A66-115

HAWAII COUNTY PLANNING COMMISSION

August 17, 1966

Mr. Raymond Suefuji, Director
Hawaii County Planning Commission
P. O. Box 661
Hilo, Hawaii

Dear Mr. Suefuji:

The petition by the Hawaii County Planning Commission (A66-115) (Lalamilo) to amend the Land Use District Boundaries from an Agricultural District into an Urban District at Lalamilo, South Kohala, Hawaii, identifiable by Tax Map Key 6-6-06: 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, and 14, was approved by the Land Use Commission at its meeting on August 5, 1966.

Very truly yours,

GEORGE S. MORIGUCHI
Executive Officer

Encl.
cc: Chairman Thompson
Department of Taxation
Department of Land & Natural Resources
Mr. Lloyd Kaneshiro

STATE OF HAWAII

LAND USE COMMISSION

VOTE RECORD

Item Lalamilo Date 8-5-66

Place Hilo (Hwy Off) Time

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

Comments:

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

See Page 8

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.

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.

File

2001

COUNTY PLANNING COMMISSION
COUNTY OF HAWAII
HILO, HAWAII

RECEIVED
AUG 8 1966
State of Hawaii
LAND USE COMMISSION

August 1, 1966

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

Re: Required signatures - Change of Land Use Boundaries
County of Hawaii

Enclosed herewith are the required signatures on the change of boundary request initiated by the County Planning Commission in Lalamilo House-lots 2nd Series, Waimea, South Kohala. We have received 5 signatures from the 8 property owners involved.

Enclosed also is a signature on the change of boundary request in Puna-hoa 1st, South Hilo.

Raymond H. Suefuji
Director

RHS:mh

Enclosures - 1 copy each of all signatures
Copies of the map

I Raymond Martinson owner of lot covered by tax map key 6-6-06:11

containing 43,564 square feet hereby concur with the County Planning

Commission to amend the land use designation of said lot from agricultural district

to urban district.

Raymond Martinson
(signature)

Date:

P. O. Box 33, Kamuela, Hawaii
(address)

RECEIVED:
COUNTY PLANNING COMMISSION
Date: JUL 13 1966
File No.:

I Wallace T. Nagao owner of lot covered by tax map key 6-6-06:10

containing 43,560 square feet hereby concur with the County Planning

Commission to amend the land use designation of said lot from agricultural district

to urban district.

Wallace T. Nagao
(signature)

Date:

P. O. Box 95, Kamuela, Hawaii
(address)

RECEIVED:
COUNTY PLANNING COMMISSION
Date: JUL 29 1966
File No.:

I State of Hawaii owner of lots covered by tax map key 6-6-06:3,4, & 5

containing 43,750 sq. ft. 43,777 sq. ft. and 43,781 sq. ft. ~~xxxxxxxxxxx~~ hereby concur with the County Planning Commission to amend the land use designation of said lot from agricultural district to urban district.

Date: 7-9-66

(signature)

P. O. Box 621, Honolulu

(address)

RECEIVED:
COUNTY PLANNING COMMISSION
Date: JUL 12 1966
File No.:

I James Martinson owner of lot covered by tax map key 6-6-06:12

containing 43,560 square feet hereby concur with the County Planning Commission to amend the land use designation of said lot from agricultural district to urban district.

James Martinson
(signature)

Date:

Pahala, Hawaii
(address)

RECEIVED:
COUNTY PLANNING COMMISSION
Date: JUL 20 1966
File No.:

I Lloyd T. Kaneshiro owner of lot covered by tax map key 6-6-06: 8 & 9

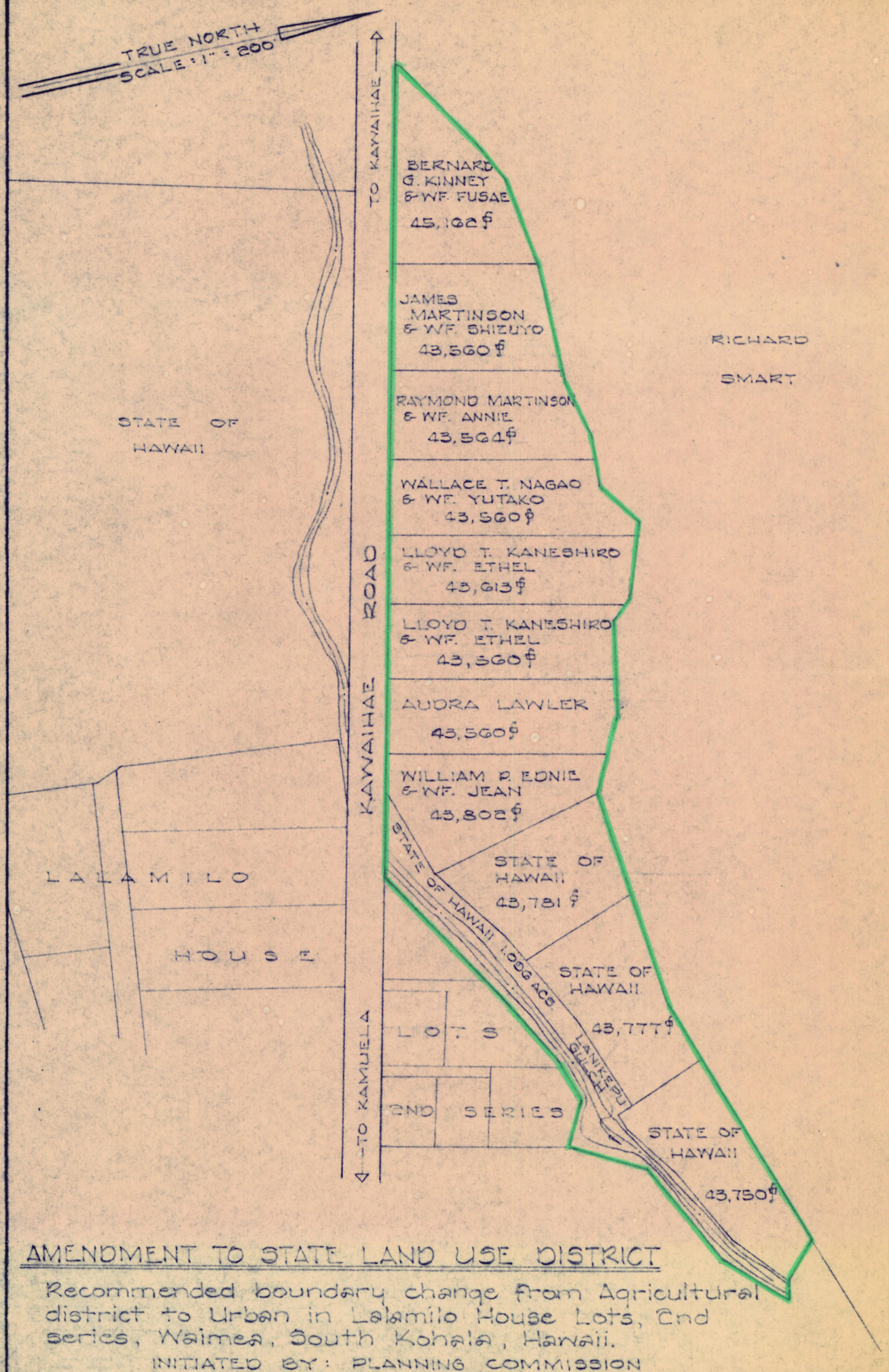
containing 43,560 & 43,613 square feet hereby concur with the County Planning Commission to amend the land use designation of said lot from agricultural district to urban district.

Lloyd T. Kaneshiro
(signature)

Date:

P. O. Box 217, Kamuela, Hawaii
(address)

RECEIVED:
COUNTY PLANNING COMMISSION
JUL 11 1966
Date: .....
File No.: .....



AMENDMENT TO STATE LAND USE DISTRICT

Recommended boundary change from Agricultural district to Urban in Lalamilo House Lots, End series, Waimea, South Kohala, Hawaii.

INITIATED BY: PLANNING COMMISSION
COUNTY OF HAWAII

DATE OF RECOMMENDATION: MARCH 18, 1966

JUNE 30, 1966

TAX KEY: 6-6-06: Parcels 2 to 13

LUC copy

COUNTY PLANNING COMMISSION
County of Hawaii
Hilo, Hawaii

June 29, 1966

Property Owner:

The County Planning Commission has recommended to the State Land Use Commission that your property covered by tax key 6-6-06:13 be changed from agricultural district to urban district under the State Land Use regulations.

Subsequently, the State Land Use Commission has requested that the County Planning Commission obtain signed statements from each property owner involved who concurs with the district amendment sought by the County Planning Commission.

It is therefore requested that if you concur with the County Planning Commission in changing the agricultural designation of your property to urban, please sign below and mail that portion to the Planning Commission. (2 copies)

If you have any questions, please do not hesitate to contact us. Your consideration on this matter by July 7, 1966 is appreciated.

Raymond H. Suefuji
Director

PIY:RHS:mh

cc George Moriguchi

Enclosures - self-addressed, stamped envelope

I Bernard G. Kinney owner of lot covered by tax map key 6-6-06:13

containing 45,162 square feet hereby concur with the County Planning Commission to amend the land use designation of said lot from agricultural district to urban district.

Bernard G. Kinney
(signature)

Date:

P. O. Box 597, Kamuela, Hawaii
(address)

RECEIVED:
COUNTY PLANNING COMMISSION
Date: AUG 4 1966
File No.:

July 20, 1966

Mr. Raymond Suefuji, Director
Hawaii County Planning Commission
P. O. Box 661
Hilo, Hawaii

Dear Mr. Suefuji:

The Land Use Commission next meets at 9:45 a.m. at the State Highway Division, District Engineers Office, Hawaii District, Hilo, Hawaii, on August 5, 1966.

On or about that time a decision of the petition by the Hawaii County Planning Commission (A66-115) (Lalamilo) 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
Lloyd Kaneshiro

STATE OF HAWAII

LAND USE COMMISSION

VOTE RECORD

ITEM Hawaii County - Lalamilo

DATE 6-17-66

PLACE _____

TIME _____

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

COMMENTS: Request City P.C. to obtain sign
of other prop owners —
within 15 days

June 24, 1966

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

Dear Mr. Suefuji:

At its meeting held in Hilo on June 17, 1966, the Land Use Commission voted to request that the Hawaii County Planning Commission obtain signed statements from all private landowners within the bounds of the lands subject to petitions under Docket A66-115 (Lalamilo), and A66-117 (Hilo). These signed statements should indicate the concurrence of the private landowners with reference to the district boundary amendments sought by the Hawaii County Planning Commission.

It is also requested that these data be submitted to the Land Use Commission within 15 days after the public hearing held on the matter on June 17, 1966.

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

10:30 A.M. - June 17, 1966

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

The meeting was called to order and a short prayer followed. Chairman Thompson apologized for the delay in the meeting. Procedures to be followed during the hearing were outlined and persons testifying were duly sworn in.

It was announced that there would be a change in sequence on the agenda.

