

A66-117

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 (A66-117) (Hilo) to amend the Land Use District Boundaries from an Agricultural District into an Urban District at Punahoa, Hilo, Hawaii, identifiable by Tax Map Key 2-3-39: 3, 4, 5, 6, 7, and 8, was approved by the Land Use Commission at its meeting on August 5, 1966.

Very truly yours,

GEORGE S. MORIGUCHI
Executive Officer

Enc.

cc: Chairman Thompson
Department of Taxation
Department of Land & Natural Resources

STATE OF HAWAII
LAND USE COMMISSION

VOTE RECORD

Item Hawaii County (Hilo) Date 8-5-66
Place Hilo (Hwy) Time _____

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

Comments:

In approval

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 1½ ACRES OF LAND AT KAILUA, KONA, HAWAII, identifiable by TMK 7-4-08: Portion 2

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

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

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

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

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

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

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

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

Recognizing the need for expansion of the Keaau 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 Keaau 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 house lots, 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.

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.

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 $\frac{1}{2}$ 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 $\frac{1}{2}$ 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 aesthetic 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.

Eagle-17
Type-Erase
25% COTTON FIBER
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 (A66-117) (Hilo) 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

I Takeo Katayama owner of lots covered by tax map key 2-3-39:7 & 8

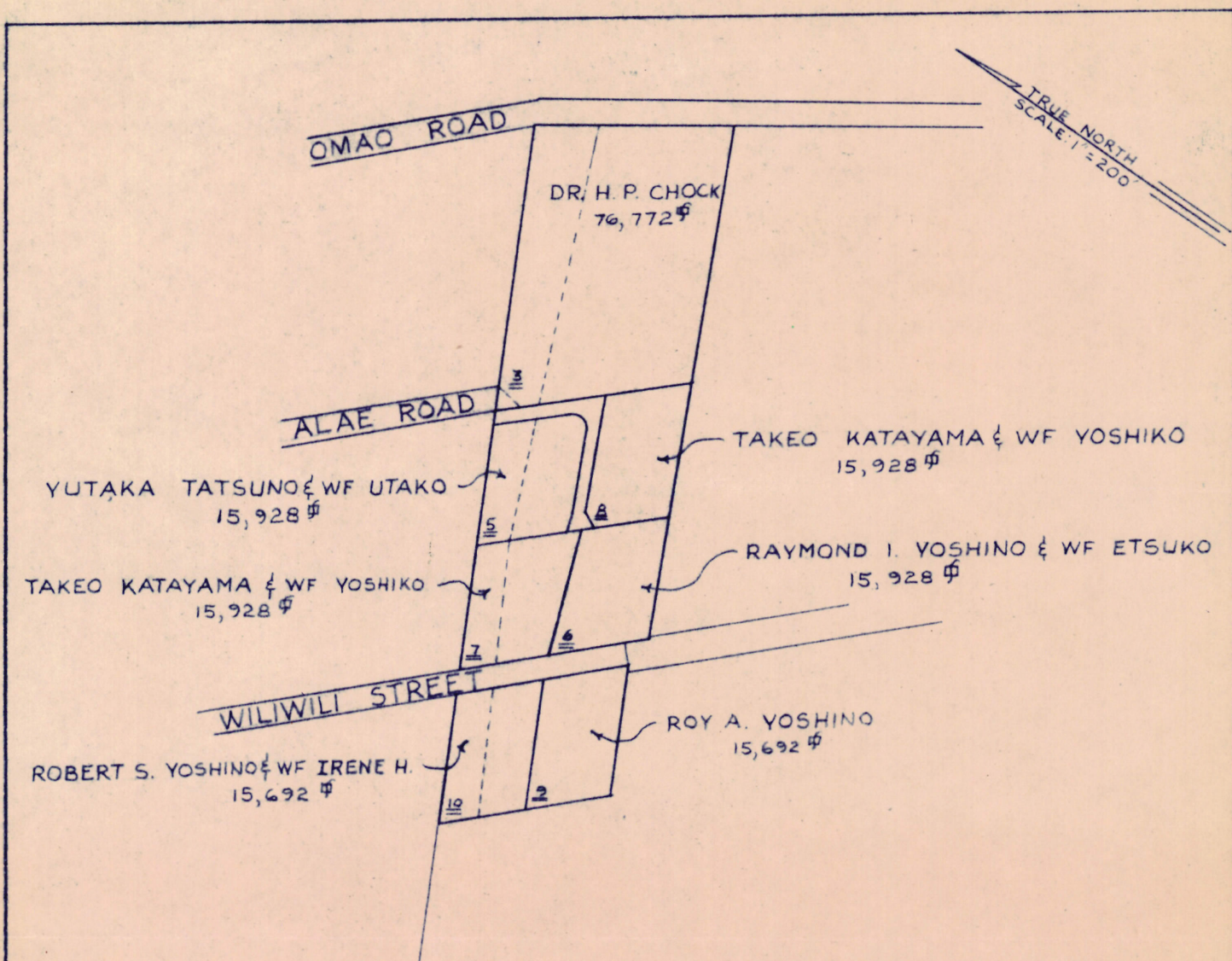
containing 15,928 ^{each} square feet/hereby concur with the County Planning

