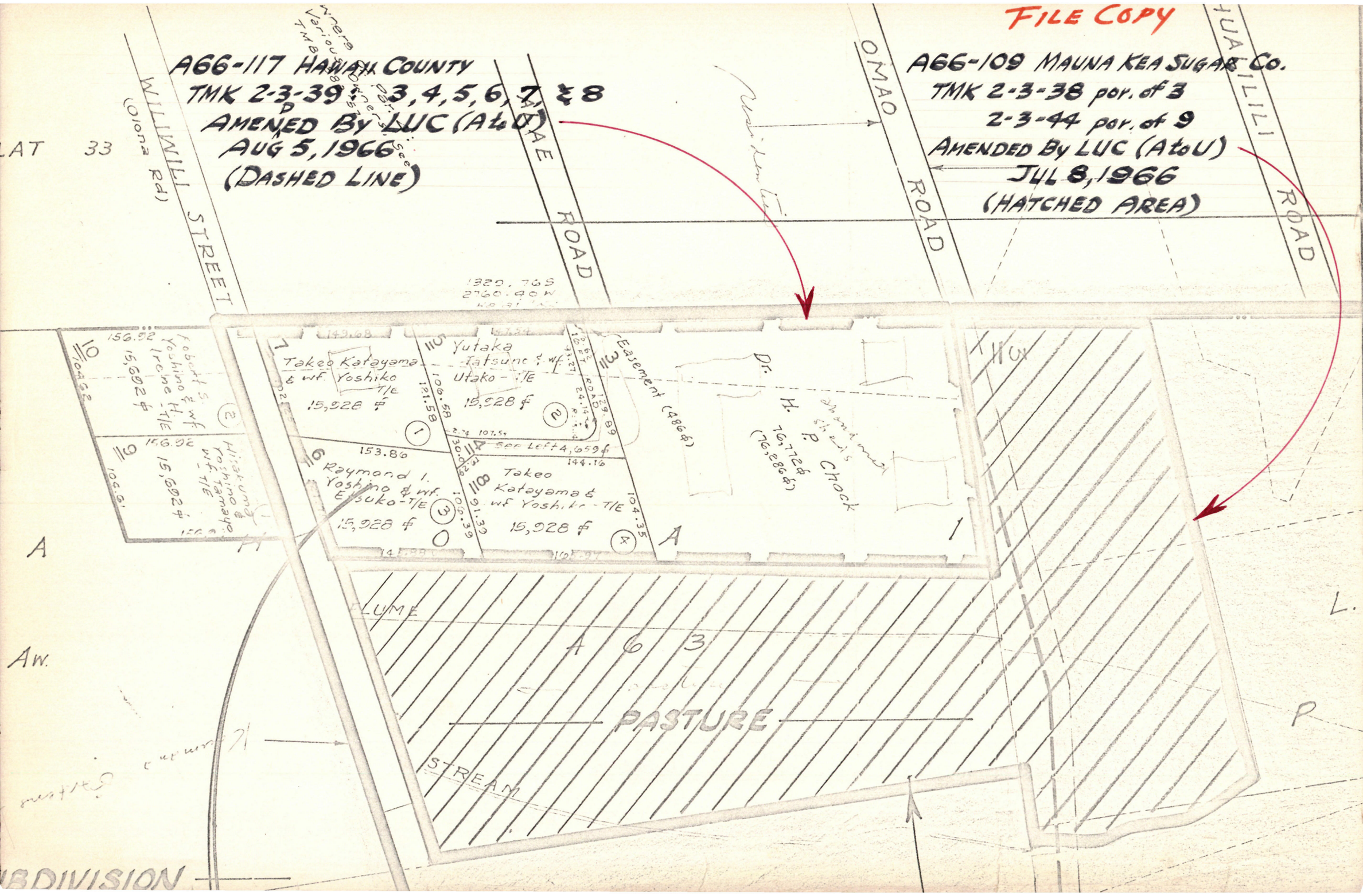
PREPARED BY
BIG ISLAND ENGINEERS & ASSOCIATES, LTD.
ENGINEERS - SURVEYORS
465 KINOOLE ST., HILO, HAWAII - 550 HALEKAUWILA, HONO., HAWAII