ADOPTION OF MINUTES

The minutes of the following dates were approved as circulated:

October 29, 1965, November 5, 1965, November 20, 1965
March 25, 1966, April 14, 1966

ACTION

Upon the request of the petitioners, action on the following petitions were deferred to a later date:

A65-103 - Bishop Estate
A65-105 - Mauna Loa Development Corporation

See page 5

PETITION OF TAKESHI & CHIZUKO KUDO (A65-104) TO AMEND THE DISTRICT BOUNDARY FROM AN AGRICULTURAL DISTRICT TO AN URBAN DISTRICT AT KEALAKEKUA, HAWAII, identifiable by TMK 8-1-06: 13.

Mr. Moriguchi presented the staff memorandum recommending approval of the petition since all services required on urban lands were available, adjoining areas would not be adversely affected by the boundary change, and lands available for urban expansion in the area appeared to be limited.

Since there was no one present representing the petitioners, and no further discussion on the matter, Commissioner Ferry moved to accept staff's recommendation for approval of the petition, which was seconded by Commissioner Wung. The motion was carried unanimously.

PETITION OF A. C. AND EMILY F. GOUVEIA (A65-108) TO AMEND THE DISTRICT BOUNDARY FROM AN AGRICULTURAL DISTRICT TO AN URBAN DISTRICT AT LAALOA, NORTH KONA, HAWAII, identifiable by TMK 7-7-07: 18

Staff memorandum presented by the Executive Officer was for denial of the petition due to the lack of any justification for the need of additional urban lands and because the proposed use would contribute toward scattered urban developments.

The area in question was pointed out on the map by Mr. Moriguchi. It was also explained that Mr. Gouveia's property was partially planted in coffee and the surrounding area was of a rural residential nature.

In reply to Commissioner Ferry's question, Mr. Moriguchi advised that the areas colored in green indicated the most thriving agricultural lands in the area. Commissioner Ferry then commented that Mr. Gouveia was requesting an urban classification for a small parcel within a large Agricultural District.

Chairman Thompson observed that during the last meeting a member of the Hawaii Planning Commission had made the statement that the property abutting subject parcel was being considered for boundary change by the County of Hawaii.

Mr. Suefuji was of the opinion that reference was being made here to the study conducted by the Hawaii Planning Commission on future zoning of the area. The Statutes provide that 3-acre parcels may be included in the urban area. Upon survey, the Planning Commission found that both sides of the highway bounding subject parcel were lined with residences and felt that zoning this parcel for single-family dwelling would not constitute scattered zoning.

Mr. Suefuji thought that the Hawaii County Planning Commission would petition for a boundary change in the area within the next five or six months, although he was not certain about the exact acreage since the matter was still under review.

In view of Mr. Suefuji's foregoing testimony and the fact that the petitioner's request was for only a 3-acre parcel, Commissioner Ferry felt it more prudent to deny Mr. Gouveia's petition now and to review the more encompassing petition which will be forthcoming from the County at a later date. Therefore, Commissioner Ferry moved to accept the staff recommendation for denial of the petition, seconded by Commissioner Wung. The motion was carried unanimously.

PETITION OF ALEXANDER & BALDWIN, INC. (A65-106) TO AMEND THE DISTRICT BOUNDARY FROM AN AGRICULTURAL DISTRICT TO AN URBAN DISTRICT AT KAHULUI, MAUI, identifiable by TMK 3-8-07: 02.

Approval of the above petition was recommended by staff on the basis of the high rate of sales experienced by the Ninth Increment Development and because need for additional urban lands had been established.

There was no discussion on the matter.

Commissioner Ota moved to accept staff's recommendation for approval of the petition which was seconded by Commissioner Nishimura and passed unanimously.

PUBLIC HEARINGS

PETITION OF PARKER RANCH (A66-111) TO AMEND THE DISTRICT BOUNDARY FROM AN AGRICULTURAL DISTRICT TO AN URBAN DISTRICT AT WAIKOLOA, SOUTH KOHALA, HAWAII, identifiable by TMK 6-7-01: portion of parcel 3.

Staff report was presented by Mr. Ah Sung Leong which recommended disapproval of the petition since the petitioner had not substantiated the need for additional urban lands for U-drive and car rental businesses.

Mr. Leong advised that the terminal area was in the Agricultural District, and that the nearest urban area was approximately one mile away.

Commissioner Ota felt that since Kamuela was tied in with the resort complex, it should be preserved in the rural atmosphere as much as possible. He also cautioned against the possibility of commercial encroachment in the area once the 4-acre parcel was approved for urban uses. Kamuela is one of the last remaining airports with a semblance of open space and beauty, Commissioner Ota observed.

Mr. Suefuji was of the opinion that with proper landscaping, set-backs and planting of trees, the proposed use could be concealed from the highways. He also felt that this type of use would be in support of the tourist industry and should be considered in that light.

Chairman Thompson asked Mr. Norman Brand, attorney for the petitioner, whether Parker Ranch had considered coming in on a special permit rather than a boundary change, as suggested by Commissioner Nishimura.

Mr. Brand replied that since in either case the ultimate decision will be the same, Parker Ranch would be happy to withdraw the petition for boundary change and come in on a special permit if this approach would be more in keeping with the Commission's wishes. Chairman Thompson advised that the end result would not be the same.

Chairman Thompson continued that it was his personal feeling that the special permit would be more appropriate at this time, since boundary change could constitute spot zoning for this area.

Pursuing the matter along the same lines, Commissioner Ferry commented that it was conceivable that a special permit request would be approved in an Agricultural District for parking purposes. However, a boundary change would place the jurisdiction within the Hawaii County Commission and it was not wholly inconceivable that the parking use would eventually change to a commercial use.

Mr. Brand submitted that the staff report was invalid because he felt the decisions were based on faulty assumptions. He argued that no mention was made of parking stalls in the petition--however, Parker Ranch had been approached by businessmen over the possibility of establishing a base of operation. Kamuela was an actively growing community and although Parker Ranch had no interest in the matter, because of its position as controlling landowner in the district, it would be open to criticism on the grounds of ultra-conservatism or even obstruction should they choose to refuse these requests. Parker Ranch had a moral obligation to see that developments in the area are conducted in a manner harmonious and inoffensive to the community.

On the basis of opinions expressed during this hearing, Mr. Brand asked to withdraw the petition of Parker Ranch for boundary change with the idea of submitting a special permit request at a later date.

Chairman Thompson called for a 5-minute recess at 11:05 a.m.

The hearing was resumed at 11:10 a.m.

Chairman Thompson advised that the following had transpired during a conference with Mr. Brand:

1. Request for withdrawal of petition still stands, with the hope of submitting a special permit request at a later date.

2. Petitioner fully understands that this morning's discussion in no way indicated that a special permit would be considered favorably by this Commission--that all of the facts would have to be considered at the time of the meeting.

Chairman Thompson informed the Commissioners that they had a choice of one of two motions:

1. To deny petitioner's request for withdrawal of petition and proceed with the hearing.

2. Accept the request for withdrawal of petition, subject to a letter in writing making this request, to be submitted at a later date.

In reply to Commissioner Wung's query, Mr. Moriguchi advised that the $50.00 fee for the special permit was strictly a matter between Mr. Brand and the County of Hawaii since special permits are routed to the Land Use Commission through the County Planning Commissions.

Commissioner Ferry wondered whether petitioner would have the option of converting the boundary change petition to a special permit upon submission of necessary data. Mr. Moriguchi advised that this alternative would not be open to the petitioner inasmuch as special permit hearings were conducted by the County Planning Commissions.

Mr. Suefuji commented that the applicant should be made aware of the fact that there was a waiting period of 30 days before the County Planning Commission could conduct a public hearing on the special permit request and another 15 days before the County Planning Commission could render a decision.

Commissioner Wung moved to accept the request to withdraw the petition by Parker Ranch, subject to receipt of a letter from petitioner to this effect. Commissioner Mark seconded the motion and the motion was passed unanimously.

PETITION OF HAWAII COUNTY PLANNING COMMISSION (A66-115) TO AMEND THE DISTRICT BOUNDARY FROM AN AGRICULTURAL DISTRICT INTO AN URBAN DISTRICT AT LALAMILO, SOUTH KOHALA, HAWAII, identifiable by TMK 2 through 14

Mr. Ah Sung Leong presented the staff report in which it was recommended that the petition be approved since the Department of Taxation had included this area in its recommendations for Urban Districts, facilities and services were readily available and the area was contiguous to an Urban District.

Mr. Raymond Suefuji stated that based upon staff investigation of the area under petition, it was felt that this should have been included in the Urban District. This is an area already built up with single family homes. The matter was brought to the attention of the Planning Commission by Mr. Lloyd Kaneshiro who owns a parcel in the affected area.

Mr. Takeyama, legal counsel, brought up a procedural legal point since the subject lands were not owned by the County but by several landowners. He advised that advertisement of a public hearing in a legal notice in a newspaper of general circulation was not sufficient--that each property owner affected by the boundary change should be informed individually of the public hearing to be held. He pointed to the possibility that there may be some objections to the change in boundary.

Chairman Thompson commented that the subject area was already being assessed as an Urban District. Commissioner Ferry felt that a drafting error might have occurred at the time the final boundaries were drawn.

Mr. Takeyama advised that two approaches were available to the Commission to resolve this problem:

1. Defer the public hearing and have the staff send out letters or notices of public hearing to be held at a later date to each landowner affected by the petition.

2. Request the County to obtain signatures from each landowner affected by the petition, assenting to the request for boundary change, and submit them as part of the petition.

Replying to Mr. Suefuji's argument that property owners other than those whose properties were directly involved in the petition in the immediate area were also going to be affected by the boundary change, Mr. Takeyama commented that his concern was for procedural safeguard against any criticisms or complaints that might result from inadequate notification to persons whose properties were being proposed for a boundary change.

Inasmuch as the Commission had 45 days in which to offer a decision on the petition, Commissioner Ferry suggested that the Hawaii County Planning Commission be requested to obtain signatures from those property owners whose properties were directly involved in the petition, assenting to the proposed boundary change. He added that the State was amply represented on this Commission.

Mr. Moriguchi raised the point as to whether this procedure would have to be followed in the future in the event the County or State initiated a boundary change even though it might involve 300 separate property owners.

Mr. Takeyama advised that a letter by mail to each property owner advising him of the public hearing would be adequate.

Chairman Thompson wondered about the legal implications of past decisions rendered by the Land Use Commission, involving petitions initiated by the State or County, on which individual notices had not been served to individual property owners.

Mr. Takeyama replied that as far as he knew all of the government-initiated petitions had been for boundary changes on lands owned by either the State or County.

Mr. Takeyama further advised that there was a technical difference between the drawing of the district boundaries and making a boundary change. In the former instance, the Commission had pursued the matter on the basis of its rule-making powers. In the latter instance, the Commission is exercising a quasi-judicial right on contested cases, and the procedure for contested cases requires personal notices to the parties involved and public advertisement is not adequate.

Referring to Mr. Suefuji's earlier argument, Mr. Takeyama felt that the notice requirements to property owners of adjacent lands may not be the same as the notice requirements to property owners whose lands were subject to change.

Commissioner Ferry moved, seconded by Commissioner Nishimura, to request the Hawaii County Planning Commission to obtain signatures from the affected property owners, consenting to the proposed boundary change from Agricultural to Urban within 15 days of this hearing. The motion was carried unanimously. The hearing was closed thereafter.