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

Takeo Katayama
(signature)

Date:

43 Wiliwili Street, Hilo
(address)



AMENDMENT TO STATE LAND USE DISTRICT

Recommended boundary change from
Agricultural district to Urban in
Dunahoa 1st, South Hilo, Hawaii.

INITIATED BY : PLANNING COMMISSION
COUNTY OF HAWAII

DATE OF RECOMMENDATION : MARCH 18, 1966

I Yutaka Tatsuno owner of lot covered by tax map key 2-3-39:5
containing 15,928 square feet hereby concur with the County Planning
Commission to amend the land use designation of said lot from agricultural district
to urban district.

Yutaka Tatsuno
(signature)

Date:

Pahala, Hawaii
(address)

RECEIVED:
COUNTY PLANNING COMMISSION
Date: JUL 6 1966
File No.: _____

I H. P. Chock owner of lot covered by tax map key 2-3-39:3
containing 76,772 square feet hereby concur with the County Planning
Commission to amend the land use designation of said lot from agricultural district
to urban district.

H. P. Chock

(signature)

Date: JUL 1 1966

P. O. Box 254, Hilo

(address)

I

Raymond Yoshino

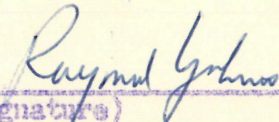
owner of lot covered by tax map key

2-3-39:6

containing 15,928

square feet hereby concur with the County Planning

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


(signature)

Date:

2650 Pamoia Road, Honolulu, Hawaii
(address)

R E C E I V E D :

