

A66-139

LAND USE COMMISSION (WAILUA, KAUAI)

STATE OF HAWAII
LAND USE COMMISSION

Minutes of Public Hearing
and Meeting

Kahului Library - Kahului, Maui

February 17, 1967 - 1:45 P. M.

Commissioners
Present:

Myron B. Thompson, Chairman
C. E. S. Burns
Jim P. Ferry
Robert G. Wenkam
Shiro Nishimura
Goro Inaba
Leslie Wung

Commissioner
Absent:

Shelley M. Mark

Staff Present:

Ramon Duran, Executive Officer
George Moriguchi, Former Executive Officer
Roy Takeyama, Legal Counsel
Ah Sung Leong, Draftsman
Dora Horikawa, Stenographer

Chairman Thompson called the meeting to order, followed by a short prayer, explained procedures to be followed during the hearing and introduced Commissioners and staff members. Persons testifying before the Commission were also sworn in at this time.

HEARINGS:

PETITION OF FRANK & BESSIE MONIZ (A66-143) TO AMEND THE DISTRICT BOUNDARY FROM AN AGRICULTURAL DISTRICT TO A RURAL DISTRICT AT KAONOULU, KULA, MAUI, identifiable by TMK 2-2-06: 63

Mr. Ramon Duran, Executive Officer, presented a staff report recommending denial of the petition based on the lack of additional significant evidence to warrant a reversal of the previous decision of the Commission on an earlier petition.

Mr. Robert Ohata, Maui Planning Director, challenged the rationale employed by staff in recommending denial of this petition; namely the fact that sufficient undeveloped rural lands were available in the Kula area. Yet in another instance, staff had recommended approval of a petition for urbanization (A66-134, Maui Ventures) in an area that already included surplus urban lands, on the premise that this was compatible with good planning and a logical area for expansion. The very crux of the County's recommendation for approval of this petition, Mr. Ohata argued, was based on these same reasons.

See page 5

Commissioner Ferry wondered whether the count of only 16 permits per year between 1960 and 1965 in the Kula area, as reported in the staff report, was an accurate figure. Mr. Ohata replied that this would depend on the boundaries that were used by the staff in interpreting the Kula District. Former Land Use Executive Officer, Mr. George Moriguchi, advised that the records of the Hawaiian Telephone Company were used to get the permit count and that it included an area all the way down to Ulupalakua Ranch.

Mr. Ohata added that Maui was the fastest growing island in the State, even surpassing Oahu, and that the population increase was approaching the 5% figure annually. He attributed this to the tremendous growth and more specifically to the development of Kaanapali and the International Colony Club.

Mr. Ohata also pointed to the successful Pukalani Subdivision in the Rural District, attesting to the popularity of rural-type development on Maui.

Commissioner Ferry offered the observation that perhaps the Land Use Commission was obliged to plan and program the growth over a projected period which may exceed 10 years. Chairman Thompson replied that the 10-year projection period was spelled out in the guidelines.

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

PETITION OF THE COUNTY OF MAUI (A66-144) TO AMEND THE LAND USE DISTRICT BOUNDARY FROM A CONSERVATION DISTRICT TO A RURAL DISTRICT AT KEPANIWAI PARK, IAO VALLEY, MAUI

A staff report presented by the Executive Officer recommended denial of the petition since most of the additional information was irrelevant or inconclusive and the petitioner had not submitted adequate proof that the area was needed or usable for the proposed use.

Mr. Ohata argued that contrary to staff's recommendation, all of the figures and data transmitted by the Maui County in support of this petition pointed to approval and that he was at a loss to understand staff's recommendation for denial.

In support of the County's request, Mr. Arthur Fernandez, Federal Aid Coordinator, explained the master plan and program for development for Kepaniwai Park. He stated that in 1964, Richard Tong submitted a master plan to include within the park contributions from the Japanese, Chinese, Filipino, Portuguese and Hawaiian cultures. In early 1966, \$187,000 was appropriated by the Legislature for this project, \$56,000 from the Bureau of Outdoor Recreation, \$56,800 from the County. An additional \$187,000 was approved by the County to match the legislative funds.