PETITION OF HAWAII COUNTY PLANNING COMMISSION (A66-117) TO AMEND THE DISTRICT BOUNDARY FROM AN AGRICULTURAL DISTRICT INTO AN URBAN DISTRICT AT PUNAHOA, HILO, HAWAII, identifiable by TMK 2-3-39: 3, 5, 6, 7 and 8

Staff recommendation, as presented by Mr. Moriguchi, was for approval of the petition since the adjacent areas were presently in intense urban use, all community and utility services were presently available and the lands were adaptable for urban purposes. It was also recommended that parcel four be included for change upon concurrence by the petitioner.

Mr. Suefuji commented that the background on this petition was similar to that of the foregoing petition just heard. He added that the area was presently developed and the Hawaii Planning Commission felt it should be included in the Urban District based on its actual use.

Commissioner Wung moved that the Hawaii County Planning Commission be requested to obtain signatures from the affected property owners consenting to the proposed boundary change from Agricultural to Urban within 15 days of this hearing. Commissioner Nishimura seconded the motion and it was passed unanimously. The hearing was closed thereafter.

DECLARATORY RULING - CONCRETE INDUSTRIES INC.

Staff evaluation of the request by Concrete Industries, Inc. resulted in its recommendation to rule that only the crushing and screening plants were direct accessories to the permitted use within an Agricultural District. (See copy on file.) A letter, dated June 6, 1966, from Concrete Industries, Inc. was also presented by Mr. Moriguchi. (See copy on file.)

Chairman Thompson summarized that the request was to include ready mix plant, asphalt, block, cast concrete and pipe plants as accessories to excavation or extraction of natural building materials.

Mr. Moriguchi commented that the Commission should consider whether these facilities as listed in the staff report were permitted uses, being direct accessories to permitted uses with/in an Agricultural District.

Mr. John Russell of Concrete Industries, Inc. referred to Section 2.14 (m) of the State Land Use District Regulations "Permissible Uses Within the Agricultural District" and commented that mills, storage and processing facilities were considered direct accessories to the permitted uses. In futher-

ance of this argument, he submitted the following definitions:

Mills - Crushing activities, crushing of rocks

Processing facilities - The ready-mix plant, asphalt plant and other plants needed for processing

Mr. Russell reiterated that it was their feeling that the facilities located at the quarry where the rock was excavated should be considered as processing facilities, which are permitted uses under Section 2.14 (m).

Chairman Thompson observed that there was a difference in definition of permissible uses under Section 2.14 (m), as submitted by Mr. Moriguchi and Mr. Russell.

Mr. Moriguchi commented that the mere fact that the Regulations contained the words "mills" or "storage facilities" did not mean that these were allowed. They had to be part of a permitted use and tied to a basic use.

Mr. Takeyama raised the question of whether requests for declaratory rulings, such as the one under discussion, should not go through the special permit route, wherein notices would be duly publicized to afford interested persons an opportunity to express their views on the matter.

Mr. Moriguchi clarified this by stating that the Concrete Industries had already been advised to this effect, that in fact a special permit had been filed with the Maui County Planning Commission. However, to keep things rolling, a declaratory ruling had also been sought.

Chairman Thompson expressed the concern that if a declaratory ruling were made on the Concrete Industries' request today, it would drastically affect the Land Use Regulations and all state concrete plants.

Commissioner Ferry remarked that he would be hesitant to establish precedents by concurring with the applicant that the proposed activity would fall within the District Regulations, and that he would prefer to evaluate the matter on a special permit application.

Commissioner Ferry moved to accept staff's recommendation in declaring a ruling that the only item falling within the Land Use Regulations as a permissible use be the crushing and screening plant. The motion was seconded by Commissioner Ota and carried unanimously.

The meeting was adjourned at 12:30 p.m.

STATE OF HAWAII
LAND USE COMMISSION

Hawaii County Board of Supervisors Chambers
Hilo, Hawaii

9:30 A.M.
June 17, 1966

STAFF REPORT

A66-115 HAWAII COUNTY PLANNING COMMISSION

Background

The Hawaii County Planning Commission has submitted a petition to change the district boundaries of approximately 12.1 acres of agricultural lands into urban lands at Lalamilo, South Kohala, Hawaii (TMK 6-6-06 2 through 14). The lands which concern this petition are located on the mauka side of Kawaihae Road about 1/2 mile west of its junction with the Mahukona-Waimea Road.

The Petitioner has submitted that: "(1) The change of zone will result in a more appropriate land use pattern in line with the existing General Plan of the County," and "(2) Present land use indicates area to be in Urban rather than Agricultural." Evidence to substantiate the need for reclassification was not submitted.

Field investigation of the area shows it to be in low-density (approximately one-acre lots) residential use, much like the adjoining parcels to the east which are within the Urban District. Parcels 2, 3, 4 and 5, comprising an area slightly in excess of four acres, are State owned lands which are presently vacant. The nine remaining parcels, which total approximately eight acres, are privately owned. There are eleven houses distributed on these lots. One of the landowners involved, Mr. Lloyd Kaneshiro, had earlier requested a clarification of the

circumstances under which these houselots were placed in an agricultural classification.

To the north and west of the lands under petition are extensive grazing lands. These lands and the lands to the southwest are principally vegetated by low-lying grasses interspersed with cacti and rock outcrops. Across Kawaihae Road is Unit I of the Lalamilo Houselots Subdivision. The streets serving this subdivision are paved, and water and power are available. Homes have not been built as yet, although 18 out of the total of 41 lots were sold since September of 1965.

The subject parcels are generally at the same level as Kawaihae Road or slightly higher. Lanikepu Gulch, which divides these parcels from the existing Urban District, resembles a dry brook at this point. It averages 7 ft. in depth and varies from 5' to 15' in width. Centers for urban services are within 2 1/2 miles away in the heart of Waimea town. These include a post office, fire and police stations, courthouse, dispensary, schools and commercial facilities.

Soil of the subject lands is described as Puu Pa, very fine sandy loam. It is primarily used for grazing. Fifteen to twenty acres are required to carry one cow. Stoniness and slope conditions prohibit machine cultivation. Median annual rainfall approximates 39 inches.

There are 173 acres districted for Urban use within a mile of lands under this petition. Of this, 112 acres are developed or in the process of development and approximately 61 acres are vacant.

Analysis

Although evidence was not submitted by the petitioner to substantiate the need for these lands to be reclassified from an agricultural use to

an urban use, it is evident that the subject lands should fall within the Urban classification in accordance with provisions of the Land Use Law which deal with lands previously established as Urban lands.

The following factors would indicate that a change of classification from Agricultural to Urban would be in order:

1. The land is a portion of the Lalamilo Houselots Development, Second Series. With the exception of four parcels retained by the State, the remaining lots were subdivided (approximately one-acre lots) and sold over a period of five years, from 1954 to 1958. These lots comprise the only segment of the Lalamilo Houselots Subdivision, Second Series, which are in the Agricultural District. All others have been zoned Urban.
2. Under temporary districting, the subject parcels were given an Urban classification. This was reflected by Harland Bartholomew and Associates in its proposals for the final district boundaries, and also by the Hawaii County Planning Commission in its General Plan.
3. The State Department of Taxation has included this area in its recommendations for Urban districting. It might also be noted that the land is being assessed at an Urban rate.
4. Urban facilities and services are readily available and have in fact been utilized by the residents of subject lands prior to the establishment of the final district boundaries.
5. The area is contiguous to an Urban District and should the petition be granted, scattered urban development would not be the result.

6. Existing roads and drainage facilities would not be over-burdened by the redistricting of subject parcels.

7. The lands are adaptable, suitable and are presently in use for urban purposes.

Recommendation

On the basis of the foregoing considerations, the staff recommends approval of this petition.

June 1, 1966

Hawaii County Planning Commission
P. O. Box 661
Hilo, Hawaii

Attention: Mr. Raymond Suefuji, Director

Gentlemen:

The Land Use Commission next meets on June 17, 1966, at 9:30 a.m. at the County Board of Supervisors Chambers, Hilo, Hawaii. At that time, the application of the Hawaii County Planning Commission (A66-115) to amend the land use district boundaries at Kamuela, South Kohala, Hawaii, will be heard.

Very truly yours,

GEORGE S. MORIGUCHI
Executive Officer

cc: Mr. Lloyd Kaneshiro

STATE OF HAWAII
LAND USE COMMISSION

Minutes of Meeting

County Board of Supervisors Chambers
Wailuku, Maui

April 14, 1966 - 2:25 P.M.

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

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

A short prayer by Chairman Thompson was followed by the usual introduction of Commissioners and staff members, swearing in of persons testifying during the hearing, and a brief explanation of the procedures to be followed.

PETITION OF ALEXANDER AND BALDWIN, INC. (A65-106), TO AMEND THE URBAN DISTRICT BOUNDARY AT KAHULUI, MAUI, identifiable by Tax Map Key 3-8-07: 02

Staff recommendation was for favorable consideration of the petition since adequate proof had been submitted of the need for urbanization of an additional 12 acres, and the lands were suitable for development for urban purposes.

Commissioner Wenkam asked whether petitioner had entertained the idea of revising the urban line more approximate with the master plan for Maui, and Mr. Moriguchi replied that this had been done, that the petitioner had closely followed the master plan.

Mr. Richard Cox of Alexander and Baldwin stated that the staff had adequately covered the pertinent points. He submitted an additional map showing how the proposed area would tie in with the other developments, pointing out the various existing uses.

Mr. Cox solicited comments from the Commissioners with respect to Alexander and Baldwin's desire to proceed with construction of the 32.5 acres of the 10th increment presently in an Urban District.

Commissioner Ferry advised that this matter would fall under the jurisdiction of the County, inasmuch as it involved urban lands, and that it would not be prudent for the Commissioners to make any comments.

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

PETITION OF HONOKAI DEVELOPERS (A65-101), TO AMEND THE URBAN DISTRICT BOUNDARY AT HONOULIULI, OAHU, identifiable by Tax Map Key 9-1-15: 8

Staff memorandum presented by Mr. Moriguchi (see copy on file) maintained the original recommendation made at the time of the public hearing for denial of the petition, since the petitioner had not served to prove that additional urban lands were required, and on confirmation of the fact that sufficient urban lands were available.

Commenting on the hardship factor, Commissioner Burns wondered when the project was started and how much money had been expended. The only expense incurred to date was for the sewage treatment plant, Mr. Moriguchi advised, which was installed around 1962 to serve the existing subdivision in addition to the subject area in anticipation of receiving approval.

Chairman Thompson pointed to the statement in the staff memo referring to the availability of sufficient urban lands in this area. Mr. Moriguchi replied that this was a direct quote taken from the City Planning Commission's recommendation which reads as follows: "Although there are sufficient lands for urban purposes in the Ewa District (i.e. Makakilo City) this is the only fee simple residential subdivision in the immediate area."

Mr. Vincent Yano of Honokai Developers presented additional testimony in support of the petition. At the time the developers submitted the 50-acre plan to the City Planning Commission, the whole area was zoned Rural Protective. Subsequently, the Land Use Commission reclassified it in the Agricultural District. The sewage treatment plant was a City Planning Commission requirement even before the developers could proceed with Unit 1-A. Mr. Yano stressed that he certainly did not mean to imply that they "gambled" $170,000 for a sewage plant to take care of the entire 50-acre subdivision. They were mandated by the City to submit detailed subdivision plans for the entire area before tentative approval could be granted. Although the City did grant tentative approval for the entire subdivision, the developers were advised to seek actual approval on an increment basis at the time their plans materialized. This was the reason they did not have approval for the subject parcel under petition.