Tax Map Key: 3rd. Div. 2-5-08: Por. 3

Jan. 25, 1966


ENLARGEMENT "A"
KAUMANA ROAD
40 Ft ROAD
See Plat (9330f)
18,793 f
18,664 f
(9334f)
2-5-17
ZONE 2 SEC. 6
ZONE 2 SEC. 3
ZONE 2 SEC. 4
PLAT 09
PLAT 10
PLAT 03
PLAT 04
PLAT 05
PLAT 06
PLAT 07
PLAT 02
PLAT 16
PLAT 13
WAILUKU RIVER
WAILUKU DRIVE
KAUMANA DRIVE
Hawaiian Evangelical Association of Congregational Christian Churches
116.270 Ac.
Levi C. Lyman
153.46 Acs.
Mauna Kea Sugar Co., Inc.
367.37 Acs.
(279.04 acs.)
Richard P. Northwood & wife Louise H. - T/E
4.83 Acs.
Mauna Kea Sugar Co., Inc.
686.644 Acs.
R.P. 1946 No. 2
R.P. 1950 No. 2
R.P. 5707
L. C. Aw. 387 Part 4 Sec. 1
L. C. Aw. 463
Hilo Sugar Flume Right of Way
Hilo Sugar Co. Flume
Forest Reserve Line
Trail
Stream
"KAUMANA"
"KUPAPAU"
To Hilo
SEE ENLARGEMENT "A"
True North
Scale 1" = 1000
Tax Maps Branch
Tax Office Bldg.
Honolulu, Hawaii
Dropped Parcels 5, 10, 11, 12, 16, 18.
THIRD DIVISION
ZONE 2
SEC. 5
PLAT 08
CONTAINING PARCELS
SCALE 1in. = 1000 FT.
PRINTED APR 13 1966
ADVANCE SHEET SUBJECT TO CHANGE
Por. of PUNAHOA 1st & 2nd, SOUTH HILO, HAWAII
Dwg. No: 2295
Source: Tax Maps Bureau & Survey Dept.
By: G.R.L. & I.K.H. - March, 1935

7886


FILE COPY
A66-117 HAWAII COUNTY
TMK 2-3-39: 3,4,5,6,7, & 8
AMENDED BY LUC (A to U)
AUG 5, 1966
(DASHED LINE)
A66-109 MAUNA KEA SUGAR CO.
TMK 2-3-38 por. of 3
2-3-44 por. of 9
AMENDED BY LUC (A to U)
JUL 8, 1966
(HATCHED AREA)
WILIWILI STREET
(Olona Rd)
ROAD
OMAO ROAD
HUALILILI ROAD
LAT 33
Takeo Katayama & wf. Yoshiko T/E
15,928 ¢
Yutaka Tatsuno & wf. Utako - T/E
15,928 ¢
Raymond I. Yoshino & wf. Etsuko - T/E
15,928 ¢
Takeo Katayama & wf Yoshiko - T/E
15,928 ¢
Easement (486¢)
Dr. H. P. Chock
76,772¢
(76,286¢)
See Left 4,659¢
FLUME
A 6 3
PASTURE
STREAM
Aw.
L.
P
BDIVISION

HILO COUNTY JAIL

RESIDENTIAL

RESIDENTIAL

PUNAWAI ST.

PUUHONU ST.

HALAI ST.

PLAT 24

PLAT 23

PUNAHELE STREET

554.54

Mauna Kea Sugar Co., Inc.
13.4384 Ac.

HOOMANA ST.

PLAT 34

Portion of L. P. 2

Baldomero Pitoy & wf Margaret K. - T/E 9644# 125.00

Mary Nobriga E. Manuel Nobriga - J/T 7500# 125.00

Toshimi Ouye - L/E Sharon A. Ouye & Catherine Y. Ouye - J/T - Rem. 7500# 125.00

Samuel S. Y. Chinn Hoy & wf Betty L. - T/E 7500# 125.00

Antone B. Costa & wf Marguerite D. - T/E 7500# 125.00

Charles N. Neill & wf Pearl B. - T/E 8581# 125.00

Cecilia Chow Hoy 7500# 125.00

Kenneth K. Koizumi & wf Yaeko T. - T/E 7500# 125.00

Kiyoto F. Horiuchi & wf Yoko H. - T/E 8330# 125.00

Kiyoto Horiuchi & wf Yoko Hayashi & Myoshun Tomoko - J/T & wf 7500# 125.00

Archie B. McClellan & wf Natalie - T/E 9306# 67.25

Raymond K. Haley & wf Dorothy A. - T/E 8500# 68.00

1 2 3 4 5 6 7 8 9 10 11 12 13 14

A O H A W. 387

CANE

(12.8604 Ac.)