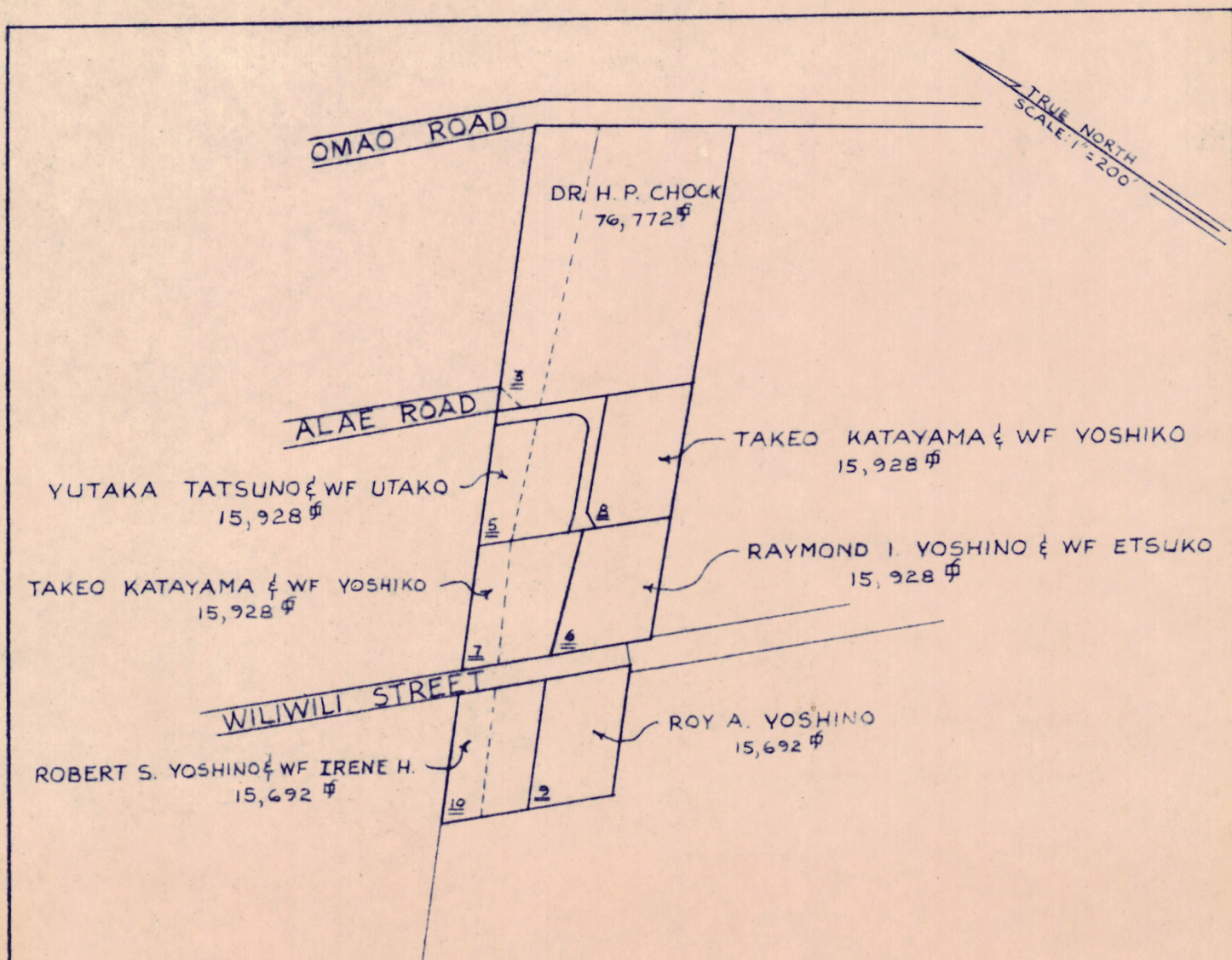
COUNTY PLANNING COMMISSION

JUL 6 1966

Date:

File No.:

File w/Pet.



AMENDMENT TO STATE LAND USE DISTRICT

Recommended boundary change from
Agricultural district to Urban in
Dunahoa 1st, South Hilo, Hawaii.

INITIATED BY : PLANNING COMMISSION
COUNTY OF HAWAII

DATE OF RECOMMENDATION : MARCH 18, 1966

TAX KEY: E-3-39 : Parcels 3 to 8

JUNE 30, 1966

L. U. C. Reel 7-8-66

STATE OF HAWAII
LAND USE COMMISSION

VOTE RECORD

ITEM Hawaii County - Hills
DATE 6-17-66
PLACE _____
TIME _____

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

COMMENTS:

get sign. by County

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

100-111-117-118-119-120-121-122-123-124-125-126-127-128-129-130-131-132-133-134-135-136-137-138-139-140-141-142-143-144-145-146-147-148-149-150-151-152-153-154-155-156-157-158-159-160-161-162-163-164-165-166-167-168-169-170-171-172-173-174-175-176-177-178-179-180-181-182-183-184-185-186-187-188-189-190-191-192-193-194-195-196-197-198-199-200-201-202-203-204-205-206-207-208-209-210-211-212-213-214-215-216-217-218-219-220-221-222-223-224-225-226-227-228-229-230-231-232-233-234-235-236-237-238-239-240-241-242-243-244-245-246-247-248-249-250-251-252-253-254-255-256-257-258-259-260-261-262-263-264-265-266-267-268-269-270-271-272-273-274-275-276-277-278-279-280-281-282-283-284-285-286-287-288-289-290-291-292-293-294-295-296-297-298-299-300-301-302-303-304-305-306-307-308-309-310-311-312-313-314-315-316-317-318-319-320-321-322-323-324-325-326-327-328-329-330-331-332-333-334-335-336-337-338-339-340-341-342-343-344-345-346-347-348-349-350-351-352-353-354-355-356-357-358-359-360-361-362-363-364-365-366-367-368-369-370-371-372-373-374-375-376-377-378-379-380-381-382-383-384-385-386-387-388-389-390-391-392-393-394-395-396-397-398-399-400-401-402-403-404-405-406-407-408-409-410-411-412-413-414-415-416-417-418-419-420-421-422-423-424-425-426-427-428-429-430-431-432-433-434-435-436-437-438-439-440-441-442-443-444-445-446-447-448-449-450-451-452-453-454-455-456-457-458-459-460-461-462-463-464-465-466-467-468-469-470-471-472-473-474-475-476-477-478-479-480-481-482-483-484-485-486-487-488-489-490-491-492-493-494-495-496-497-498-499-500-501-502-503-504-505-506-507-508-509-510-511-512-513-514-515-516-517-518-519-520-521-522-523-524-525-526-527-528-529-530-531-532-533-534-535-536-537-538-539-540-541-542-543-544-545-546-547-548-549-550-551-552-553-554-555-556-557-558-559-560-561-562-563-564-565-566-567-568-569-570-571-572-573-574-575-576-577-578-579-580-581-582-583-584-585-586-587-588-589-590-591-592-593-594-595-596-597-598-599-600-601-602-603-604-605-606-607-608-609-610-611-612-613-614-615-616-617-618-619-620-621-622-623-624-625-626-627-628-629-630-631-632-633-634-635-636-637-638-639-640-641-642-643-644-645-646-647-648-649-650-651-652-653-654-655-656-657-658-659-660-661-662-663-664-665-666-667-668-669-670-671-672-673-674-675-676-677-678-679-680-681-682-683-684-685-686-687-688-689-690-691-692-693-694-695-696-697-698-699-700-701-702-703-704-705-706-707-708-709-710-711-712-713-714-715-716-717-718-719-720-721-722-723-724-725-726-727-728-729-730-731-732-733-734-735-736-737-738-739-740-741-742-743-744-745-746-747-748-749-750-751-752-753-754-755-756-757-758-759-760-761-762-763-764-765-766-767-768-769-770-771-772-773-774-775-776-777-778-779-780-781-782-783-784-785-786-787-788-789-790-791-792-793-794-795-796-797-798-799-800-801-802-803-804-805-806-807-808-809-810-811-812-813-814-815-816-817-818-819-820-821-822-823-824-825-826-827-828-829-830-831-832-833-834-835-836-837-838-839-840-841-842-843-844-845-846-847-848-849-850-851-852-853-854-855-856-857-858-859-860-861-862-863-864-865-866-867-868-869-870-871-872-873-874-875-876-877-878-879-880-881-882-883-884-885-886-887-888-889-890-891-892-893-894-895-896-897-898-899-900-901-902-903-904-905-906-907-908-909-910-911-912-913-914-915-916-917-918-919-920-921-922-923-924-925-926-927-928-929-930-931-932-933-934-935-936-937-938-939-940-941-942-943-944-945-946-947-948-949-950-951-952-953-954-955-956-957-958-959-960-961-962-963-964-965-966-967-968-969-970-971-972-973-974-975-976-977-978-979-980-981-982-983-984-985-986-987-988-989-990-991-992-993-994-995-996-997-998-999-1000

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 7

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 withⁱⁿ 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 further-