Commissioner Ferry felt that the amount of $170,000 for the sewage plant was in line with expenditures required to serve the needs of 250 lots.

Chairman Thompson raised the question of flooding in the 1-A increment resulting from an over-flow of the stream following a big rain. Mr. Yano replied that this was handled by adequate drainage.

Referring to the slow rate of sales in the 1-A increment, Commissioner Ferry submitted that during the latter part of 1959 to the middle of 1961, there was a depressed real estate market, and that some weight should be given this factor

since petitioner was granted approval in 1960. Secondly, the growth of the leeward area has only begun, primarily due to the investment that the government has begun making. One of the stifling growth factors was the lack of proper access, and this was being resolved by construction of better highways. With the projection of 1,185,000 people for 1980 for Oahu alone, it was easy to conceive that a good portion of the increase in population would locate in the leeward area.

Commissioner Ferry continued that staff was not presenting a true picture by drawing comparisons such as that described in page 2, item 4, of the memorandum. Other factors that should be considered in making such comparisons would be the availability of financing, the promotional budget, the number of developed lots, etc.

Commissioner Ferry confirmed that the H-I highway would be completed within the next 10 years.

Commissioner Nishimura observed that the amount of urban lands submitted as being available in the general area was deceiving, in that much of this land was owned by the federal government. Mr. Moriguchi commented that the federal government did develop its own residential subdivisions. He also pointed out that Makakilo is available with a potential for 25,000 persons.

Pursuing the matter a little further, Commissioner Ferry commented that facilities for an additional 25,000 persons in the Makakilo area were hardly sufficient to meet the needs of the 450,000 additional residents anticipated for the Island of Oahu by 1980.

Commissioner Wenkam pointed to the fact that this Commission had previously turned down reclassification of Fort Barrette which had the same potential as the subject area under consideration. To argue for approval of this petition on the basis of population expansion, he felt, was invalid since this would only accommodate such a small percentage of the needs. He felt that the proposed urban reclassification in the Makaha area, on which the Commission will be acting on today, would more than adequately meet the requirements of the population growth within the leeward area.

Commissioner Wenkam continued that he was arguing against this petition because it was typical of the scattering of developments which, to some extent, was responsible for bringing about the establishment of the Land Use Commission. To condone the continuation of this subdivision merely because it had already been started, was akin to agreeing that two wrongs make a right. This was an undesirable projection of an urban area into the center of an Agricultural District and open spaces, and did not contribute to a well-planned and well-organized community.

Mr. Moriguchi submitted that the Commission had denied any number of requests involving indigent citizens wishing to subdivide agricultural lands, even though hardship had been advanced as the major factor. Therefore, in order to be consistent, this fact should be given due consideration.

In addition, a study made by Harlan Bartholomew had recommended keeping the subject area in agriculture and this Commission had seen fit to accept this recommendation and had modified the urban line to its present location.

Commissioner Ota commented that petitioner's lands were not in productive use and some improvements had already been installed. Also, this was one of the few fee simple lands available in the rural area on Oahu.

Commissioner Ferry wondered whether any of the petitions turned down in the past on the neighbor islands abutted an urban area, and Mr. Moriguchi replied that they did not.

Commissioner Ferry then asked if a similar situation had occurred on the neighbor island with all things being equal, would there be much reason to deny extension of an Urban District. Chairman Thompson requested that the discussion be confined to the subject petition without making references to precedents set. Also, circumstances differed on the neighbor islands and on Oahu.

Commissioner Wenkam referred to the hardship factor presented by the petitioner and commented that Fort Barette had also suffered similar difficulties.

Commissioner Ferry replied, as a matter of clarification, that there was a major difference between Fort Barette and the Honokai development. At the time of purchase, Fort Barette had already been zoned agricultural, whereas petitioners had received approval for the subdivision in 1960 and committed their investments.

Commissioner Ferry moved that the application be approved since sufficient justification had been presented by the petitioner for a boundary change from an Agricultural District to an Urban District, seconded by Commissioner Nishimura. The Commissioners were polled as follows:

Ayes: Commissioners Inaba, Ota, Burns, Nishimura, Ferry.

Nays: Commissioners Wung, Wenkam, Mark, Chairman Thompson.

The motion was not carried.

PETITION OF CAPITAL INVESTMENT CO., LTD. (A65-100), TO AMEND THE URBAN DISTRICT BOUNDARY AT MAKAHA, OAHU, identifiable by Tax Map Key 8-4-02

Mr. Moriguchi presented the staff memorandum recommending a modified urban-conservation line, involving 1,370 acres (see copy on file). The modifications and the recommended urban boundaries were pointed out in detail on the map.

Commissioner Burns questioned whether staff's recommendation for approval included the 20% slopes.

Mr. Moriguchi conceded that it did--that denial of the 20% slopes would restrict the development to such an extent that it would be economically difficult for the developers to proceed with their plans. It was also pointed out that staff had recommended urbanization of the remaining Class E lands since most of the prime agricultural lands had already been absorbed in the plans.

In reply to Commissioner Ota's request, Mr. Moriguchi pointed out the proposed uses on the map such as the resort complex, commercial areas, open spaces, residential area, etc. There were provisions for a total of 5,400 dwelling units

if the petition as requested by Capital Investment Co. were approved.

Mr. Moriguchi advised that the modified urban-conservation line was discussed with the petitioner and agreed upon, although petitioner did point out the fact that the City and County had planned on allowing construction on lands over 30% slopes.

Commissioner Wenkam stated that the beauty of the islands was largely dependent upon keeping the hillsides free of developments. However, he felt that construction on slopes up to 30% in this instance was feasible due to the vastness of the area and the tremendous open spaces which allowed for greater flexibility, and that he supported the staff's recommendations.

Commissioner Ota expressed bewilderment over staff's inconsistency in recommending denial of the Honokai petition, acted on earlier, for 32 acres adjacent to an Urban District on grounds that sufficient urban lands were available; and then to recommend approval of this petition involving thousands of acres.

Mr. Moriguchi replied that staff recognized this very point might be brought up. Staff had viewed the Makaha petition from the standpoint of the overall general plan for the island, and the State General Plan's proposal for this area was for a major resort complex, based on future tourist expansion. The petitioner had submitted substantial data along this line. The Honokai petition was for an isolated appendage to an Urban District that should not have been there in the first place, and the State General Plan did not include this area for urban purposes.

Referring back to the statement made earlier by staff, Commissioner Ferry agreed that economic hardship was involved if construction were disallowed on the gentle slopes. However, one could not deny that staff was arguing from the economic standpoint. Yet, in the Honokai petition, the economics involved did not warrant staff's consideration. Commissioner Ferry wondered how this could be rationalized.

It was stressed by staff that economics was not the basis for recommending approval of the Capital Investment petition--that if sufficient justification of need for the complex had not been submitted by the petitioner, staff would have argued against the proposal.

Chairman Thompson agreed that the question raised by Commissioner Ferry required clarification, with respect to the rationale for the Honokai petition. He advised that there were 24 hours in which to reconsider the Honokai petition, but for the moment discussion should be confined to the subject petition.

Commissioner Ferry stated that he was completely in favor of the proposed subdivision by Capital Investment Co. On the basis of 5 persons per unit, the 5,400 units would accommodate 27,000 persons, which would take care of only a fraction of the projected population increase by 1980.

Commissioner Wenkam moved that petition be approved as recommended by staff, which was seconded by Commissioner Ferry. The Commissioners were polled as follows:

Ayes: Commissioners Burns, Ferry, Inaba, Mark, Nishimura, Wenkam, Chairman Thompson.

Nays: Commissioners Ota and Wung

The motion was carried.

Chairman Thompson called for a 5-minute recess.

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The meeting was resumed at 3:45 p.m.

RECONSIDERATION OF THE HONOKAI DEVELOPERS' PETITION (A65-101)

Chairman Thompson announced that a reconsideration of the Honokai petition was in order based on the conflicting rationale presented on this and the Makaha petition. It was also pointed out that whatever the decision was during this reconsideration, it would be absolutely final.

To enable Chairman Thompson to make the move for reconsideration, Vice-Chairman Burns was requested to chair this portion of the meeting.

Commissioner Thompson moved to reconsider the Honokai petition, which was seconded by Commissioner Ferry. The motion was carried by the following votes:

Ayes: Commissioners Wung, Inaba, Ota, Nishimura, Ferry, Thompson, Chairman Pro-tempore Burns

Nays: Commissioners Wenkam and Mark

The floor was opened for discussion.

Commissioner Wenkam commented that population increase should not be the only consideration for justification of boundary change. Emphasis should also be placed on proper planning, proper location, community services available in keeping with an orderly community.

In answer to Commissioner Thompson's query, Mr. Moriguchi advised that the H-I Highway ended at Barbers Point and cut off before the Honokai development. Completion date for the H-I Highway, according to the Bureau of Public Roads, was set for 1972, and 1974 for the whole defense highway system.

Commissioner Wenkam suggested that perhaps the petitioner could come in and apply for boundary change when the highway system was completed and as the need arose.

Commissioner Ferry argued that if this Commission were to operate as a functional body, it was necessary to look 10 years into the future. He added that the Department of Transportation has moved with acceleration on the road construction project to alleviate the inadequacy of the highway system in the leeward area.

Commissioner Ota submitted that equal emphasis should be placed on good planning and conservation of prime agricultural land. He stated that the Makaha petition involved prime agricultural lands with easy accessibility to water. The Honokai lands involved rocky, uneven terrain, without access to water, with absolutely no agricultural value. He stressed that one of the main purposes of the Commission was the conservation of prime agricultural lands. Yet, the Makaha petition was approved for boundary change while the Honokai development was denied.

Commissioner Ferry remarked that an argument in favor of granting the Honokai petition was the existence of facilities and that this would constitute a normal extension of an existing Urban District.

Referring to the existing facilities, Mr. Moriguchi pointed out that when the petitioners were mandated by the County to install the sewage treatment plant, they had not received approval for the subject parcel. Therefore, the plant could have been built on an increment basis, but instead the petitioners chose to "gamble" in anticipation of receiving approval for the whole development. By the very action of this Commission in pulling the urban line back, they recognized that urbanization of this parcel would constitute spot zoning. In addition, marginal lands did not necessarily have to be reclassified into an urban zone.

Commissioner Thompson wondered what drain it would place on the county and state if this development were approved. Mr. Moriguchi informed that bus services for the children, fire and police protection will need to be provided.

Commissioner Ferry agreed with staff that land that is not in productive agricultural use need not necessarily be put into urban. However, the reason the Puna area, where small lot sizes were zoned agricultural, fell into this category was that there was no physical development on those lots. He contended that had there been a multitude of homesexisting on the lots, this Commission would have seen fit to zone this area as urban. He continued that the Honokai development presented an entirely different situation, in that home were already existing in the first unit and families were living there.

Mr. Moriguchi argued that this was merely conjecture, that even if there had been homes in the Puna area, this was no assurance that the Commission would have zoned it in the Urban District. The criteria for urbanization was not to extend an already existing urban use but rather on the basis of whether this constitutes a good Urban District and is contiguous with facilities ordinarily related to a community. He reiterated that Harlan Bartholomew had concurred with staff's findings.