2ND

218.8

(218.00 ft.)

88.0

230.00

(230.00 ft.)

QUARRY SITE

1015.00

100.15

PLAT 37

HALAI HILL

True North 7°-60°

△ "HALAI"

Note: All parcels owned by Sidney K. Kaide & wf Terry T. - T/E unless otherwise noted.

Tax Maps Branch
Tax Office Bldg.
Honolulu, Hawaii

Parcels Dropped: 2.

REFERENCE SHEET
SUBJECT TO CHANGE

THIRD DIVISION		
ZONE	SEC.	PLAT
2	3	35

CONTAINING ..... PARCELS

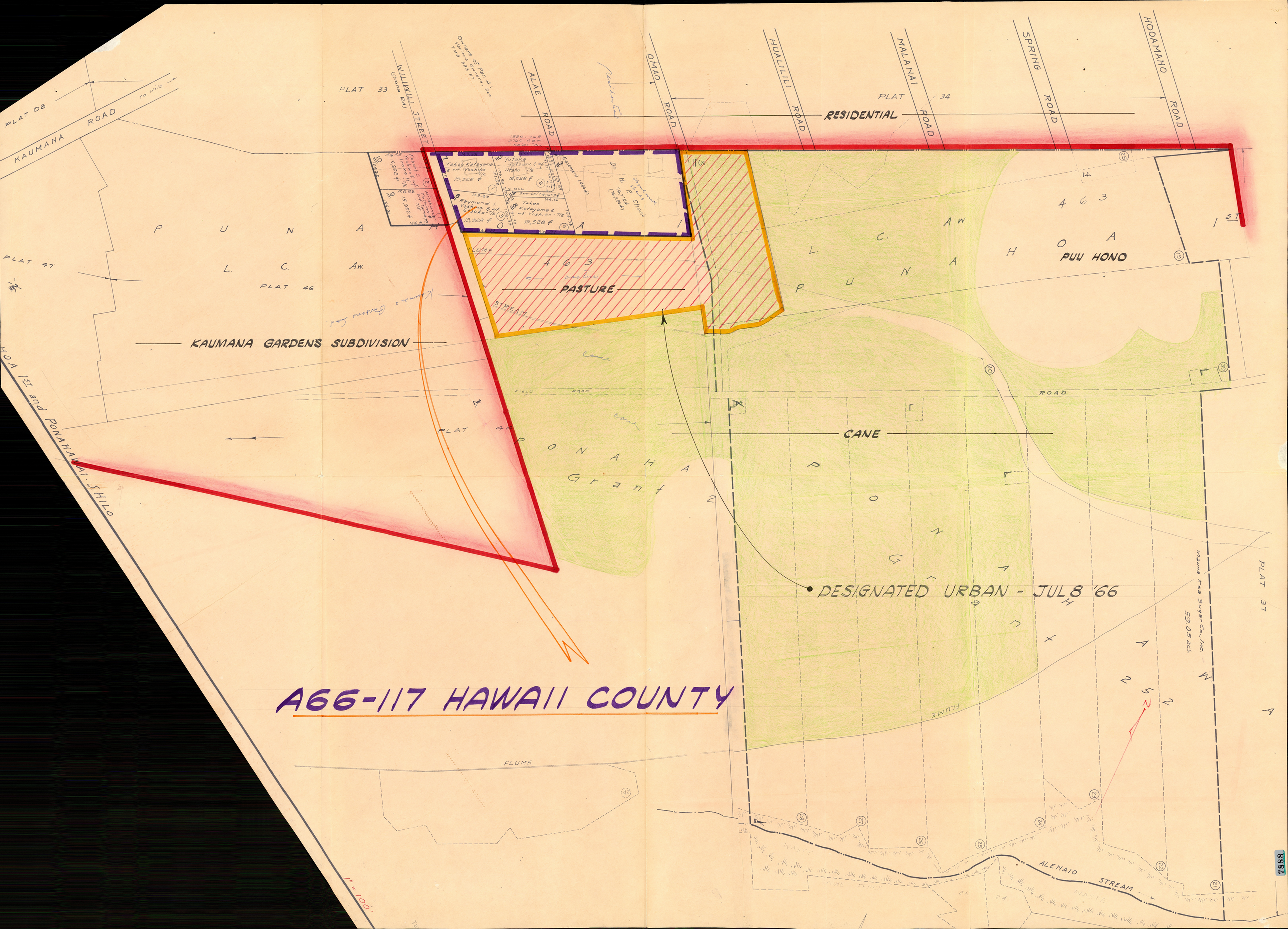
Scale: 1 in = 60 ft.