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

A66-117 HAWAII COUNTY PLANNING COMMISSION

Background

In accordance with the rules of practice and procedure of this Commission and Section 98H-4 of the Revised Laws of Hawaii 1961, the Hawaii County Planning Commission has submitted a petition for boundary amendment from the present classification of Agricultural to an Urban classification involving five parcels of land at Punahoa, Hilo, Hawaii (TMK 2-3-39: 3, 5, 6, 7, and 8). These parcels are located to the south of Kaumana Drive at the south ends of Omao Road, Alae Road, and Wiliwili Street. Approximately 3.25 acres of land are the subject of this Petition involving five established lots of which one is 1.75 acres in size and the remaining four are each 15,928 square feet in size. The single large lot was subdivided in 1951 while the remaining four lots were subdivided in 1953. Land use is urban in nature with existing structures on the lots. However, although a few large structures exist on the 1.75-acre parcel, it appears that no extensive use occurs, if any at all.

A separate road parcel, parcel four, presently exists for road purposes and serves the four smaller lots in the area. However, this parcel has been omitted from the Petition submitted by the Hawaii County Planning Commission and, therefore, not subject to the request for a change from its present classification of Agricultural to Urban. All of these lands, including parcel four, were part of a petition by Hilo Sugar Company, which was denied

by this Commission in July, 1965. It was noted at that time that Hilo Sugar Company did not own these lands and, therefore, cannot be allowed as part of their request for a boundary change. A 5.4-acre section of land immediately to the south and east of the subject lands is presently under petition for a change from Agricultural to Urban as submitted by Mauna Kea Sugar Company.

In submitting their petition for a boundary change, the Hawaii County Planning Commission has not furnished any evidence to substantiate the need of these lands for urban purposes. However, they have indicated the following reasons for requesting the boundary change:

1. The existing land use indicates lots to be urban rather than agriculture.
2. Area is contiguous to an existing urban district.
3. County General Plan indicates area in urban use.

Analysis

While no substantiation of the need for these lands for other than agricultural purposes is evident, it is quite apparent that the subject lands should have been classified as Urban initially in accordance with the provisions of the Land Use Law relating to those lands that were already established as Urban lands previously. It has been determined that these lands were first subdivided in 1951 and again in 1953 into lot sizes primarily suited for urban purposes. The following factors indicate that an Urban classification for these lands would be proper:

1. All surrounding areas immediately and adjacent to the property along the western and northern boundaries are presently in intense urban use.

2. The problem of scattered urban development is not an item of concern under this petition.
3. All community and utility services are presently available without imposing additional burdens upon the State or the County in servicing these lands.
4. Present roads and drainage facilities are adequate and will not be overtaxed by the reclassification of the subject lands.
5. The lands are adaptable, suitable, and are presently in use for urban purposes.

Recommendation

On the basis of the discussion indicated above, it is recommended that the petition for change be considered favorably. It is also recommended that parcel four be included for change under this Petition upon concurrence by the Petitioner in this regard.

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 (A66-117) to amend the land use district boundaries at Hilo, Hawaii, will be heard.

Very truly yours,

GEORGE S. MORIGUCHI
Executive Officer

March 31, 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 2-3-39: 3, 5, 6, 7, and 8, Hilo, 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 30 1966

State of Hawaii
LAND USE COMMISSION

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:

TMK: 2-3-39:3, 5, 6, 7, & 8

*Parcel 4 should also be included
since it's a road serving other subject
parcels.*

Petitioner's interest in subject property:

Enforcing Agency

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

1. Existing land use indicate lots to be in Urban rather than agriculture.
 2. Area is contiguous of an existing urban district.
 3. County General Plan indicates area in Urban use.
- (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 L. Dwyer
Acting Director

County Planning Commission

Address: P. O. Box 661

Hilo, Hawaii

Telephone: 3215 or 3995

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 _____

A66-117

STATE OF HAWAII
LAND USE COMMISSION

426 Queen Street
Honolulu, Hawaii

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 _____

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:

TMK: 2-3-39:3, 5, 6, 7, & 8

Petitioner's interest in subject property:

Enforcing Agency

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

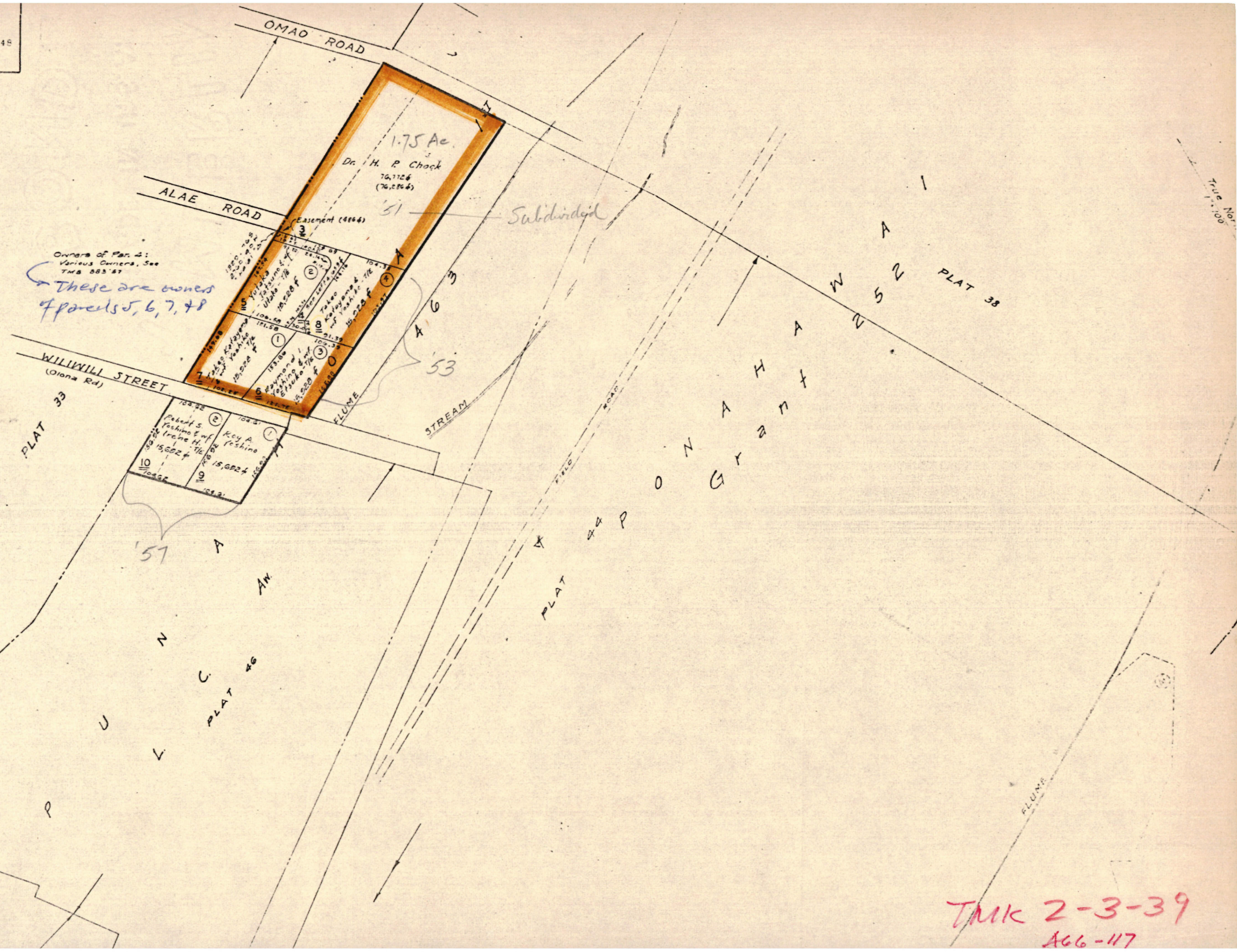
1. Existing land use indicate lots to be in Urban rather than agriculture.
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- (1) The petitioner will attach evidence in support of the following statement:
- The subject property is needed for a use other than that for which the district in which it 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 L. Sugiura
Acting Director

County Planning Commission

Address: P. O. Box 661
Hilo, Hawaii

Telephone: 3215 or 3995



TMLK 2-3-39
AGG-117