In reply to Commissioner Thompson's comment that when the Land Use Commission classified the subject area in the Agricultural District, they did not have knowledge of the population expansion, Mr. Moriguchi stated that this should not lead to urbanization anywhere, that instead it should follow a well-developed plan.

Commissioner Ferry moved that the Honokai Developer's petition be granted because ample proof had been submitted, seconded by Commissioner Nishimura. Commissioner Wenkam argued that he did not believe proof had been provided for need of subject parcel, that there were sufficient urban lands in the Waianae area.

The Commissioners were polled as follows:

Ayes: Commissioners Inaba, Ota, Nishimura, Ferry, Thompson, Chairman Pro-tempore Burns.

Nays: Commissioners Wung, Wenkam, Mark.

The motion was carried.

PETITION OF BERNICE P. BISHOP ESTATE (KAPAKAHI RIDGE) A65-97, TO AMEND THE URBAN DISTRICT AT WAIALAE-IKI, OAHU, identifiable by Tax Map Key 3-5-19: 13 and 3-5-24: portion of parcel 1

Staff memorandum, presented by Mr. Moriguchi (see copy on file), recommended denial of the original petition in its entirety and advised the petitioners to come in with an entirely new petition submitted in accordance with the latest plans of the Trustees of the Bishop Estate.

Commissioner Inaba moved to deny the original petition in its entirety on the basis of staff's recommendation which was seconded by Commissioner Wenkam.

Mr. Takeyama, legal counsel, advised that a request for amendment had been made by the petitioner and it was in order to act on this matter before moving on staff's recommendation.

Chairman Thompson reminded the members that the Land Use Commission, in the past, had made it its practice not to extend a boundary for a petition; however, had exercised its prerogative to bring it down. The Makaha petition was the only exception, but it was pointed out that this was done at the time of the hearing.

Mr. Takeyama stated that the petitioner was within his legal rights to come in and request for an amendment to the petition, in this case involving 12 plus acres. The Commission could vote to either deny or approve the request for amendment, and act on the petition separately. In reply to Chairman Thompson's question, Mr. Takeyama advised that there was nothing in the rules and regulations to prohibit the Commission from granting the request for amendment.

Mr. Takeyama continued that approval of the amendment did not remove the necessity for another public hearing. If the request is approved the petitioners would have to come in with a new petition which would be duly advertised. This would put into motion the proceedings for a new hearing. However, if the request for amendment to the petition is denied, the Commission would be acting on the original petition as submitted by the petitioners. If it followed that the Commission voted for denial of the original petition, the petitioners would have to submit substantial grounds of change in condition before they can attempt to file another petition for the subject parcel.

Commissioner Inaba moved to deny petitioner's request for amendment to the original petition, seconded by Commissioner Nishimura. The motion was passed with the following votes:

Ayes: Commissioners Inaba, Mark, Nishimura, Wenkam, Wung.

Nays: Chairman Thompson, Commissioner Burns.

Excused: Commissioner Ota

Chairman Thompson then announced that the Commission was now in a position to act on the original petition as submitted.

Commissioner Nishimura moved that the petition be denied as recommended by staff, seconded by Commissioner Wenkam. The Commissioners were polled as follows:

Ayes: Commissioners Wenkam, Inaba, Wung, Nishimura, Mark, Chairman Thompson.

Nays: Commissioner Burns.

Excused: Commissioner Ota

LALAMILO HOUSE LOTS

Mr. Moriguchi reviewed that during the previous meeting on March 25, 1966 at Kona, staff had been instructed by the Commission to investigate whether there might be substantiating evidence to indicate Commission's intent when the permanent boundaries were established for the subject area. However, staff was not able to locate any concrete evidence in this respect. Therefore, it was the staff's recommendation that this Commission, on its motion, initiate a boundary change for the subject area, along with the Honokaa lands, sometime in the future.

Following a brief discussion, Commissioner Wung moved that the Commission initiate a boundary change for the Lalamilo House Lot area, which was seconded by Commissioner Nishimura, and the motion was passed unanimously.

NEXT MEETING DATE AND PLACE

Tentative meeting schedule was presented by staff. It was pointed out that this was to inform the Commissioners of tentative dates and to give them an opportunity to voice their preferences.

Staff-recommended date of May 13, 1966 for the next meeting was changed to May 6, 1966 to be held in Hilo. The action items were eliminated.

SENATE RESOLUTION NO. 97

Chairman Thompson referred to Senate Resolution No. 97, a certified copy of which had been distributed to each Commissioner. This involved a request for the State Land Use Commission and the Department of Planning and Economic Development to study the feasibility of the arrangements for the conveyance of lands in rural or agricultural districts as outlined and to report their findings and recommendations to the Legislature not later than 20 days preceding the convening of the 1967 session of the Legislature.

Chairman Thompson expressed concern over the fact that the already limited staff time would be taxed with this additional responsibility. However, it was determined that staff would find time to complete its findings before the next Legislature.

LETTER FROM MAUI COUNTY ATTORNEY GENERAL (KAANAPALI BATCHING PLANT)

Chairman Thompson referred to a letter received from Mr. Kase Higa, Maui County Attorney, regarding the application for a special permit by Pioneer Mill Company involving a concrete batching plant at Kaanapali, Maui. In effect, the letter suggested that no further action be taken in this matter, but that the County Attorney would be willing to pursue this matter further if the Commission felt strongly enough and if the legal counsel could find adequate legal grounds.

Commissioner Burns advised that, as an officer of Pioneer Mill Company, he would have to abstain from making any comments.

Chairman Thompson wondered how it was possible that Pioneer Mill Company had not consulted with its attorneys prior to negotiating with the Kahului Railroad Company.

Commissioner Burns thought that this might have merely been a letter of agreement between the two firms; whereas, had it been funneled through the legal office, they might have checked into the matter of proper zoning for such an installation.

Commissioner Wung moved to accept the letter from the Maui County Attorney and take no further action on this matter. Commissioner Wenkam seconded the motion and it was passed unanimously. Commissioner Burns abstained from voting.

ALLISON PETITION

A point for clarification was brought up by Mr. Moriguchi on the Allison petition. He wondered whether the Allison petition was acceptable as submitted despite the absence of signatures of a few of the landowners involved in the petition.

Mr. Takeyama, legal counsel, suggested that the Land Use Commission, on its own motion, could initiate petition for those people who did not sign the petition so that the whole area might be considered as one contiguous parcel. He further advised that this action would not imply that the Commission was in favor of the petition, but was merely to clear the way for a public hearing. If this is not done, Mr. Takeyama advised that the Commission could not consider those 3 or 4 parcels on which there was no request for boundary change, at the time of the hearing.

Mr. Moriguchi stated that the request from the petitioners was for reclassification of the entire area, in response to Chairman Thompson's question.

Mr. Takeyama further clarified his earlier suggestion with the statement that it was specifically provided in the law that the Land Use Commission could, on its own motion, initiate a boundary change. This provision was set up to enable the Land Use Commission to open up other lands.

Commissioner Wenkam felt that a broad discussion on the reasonableness, the moral implications, etc., should precede any motion by the Commission.

Chairman Thompson stated that the motion was merely to expedite and facilitate proceedings for the hearing, and that interested parties could voice their feelings at the time of the hearing.

Commissioner Inaba moved that the Land Use Commission initiate a boundary change for those people who did not sign the Allison petition, which was seconded by Commissioner Ota. The motion was carried with the following votes:

Ayes: Commissioners Inaba, Ota, Burns, Nishimura, Chairman Thompson.

Nays: Commissioners Wung, Wenkam, Mark

LITIGATION

Mr. Takeyama, legal counsel, advised that he was meeting with Judge Felix in Hilo tomorrow to discuss the case of Tamura vs. Land Use Commission. He was also appearing in court next week on the motion to dismiss appeal of the Nuuanu Valley Community Association.

ADOPTION OF MINUTES

Minutes of the meetings of October 1, 1965 and October 2, 1965 were adopted as circulated.

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

March 28, 1966

Hawaii County Planning Commission
P. O. Box 661
Hilo, Hawaii

Attention: Mr. Raymond Suefuji
Acting Director

Gentlemen:

This is to acknowledge the receipt of your application to amend the land use district boundaries as shown on Tax Map Key 6-6-06 at Kamuela, South Kohala, Hawaii.

In accordance with Section 98H-4, RLH 1955, 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 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

STATE OF HAWAII
LAND USE COMMISSION

426 Queen Street
Honolulu, Hawaii

RECEIVED
MAR 25 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 _____

A 66-115

PETITION FOR AMENDMENT TO THE LAND USE COMMISSION DISTRICT BOUNDARY

The County Planning Commission

~~(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 _____ to change the district designation of the following described property from its present classification in a(n) Agricultural district into a(n) Urban district.

Description of property:

Kamuela, South Kohala, Hawaii. Tax Map Key 6-6-06
Entire north portion of this plat across the Kawaihae Road.

Petitioner's interest in subject property:

Enforcing agent for State Land Use Regulations in the County of Hawaii.

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

1. The change of zone will result in a more appropriate land use pattern in line with the existing General Plan of the County.
2. Present land use indicates area to be in Urban rather than Agricultural.

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

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

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

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

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

Signature (s) Raymond A. Suyat

Address: P. O. Box 661
Hilo, Hawaii

Telephone: 3215 or 3995

STATE OF HAWAII
LAND USE COMMISSION

426 Queen Street
Honolulu, Hawaii

RECEIVED
MAR 25 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 _____

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Signature (s) Raymond H. Suefuji

Address: P. O. Box 661
Hilo, Hawaii

Telephone: 3215 or 3995

STATE OF HAWAII
LAND USE COMMISSION

Minutes of Meeting

Hale Hawaii Cultural Center

March 25, 1966 - 1:00 P. M.

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

The Reverend Boshard of Mokuaikaua Church offered a short prayer, which was followed by the usual introduction of Commission members and staff, procedure to be followed, and swearing in of persons testifying during the hearing.

PETITION OF MAUNA LOA DEVELOPMENT CORPORATION (A65-105), TO AMEND THE URBAN DISTRICT BOUNDARY AT KEAUHOU, HAWAII, identifiable by Tax Map Key 9-9-01: portion 4

Staff report, presented by Mr. Moriguchi, recommended modification of the petition for a Rural District, initially providing for 100 lots, with the country store and inn facility allowed in the area on the basis of a special permit.

Contrary to Mr. Ernest Kai's impression that the schematic subdivision plan for the proposed project had been submitted to the Land Use Commission, the staff was not in possession of the plan at the time report was prepared.

Mr. Moriguchi explained that the recommendation for a rural classification, instead of an urban classification, was based on the developer's statement that there will be two homes on an acre which would fall within the Rural District. It was also pointed out that under an urban classification, the County would be required to provide services and facilities to the development, whereas a rural classification would place this responsibility in the developer's hands. Mr. Moriguchi further explained that the intent of the developer was really for a cluster-type development, rather than for a 2-home per acre plan.

In response to Commissioner Nishimura's request, Mr. Moriguchi gave a detailed account of the proposed and existing uses, such as the dude ranch, golf course and club, country store and inn, the residential subdivision, etc., as projected on the land uses sketch submitted by the petitioner.