PRINTED APR 13 1966

Dwg. No. 77 of 1931
By: DSC
Source: Survey Dept.

PORTION OF PUNAHOA 2ND, S. HILO

7887



A66-117 HAWAII COUNTY
RESIDENTIAL
PASTURE
KAUMANA GARDENS SUBDIVISION
CANE
DESIGNATED URBAN - JUL 8 '66
PUU HONO
KAUMANA ROAD
WILIWILI STREET
ALAE ROAD
OMAO ROAD
HUALILILI ROAD
MALANAI ROAD
SPRING ROAD
HOOAMANO ROAD
PONAHAWAI ST. HILO
PLAT 08
PLAT 33
PLAT 34
PLAT 47
PLAT 46
PLAT 37
PLAT 44
FLUME
STREAM
ALENAIO STREAM
Grant 2
Mauna Kea Sugar Co., Inc.
59.05 acs.
1" = 100'

CANCELLED
MAY 12 1956
DEC 26 1973
FEB 6 1951
JUL 21 56

P A C I F I C O C E A N

HILO BAY

SECTION 6

SECTION 5

SECTION 1

Wailuku River

Wailuku River Park Section I

Wailuku River Park Section II

Waianuenue Falls

Rainbow Falls

Hilo Hospital Site

RESERVOIR

HILO WATER RESERVATION

Grant 7684

Land Court Application 232

Kupapau

Kaumana Garden Subdivision

to Saddle Rd.

Flume

LAVA

Alenaio Stream

Wailuku River

Pihonua-House Lots

Waianuenue Ave.

Kamehameha Ave.

Lihiwai St.

Kukuau St.

Lanikaula St.

Kinoole St.

Waiakea Pond

Waiakea Stream

Hilo Bay

Wailuku River

Hilo High School Part 1

Hilo High School Part 2

Union School

Halai

Alae St.

Punahoa Boys (Punahou)

Pihonua House 2nd Series

Pihonua House 3rd Series

Pihonua Lots

Tract A

Lots

Lot 9

Lot 10

Lot 29

Lot 28

Lot 27

Lot 26

Lot 25

Lot 24

Lot 23

Lot 22

Lot 21

Lot 20

Lot 19

Lot 18

Lot 17

Lot 16

Lot 15

Lot 14

Lot 13

Lot 12

Lot 11

Lot 10

Lot 9

Lot 8

Lot 7

Lot 6

Lot 5

Lot 4

Lot 3

Lot 2

Lot 1

L.C. Ap. 463

Pohakuoui Kukuau

Hilo

Lanikaula

Kinoole

Waianuenue

Kamehameha

Lihiwai

Kukuau

Wailuku

Piihonua

Kaumana

Pohakuoui

Alenaio

Waiakea

Pauahi

Keawe

Kilauea

Mamo

Manono

Kalakaua

Kapiolani

Haili

Waianuenue Ave.

Kamehameha Ave.

Kilauea Ave.

Highway (see 6/01)

Wailuku River

Hilo Bay

Waiakea Pond

Waiakea Stream

Alenaio Stream

Hilo

Lava

Flume

Reservoir

Hilo Hospital Site

Hilo Water Reservation

Grant 7684

Land Court Application 232

Kupapau

Kaumana Garden Subdivision

to Saddle Rd.

Pihonua-House Lots

Pihonua House 2nd Series

Pihonua House 3rd Series

Hilo High School Part 1

Hilo High School Part 2

Union School

Halai

Alae St.

Punahoa Boys (Punahou)

Tract A

A66-109 MAUNA KEA SUGAR