Chairman Thompson wondered whether advance appraisal of the schematic subdivision plan might have made a difference in the staff report. Mr. Moriguchi replied that he was unable to comment on this since he had not had the time to study the plan. However, the original data submitted implied that there would be two houses to an acre, although it developed later that this was true only in terms of overall density, that,including the open spaces, the gross density would be one house per half acre. This latter plan would not be permissible under a rural classification, it was pointed out.

Commissioner Nishimura asked whether staff felt that an urban designation in this area would constitute spot zoning. Mr. Moriguchi replied

that under the regulations, staff was required to take into consideration the possibility of scattered urban development, and that this was one of the bases for recommending a rural classification.

The inability to afford vacation lots by most people and environmental factors in the Alii Subdivision in the Volcano area were submitted as possible reasons for the slow rate of sales. Commissioner Wung felt that the inclement weather contributed to the slow sales.

Mr. Philip Yoshimura of the Hawaii County Planning Commission commented that at the time the developers seek County approval for subdivision plans, the Planning Commission would require them to provide all necessary facilities, improvements and services under the County subdivision regulations. In reply to Chairman Thompson's question, Mr. Yoshimura advised that there was no water supply available in the subject area, but that water catchment was possible.

Mr. Moriguchi clarified his earlier statement regarding the County's responsibility as far as providing the necessary services to the proposed development was concerned--that services did not end with the initial cost of constructing facilities for utilities and services, that schools, fire and police protection, etc. also had to be provided, and dedicated roads would have to be maintained by the County.

Mr. Ernest Kai, Secretary-Treasurer of the Mauna Loa Development Corporation, Mr. Edward Fitzsimmons, President of the corporation, Mr. Alex Castro of Bishop Realty who will handle sales, testified in behalf of the petitioners.

Mr. Kai explained that the Mauna Loa Development Corporation was a Hawaiian corporation comprised of Honolulu and Hilo associates, who were

interested in developing the Volcano area. The resort complex will include an existing 18-hole golf course which would be upgraded into first-class condition, club house, tennis courts, swimming pools, archery, riding stable, dude ranch, game hunting, country inn, etc. Mr. Moriguchi had confirmed that golf course and dude ranch were permissible uses in an Agricultural District, so that the developers were requesting urban classification for the remaining 415 acres, designated in yellow and red on the map.

To preserve the natural landscape, the developers had decided in favor of a cluster-type plan over a grid-type development of one house per half acre, as stipulated by the Land Use Regulations within a Rural District. Therefore, the developers were requesting an urban classification to enable them to pursue a cluster-type development.

Mr. Kai advised that the development was geared primarily to meet the needs of island residents for a vacation-type home in the islands with recreational facilities. A poll taken in Honolulu of people in the middle and upper income brackets indicated the great interest and need for such a facility. Governor Burns had also stressed that we were overlooking the available recreational facilities within the islands for the island people, at a tourism seminar held in Hilo.

Mr. Kai has worked out an agreement with the Bishop Estate whereby leases will be for a period of not less than 55 years, with very nominal rental. The developers also plan to permit multiple ownership to enable two or three families joint ownership of a vacation home. This will be a package deal, with nominal down payment within the reach of island residents. Climate in the area is equitable and there will be storage for

water for drinking and irrigation purposes for the golf course. Every purchaser of a lease lot will be given membership in the golf club.

The total development cost would run in the neighborhood of five to six million dollars. There is a great market for this type of development which has never been provided previously for the benefit of island residents.

With respect to the availability of water, Mr. Kai had been informed by the Board of Water Supply that there was no requirement for a water system in the development area, that one tank to each home would be sufficient.

Mr. Kai requested that the schematic subdivision plan be admitted as Exhibit 2-A. He explained that the cluster type development envisions 1/4 acre plus or minus lots with open spaces between and will meet all county standards and requirements.

On the matter of substantiating a need for such a development, Mr. Kai submitted that the most conclusive proof of need could be established by the fact that they had in their possession many signed sales agreement. Although he realized that they could not solicit subscriptions until the subdivision was approved, Mr. Kai stated that there were over 50 people among his acquaintances who had expressed a desire to purchase. He added that if they were compelled to break this up into increments of 100 lots at a time, it would be disastrous since this would cause needless delay and would be too expensive in terms of having to apply to the Land Use Commission each time they started on another increment. It would also ruin their financing arrangement, which has already been negotiated for, since this was based on the whole subdivision.

Regarding staff's recommendation that the developers seek a special permit for the country store and inn, Mr. Kai requested that this also be reclassified urban. He said the country store would serve people in the entire area, including those who utilize the military camps.

The scheme will be rugged in keeping with the Mauna Kea and Mauna Loa background. The lease agreement will incorporate a requirement that the design and color be approved by the developers, and also a two-year building covenant to preclude speculation.

Mr. Alex Castro of Bishop Realty commented that the proposed subdivision not only followed a trend, but it was unique and the only one of its kind in Hawaii. Hawaii boasted a very sophisticated buying market interested in competitive products. During informal discussions with different people, a great deal of interest was expressed. This was a well-conceived project, properly priced with well-built homes. From the realtor's point of view, Mr. Castro felt that it was very important to obtain approval for the whole project, since some people might be making deposits today for a home they may decide to build in the future.

Chairman Thompson wondered about the projected completion date for the whole development. Based on the assumption that approval will be given immediately, it would take the developers at least three months to begin the project. As developers, they would have to plan six months to a year ahead of time and for this very reason it was important to have approval for the whole project.

Chairman Thompson asked whether the development had been correlated with the economic trends as it related to increased leisure time which would result from automation. Mr. Castro replied that they had recognized

that the market demands for vacation and leisure-type homes had increased substantially within the last five years.

Commissioner Nishimura posed the possibility of putting this on a package deal basis instead of the two-year building requirement to discourage land speculation.

It was pointed out that the developers were appealing to the public with a buying power of from $14,000 to $16,000 and that some of them did not wish to purchase a package deal.

Mr. Moriguchi wondered about the statement that Mr. Kai had made earlier during his testimony in regard to the signed sales agreement. Mr. Kai commented that perhaps the most impressive evidence to substantiate the need to reclassify the land for the proposed development would be to have signed sales agreement. However, since this was unlawful without approval of the subdivision plans, the petitioner had conducted a poll bearing on the subject, which was appended to the petition as an exhibit, and which confirmed the need.

Presently the golf course was maintained by the Volcano Golf Club, an incorporated private non-profit club, Mr. Kai replied in answer to Commissioner Wung's question.

Mr. Kai assured the Commissioners that if approval for reclassification was granted, the developers would see the project to its completion with proper financing, etc.

Commissioner Ota wondered how the developers justified the 10-acre shopping site within the development. Mr. Kai replied that the country store area would include all sorts of facilities--market, liquor store, camera shop, sporting goods store, meeting place for banquets, etc. and

eventually even a drive-in motel and cabins. He added that there would be enough population within the development and the surrounding areas to support a country store and inn of this scope.

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

PETITION OF RALPH E. ALLISON, ET AL (A65-107), TO AMEND THE DISTRICT BOUNDARY AT PANAEWA HOUSELOTS, HILO,HAWAII, identifiable by Tax Map Key 2-2-51 and 52.

Mr. Curtis Carlsmith, attorney for the petitioners, asked to be recognized to make a statement on behalf of the Allisons. He pleaded some irregularity in the notice that had been sent out by the Land Use Commission, in that the request for reclassification by the petitioners had been publicized as rural, whereas the petition was filed for an urban designation and rural only if urban were not possible. Therefore, he felt that inadequate notice had been served to the people on Hawaii, and any ruling by the Commission would not have the effect of the law by reason of the fact that statutory notice was not complied with.

In view of the foregoing, Mr. Carlsmith requested that the hearing be postponed until adequate notice could be served to the people on the Island of Hawaii to apprise them of the fact that more intense and more advanced uses of the lands were being sought than implied by the public notice.

Chairman Thompson called for a short recess at 2:15 p.m.

The meeting was resumed at 2:30 p.m. Chairman Thompson announced that by mutual consent, the petition by R. E. Allison, et al was being deferred.

PETITION OF BERNICE P. BISHOP ESTATE (A65-103) TO AMEND THE URBAN DISTRICT BOUNDARY AT KEEI, HAWAII, identifiable by Tax Map Key 8-3-04; 1, 8-3-05: 1 and 8-3-06.

On the basis of the following analysis, staff recommendation was for denial of this petition (see copy of report on file):

1. The need for the urban area in lieu of the conservation area has not been demonstrated.
2. The petitioner's proposal would not be in the best public interest.

Mr. Moriguchi advised that the distance between the present urban boundary and that requested by the petitioner was about 200 feet. The rainfall in the area approximated 34" annually.

Mr. Moriguchi commented that there was considerable change in the matter of the land area, from the original petition submitted and denied a year ago previously. The area colored in yellow on the map was pointed out as the lands involved in the original petition, and the red area as being requested in the present petition.

On the subject of the water system, Mr. Moriguchi commented that the Napoopoo area was not presently being served and that water was provided by rainfall catchment. However, there was a possibility that this might be sought under the Capital Improvement Project.

Mr. Philip Yoshimura of the Hawaii County Planning Commission office stated that approval for the petition had been based on the fact that the County General Plan for the Kona area had designated the subject lands for urban uses. In reply to Chairman Thompson's question, Mr. Yoshimura thought that the Board of Water Supply might require the developer to install its own water system.

Mr. Roy Fernandez, representing the petitioner, clarified a few points. The Bishop Estate had recently granted the Board of Water Supply permission to run a temporary line from the existing line in Keei mauka to the City of Refuge. This was only a temporary line and the original proposal to build a water system to Napoopoo to Honaunau was still in effect.

Mr. Fernandez also submitted that if the petition were approved for an urban designation, it would permit Bishop Estate to go ahead with the development and justify the cost of road construction, which roads in turn will be dedicated to the County.

Mr. Fernandez continued that this was a logical extension of the present Urban District, and that the proposed project would be a high-standard development which would benefit both the County and the State of Hawaii in increased taxes. The petitioners also envisioned a future cluster type subdivision with open spaces in the general area. Mr. Fernandez advised that these were all lease lands.

In response to Commissioner Nishimura's concern over the fact that the State would be bearing the cost of providing water facilities to the Napoopoo area, Mr. Fernandez remarked that the Board of Water Supply's plans for the area were conceived prior to the petitioner's development plans. He also pointed to the fact that the Bishop Estate and Board of Water Supply are working hand in hand for the overall development of the Island of Hawaii.

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

PETITION OF TAKESHI AND CHIZUKO KUDO (A65-104) TO AMEND THE URBAN DISTRICT BOUNDARY AT KEALAKEKUA, HAWAII, identifiable by Tax Map Key 8-1-06: 13

Staff's recommendation for approval was based on the fact that there was a definite upward trend in population growth in the area, urban uses of the subject parcel would most probably not have an adverse effect on agricultural operations and would not create a burden to the general public (see copy of report on file).

Referring to the 15 percent (48 acres) of vacant urban lands mentioned in the staff report, Chairman Thompson wondered about the approximate dates when all of these lands might be in use. Mr. Moriguchi was unable to make this projection due to the fact that the relative development of existing lots as plotted in the Kona area has not been typical of development in other areas. These were mostly family plots, grown in coffee, and kept within the family for sentimental reasons.

Mr. Moriguchi explained that the 15 percent referred to in the Staff Report indicated the area within the Urban District that is either vacant or in low-density use, on the basis of acreage.

Chairman Thompson contended that actually there was a great deal more than 15 percent developable for urban uses, since, for example, a 1¼ acre parcel could be subdivided into five lots.

Mr. Sumio Nakashima, attorney for the petitioner, testified that most of the fee simple lands in the area were in North Kona since Bishop Estate owned a good part of the lands in South Kona. The greatest potential for residential development and most of the future of Kona lay in the North Kona area. Many people desire houselots in this area, and all of the Kudo lots had already been spoken for by relatives.

Replying to Chairman Thompson's question, Mr. Moriguchi commented that the population had increased by approximately 500 in the last decade, from 3,500 to 4,000.

There being no further testimony, the hearing was closed.

PETITION OF A. C. & EMILY F. GOUVEIA (A65-108) TO AMEND THE URBAN DISTRICT BOUNDARY AT LAALOA, NORTH KONA, identifiable by Tax Map Key 7-7-07-18

Staff Report, presented by Mr. Moriguchi, recommended denial of the petition due to the lack of justification for the need of additional urban lands, and on the basis that approval of the petition would contribute toward scattered urban developments.

Mr. Philip Yoshimura, representing the Hawaii County Planning Commission, stated that their approval had been recommended on the following bases:

1. Existing land use is for single-family residences, around and up to petitioner's property.
2. The general plan indicates that the urban area would move toward the south.
3. This would not impose a burden on the county since there were adequate water and electrical services.

Chairman Thompson wondered whether the Hawaii County Planning Commission contemplated a request for boundary change in the general area. Mr. Yoshimura replied that they were in the process of preparing such a petition and that Mr. Gouveia's parcel would be contiguous to this area.

Mr. Gouveia testified that the general development plan was moving southward from Holualoa. The subject parcel consisted of very poor subsoil, and it was economically unfeasible to continue agricultural pursuits,

As an example of this, he cited that during the last year he was able to realize only $600 on an outlay of $1,242 for coffee crops.

Commissioner Ota commented on the fact that there were larger parcels of ranch land surrounding Mr. Gouveia's property and whether the owners of these lands would accept or look favorably upon subdivision plans for the whole general area.

Mr. Gouveia replied there was no doubt about this--that in fact a preliminary survey had been done on one of the larger parcels, and indicated for houselots.

Referring to the relatively slow development of the subdivided lots in the area, Commissioner Nishimura commented that he felt the Hawaii County Planning Commission was 20 to 30 years ahead in its planning. Mr. Gouveia commented that the lack of water was the greatest problem. However, when the 12" line is installed along the Kuakini Highway, a water line will be hooked on to serve the back lots.

The hearing was closed thereafter.

RULING - LALAMILO HOUSE LOTS (Lloyd Kaneshiro)

Mr. Moriguchi reported that a request had been received from Mr. Lloyd Kaneshiro to investigate the matter of the urban boundary line in the Lalamilo House Lots area. When the temporary boundaries were established, Mr. Kaneshiro's property was included in the Urban District; however, in the process of delineating the boundaries, the urban line was moved and Mr. Kaneshiro found his parcel in the Agricultural District. It was the staff's contention that some discrepancy had occurred, and that the area in question should have been included in the Urban District.

Commissioner Inaba was of the opinion that at the time of the boundary decision, it was the intention of the Commission to include the Lalamilo House Lots in the Urban District. It was highly improbable that the Commission would urbanize the surrounding state lands and leave the Lalamilo House Lots in an Agricultural District.

In response to Commissioner Ota's question, Mr. Moriguchi informed that the lot sizes in the area under discussion were just a little over an acre, and that they did not even qualify under an agricultural classification.

Chairman Thompson commented that the task before the Commission was to determine what the intention was at the time of decision and whether or not a drafting error had been made. He added that if a drafting error had been made the Commission was empowered to make a ruling.

Mr. Takeyama, Legal Counsel, confirmed that the shift in boundary could only be accomplished if it could be established that a drafting error had been made, based on the facts that were presented at the time of the decision. This will have to be done by checking back on the records to determine the Commission's intent.

It was finally decided that the matter be deferred pending research into the records to determine Commission's intent on this matter.

SENATE STANDING COMMITTEE REPORT NO. 98

Mr. Moriguchi read the Senate Standing Committee Report No. 98 from the Committee on Kauai Select, recommending favorable consideration of Commissioner Nishimura's gubernatorial appointment to the Land Use Commission and recommending referral of the matter to the Committee on Lands and Natural Resources.

SENATE RESOLUTION NO. 33

Senate Resolution No. 33 requesting the City Planning Commission and the State Land Use Commission to give ample notice of hearings relating to North Shore Development was presented (see copy on file).

SENATE RESOLUTION NO. 34

Senate Resolution No. 34 was also presented requesting the State Land Use Commission to retain present zoning for University of Hawaii Research farm site in Waialee (see copy on file).

SENATE RESOLUTION RE AGRICULTURAL LANDS

Mr. Moriguchi informed that there was still another resolution in the Senate, a copy of which had not yet been received by the Commission, introduced by Senator Benjamin Menor, requesting that the Land Use Commission look into the problem of small agricultural lands. The problem was one of subdividing small agricultural lands into several parcels, primarily for the purpose of giving title to the heirs, which had come before the Land Use Commission time and again, and also involved sociological implications.

Chairman Thompson felt that the Commission should conduct such a study, and wondered whether funds would be available for this purpose. Mr. Moriguchi thought that this might be used as a tool for requesting additional funds from the Legislature. He added that the findings will have to be reported to the 1967 Legislature 20 days before they convene.

Mr. Takeyama advised that this was merely a resolution and that it did not have the effect of the law.

No further action was taken on the matter, pending receipt of the certified copy of the resolution.

REQUEST FROM THE UNIVERSITY EXTENSION SERVICE

A request had been received from Mr. Steven Doue of the University Extension Service for representation from the Land Use Commission to its panel discussions which will be held in the various counties for the benefit of county agents and farmers. Mr. Moriguchi wondered whether the Commissioners would be favorably inclined to participate in such panel discussions. Mr. Moriguchi felt that this was an excellent opportunity to disseminate information to the general public.

Commissioner Nishimura stated that he had been approached by the Extension Service and was in full accord with its request. He felt that each county should be represented by its respective Commissioner and possibly Chairman Thompson.

It was the consensus of the Commissioners that they would be willing and available to participate in these panel discussions.

NEXT MEETING DATE

The next meeting date was announced as being on April 14, 1966, Thursday. This was necessitated by the fact that statutory requirements placed the cut-off date on a few of the action items as April 14.

Commissioner Nishimura suggested that meeting dates be cleared with Chairman Thompson, especially now that summer is approaching and some of the members may be planning on trips.

INCREASED WORK LOAD

Mr. Moriguchi commented that additional responsibilities were projected for staff by the Department and he was hopeful of filling the Assistant Planner's position by the 1st of May. However, this would not wholly alleviate the work load needs.

Chairman Thompson followed up on this by stating that during the last beautification conference, it was recommended that by the middle of 1967, work be started on the revision of the land use district boundaries. This means that the next Legislature would have to request that such a revision take place. Therefore, the Commission should start working on it before the session. Perhaps, additional staff service could be solicited on this basis.

Mr. Takeyama recommended that the staff reports presented during hearings on the petitions be mailed out in advance to the petitioners to enable them to prepare adequate rebuttals for the public hearings. Although there was a 15-day period in which the petitioners were allowed to submit rebuttals or additional data, this did not afford the petitioners the full benefit of cross-examining the witnesses or making an adequate presentation to the Commission. To preclude the possibility of newspaper coverage of the staff report in advance, Mr. Takeyama suggested that a note be appended to the report requesting that information contained therein be kept in confidence up to the time of the public hearing. The question was raised as to whether a public hearing could be cancelled in the event of publication of advance information regarding a petition. Mr. Takeyama was not able to say whether this was a legal basis for denying a hearing.

Mr. Moriguchi wondered if this consideration should be extended to persons other than the petitioners, who were interested in the petitions, as for example those persons who might be opposed to a petition.

Mr. Takeyama advised that this should only follow in the case of aggrieved persons. However, this could not be determined until such

time as the aggrieved person came in to request for a motion to intervene or to become a party, either by letter or some other formal means.

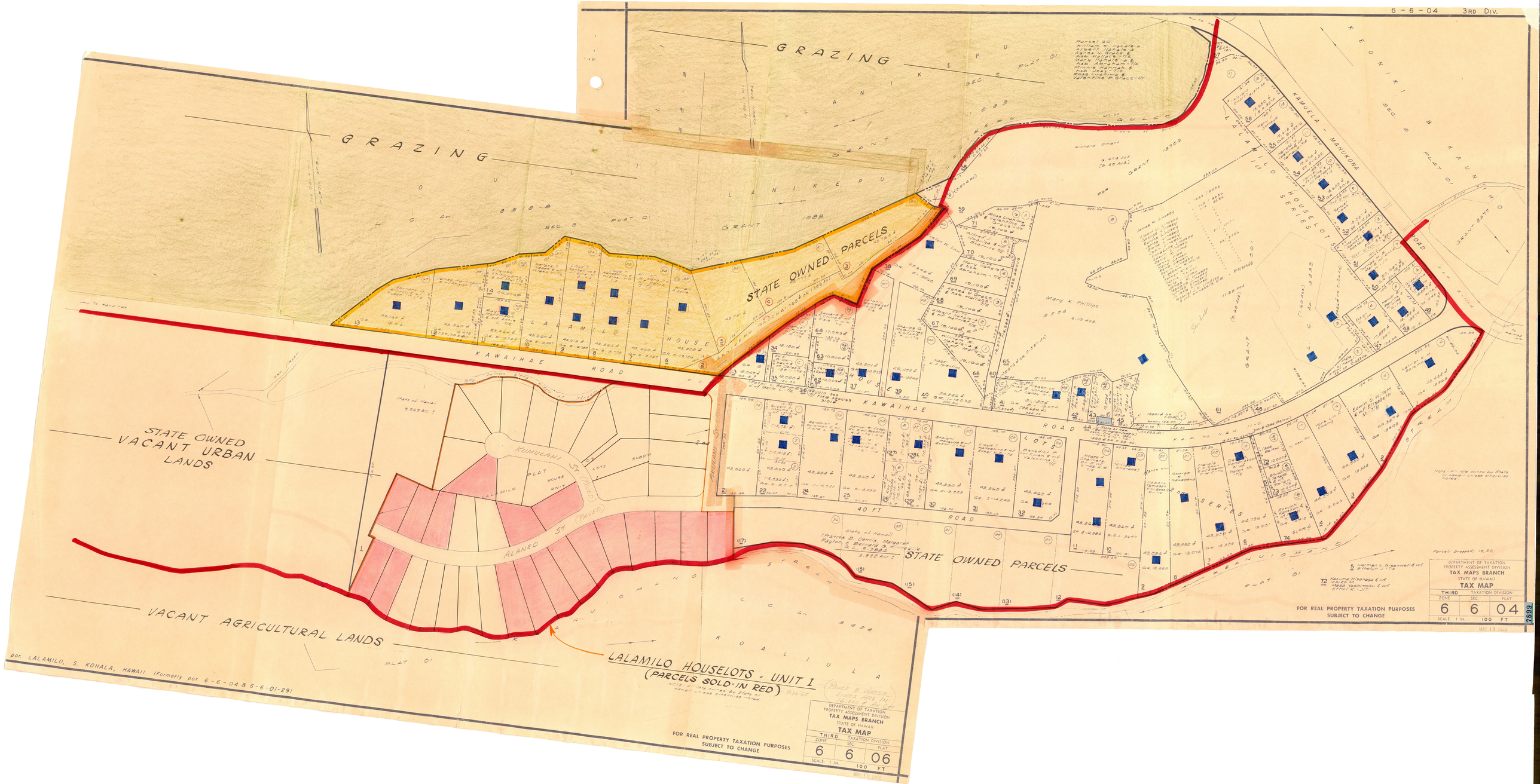
Chairman Thompson felt that the confidential nature of the staff report should be explicitly expressed in the memo, with instructions to refrain from any discussion of the contents with any of the Commissioners.

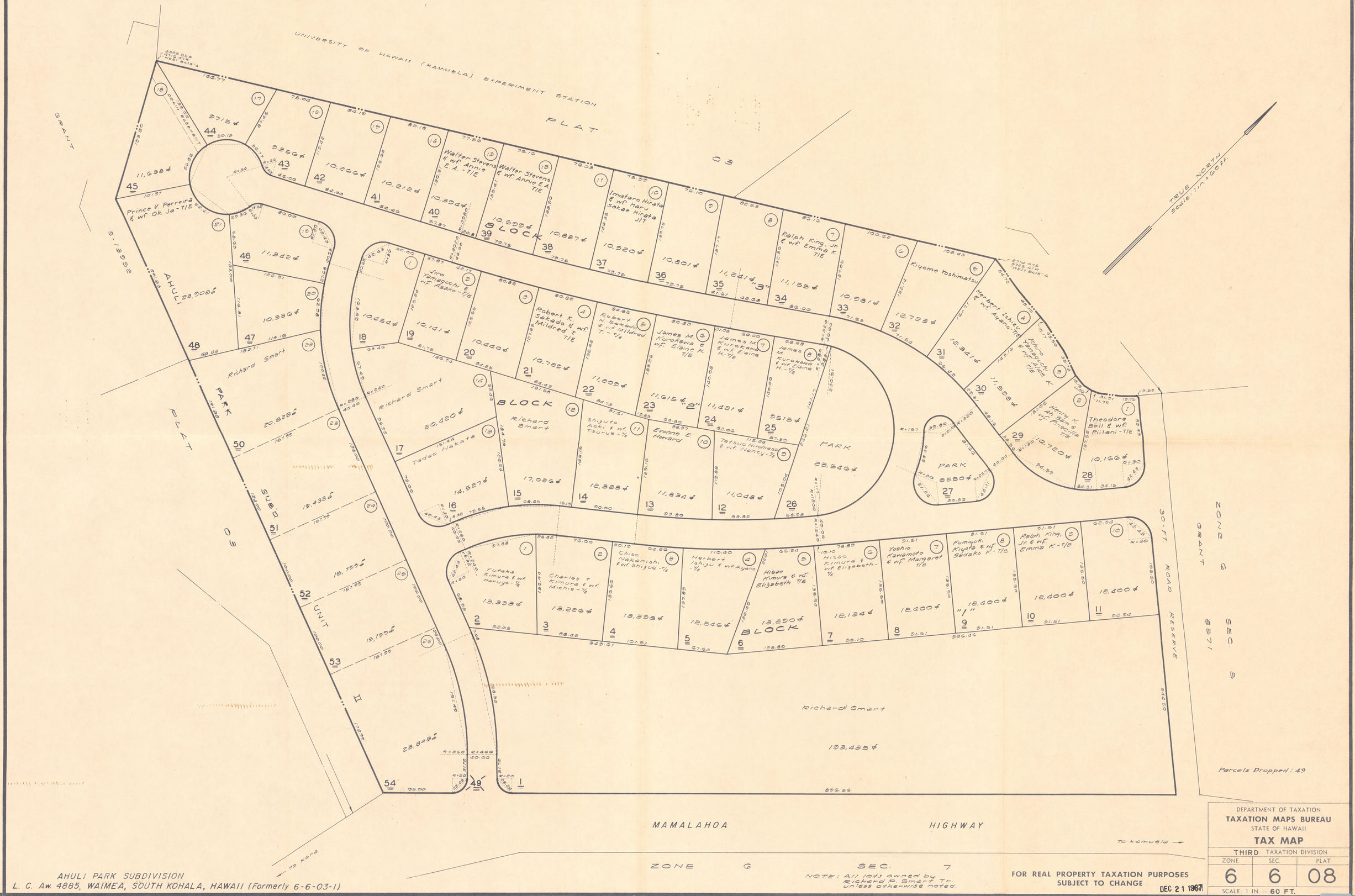
FEDERATION ON NATURAL BEAUTY

Chairman Thompson reported that the Federation on Natural Beauty was still in the planning stages. At the last meeting, the following general outline was agreed upon:

1. That a non-governmental body act as the coordinating agency.
2. Actively seek to have legislations passed.
3. Open up participation to all organizations in the city.
4. A paid staff be employed to carry out the work of the Federation.

There being no further business, the meeting was adjourned.


6 - 6 - 04 3RD DIV.
GRAZING
GRAZING
STATE OWNED PARCELS
STATE OWNED VACANT URBAN LANDS
VACANT AGRICULTURAL LANDS
KAWAIHAE ROAD
KAWAIHAE ROAD
40 FT ROAD
KAMUELA - MAHUKONA
KUMULANI ST. (PAVED)
ALANEO ST. (PAVED)
LALAMILO HOUSELOTS - UNIT I
(PARCELS SOLD IN RED)
STATE OWNED PARCELS
Mary K. Phillips
Parcel Dropped: 19, 20.
DEPARTMENT OF TAXATION
PROPERTY ASSESSMENT DIVISION
TAX MAPS BRANCH
STATE OF HAWAII
TAX MAP
THIRD TAXATION DIVISION
ZONE SEC. PLAT
6 6 04
SCALE 1 IN. 100 FT
FOR REAL PROPERTY TAXATION PURPOSES
SUBJECT TO CHANGE
por. LALAMILO, S. KOHALA, HAWAII. (Formerly por. 6-6-04 & 6-6-01-29)
DEPARTMENT OF TAXATION
PROPERTY ASSESSMENT DIVISION
TAX MAPS BRANCH
STATE OF HAWAII
TAX MAP
THIRD TAXATION DIVISION
ZONE SEC. PLAT
6 6 06
SCALE 1 IN. 100 FT
FOR REAL PROPERTY TAXATION PURPOSES
SUBJECT TO CHANGE



DWG. NO. 5763
SOURCE: PARKER RANCH LAND DEPARTMENT
BY: LB DATE: NOV. 29, 1966

AHULI PARK SUBDIVISION
L. C. Aw. 4885, WAIMEA, SOUTH KOHALA, HAWAII (Formerly 6-6-03-1)

NOTE: All lots owned by Richard P. Smart Tr. unless otherwise noted.

FOR REAL PROPERTY TAXATION PURPOSES SUBJECT TO CHANGE

DEPARTMENT OF TAXATION
TAXATION MAPS BUREAU
STATE OF HAWAII
TAX MAP

THIRD TAXATION DIVISION		
ZONE	SEC.	PLAT
6	6	08

SCALE: 1 IN. = 60 FT.

DEC 21 1967

7900

6-6-07 3RD. DIV.

LALAMILO 2ND PLAT HOUSE 06 SERIES LOTS

Lanikepu Gulch

← To Kawaihae KAWAIHAE ROAD F.A.P. No. N.R.H. 11-C To Kamuela - Mahukona Rd. Junction →

PLAT 06

TRUE NORTH Scale: 1 in. = 60 ft.

Boundary follows along middle of Lanikepu Stream

(Terrence Gausby) (Benedict & Lurkinan Valentine Lurkinan) (George M. Oye & Yukie Oye) (Gerald Cockrane & Wilma Cockrane) (Takao T. Yamauchi & Alyce Yamauchi) (Elerik L. Workman) (Wallace E. Namasu) (Lucille D. Cendana) (Gerelling A. Olson & Lois K. Olson) (Robert K. Ichimoto & Ethel T. Ichimoto) (Kenneth Nagai & Jane S. Nagai) (Michio Nitta & Masako Nitta) (Kinya Wakayama & Emiko Wakayama) (Wilbert H.S. Choi) (Harry M. Clark & Dorothy Choi) (Kenneth Kamaka & Lorraine P. Kamaka) (Sumiko Hoosier) (Harry T. Hori & Ellen Hori) (Kenneth Kamaka & Lorraine P. Kamaka)

S.S.A. S-4840 S.S.A. S-4841 S.S.A. S-4842 S.S.A. S-4843 S.S.A. S-4844 S.S.A. S-4845 S.S.A. S-4846 S.S.A. S-4847 S.S.A. S-4832 S.S.A. S-4833 S.S.A. S-4834 S.S.A. S-4835 S.S.A. S-4836 S.S.A. S-4837 S.S.A. S-4838 S.S.A. S-4839

DRAIN ETMT. 24' (15'+9' H.H.)

KOALIULA L.C. Aw. 3828

Kawaihae

NOTE: All lots owned by the State of Hawaii, unless otherwise noted.

FOR REAL PROPERTY TAXATION PURPOSES
SUBJECT TO CHANGE

UNIT 1

DEPARTMENT OF TAXATION
PROPERTY ASSESSMENT DIVISION
TAX MAPS BRANCH
STATE OF HAWAII
TAX MAP
THIRD TAXATION DIVISION

ZONE	SEC.	PLAT
6	6	07

SCALE: 1 IN. 60 FT.

LALAMILO HOUSE LOTS SUBD'N UNIT 1, LALAMILO, WAIMEA, SOUTH KOHALA, HAWAII (Formerly pors 6-6-04 & 06).

DWG. NO. 5639
SOURCE: Tax Maps Branch
BY: RYT - LN DATE August 31, 1965

MAY 1 1966

7901

A66-115 HAWAII COUNTY

KAMUELA, HAWAII
SW/4 WAIPIO 15' QUADRANGLE
N2000—W15537.5/7.5

H-25

1956

7902

Mapped, edited, and published by the Geological Survey

Control by USGS and USC&GS

Topography from aerial photographs by multiplex methods
Aerial photographs taken 1954. Field check 1956

Polyconic projection. Old Hawaiian datum
10,000-foot grid based on Hawaiian coordinate system, zone 1

1000-meter Universal Transverse Mercator grid ticks, zone 5, shown in blue

Unchecked elevations are shown in brown

APPROXIMATE MEAN DECLINATION, 1956

SCALE 1:24000

CONTOUR INTERVAL 40 FEET
DATUM IS MEAN SEA LEVEL

THIS MAP COMPLIES WITH NATIONAL MAP ACCURACY STANDARDS

ROAD CLASSIFICATION
Medium-duty
Light-duty
Unimproved dirt
Terr. Route

HAWAIIAN ISLANDS
HAWAII
QUADRANGLE LOCATION

INTERIOR—GEOLOGICAL SURVEY, WASHINGTON, D. C.—1957—NB
MR 0657