The County had anticipated delays on the project pending relocation of the caretaker's cottage. It was their wish to locate this in close proximity to the park to allow for adequate patrolling of valuable artifacts and property which will be placed in the park.

Mr. Fernandez agreed that the relocation of the caretaker's cottage was the cause of the delay in completing this project, in answer to the Chairman's question.

Mr. Duran asked for clarification of Mr. Ohata's statement to the effect that unless the boundary is changed, the funds allocated to this park would be withdrawn and no development would occur. Mr. Ohata indicated that failure to secure approval from the Commission had actually delayed the project already and that it was questionable whether the County might go ahead with it. Mr. Takeyama asked if the federal funds were contingent upon the fact that the caretaker's home be built upon the lot that the County wants and Mr. Ohata answered in the negative.

If vandalism were the problem here, Commissioner Wenkam suggested that the top of the hill overlooking the entire park would be an ideal site for the caretaker's cottage. Mr. Ohata argued that their proposed locale was a vantage site since it was the approach to the park. He felt that the house should not be exposed at the top of the hill.

Commissioner Wenkam commented that there was nothing to prevent the owner from building a home on the top of the hill once it was districted rural, and expressed his feeling that the highest and best use of this subject parcel was intense landscaping to protect the environment of the park.

Mr. Ohata replied that they had the assurance of the owner that the land would be developed in a desirable manner. If this was the case, Commissioner Wenkam wondered why the land could not be left within the Conservation District and be assured of further protection from the Department of Land and Natural Resources. He also felt that since the "County engineer reported that bluff was not usable for anything" as reported in the staff report, the County should take this opportunity to increase park lands and purchase the proposed site for the caretaker's cottage from Mr. Duarte instead of going through a land exchange. This would enhance the park property and totally screen out the possibility of urban use in the area.

Commissioner Ferry reflected that the County had sought professional assistance in developing a park plan geared to the needs of its citizens, and that the Commission overstepped its bounds when it delved into the question of what was proper park planning. As a reminder, he pointed to the fact that federal monies had been committed for this project through the Bureau of Outdoor Recreation, whose liaison officer was Commissioner Mark, a member of the Land Use Commission.

Commissioner Wenkam argued that the question here was one of protecting scenic resources and other allied activities that occur within a Conservation District, and it was definitely within the powers of the Land Use Commission to consider the land use pattern of this area.

Mr. Ohata commented that the Land Use Law should not be an end in itself, that the end result of the law should be to accomplish certain goals that were good and that the Land Use Commission should consider the petition favorably.

There being no further testimony, the hearing was closed.

ADOPTION OF MINUTES

The minutes of the meetings of October 29, 1966 and November 23, 1966 were approved as circulated.

ACTION

PETITION OF THE ESTATE OF SOPHIE JUDD COOKE (A66-135) TO RECLASSIFY APPROXIMATELY 4.9 ACRES OF LAND SITUATED AT KAHANUI, MOLOKAI FROM AGRICULTURAL TO RURAL

Mr. Ah Sung Leong presented a staff memo recommending denial of the petition on the basis that substantiating evidence in support of a boundary amendment is still lacking (see copy of report on file).

Mr. Leong advised Chairman Thompson that the distance between the urban boundary and petitioner's property was approximately 800' away. It was also brought out that the pasture lands in the Urban District were owned by the Meyers.

Mr. Meyer Ueoka, representing the petitioner, submitted such additional data as a general map of the State and Molokai, classification of the lands prepared by the Land Study Bureau, general description of the lands, and subdivision plans, for the records. It was pointed out that the land area of each lot in the proposed subdivision would be in excess of half an acre and therefore conform to the Rural District. Telephone and electricity were presently available and water would be provided by the Molokai Ranch and would not tax the County in any way.

With respect to the report that agricultural lands were rapidly diminishing on the Island of Oahu and that Molokai would certainly become the bread basket of the State of Hawaii, Mr. Ueoka submitted that Molokai faced many problems in this area. Some of these were listed as the lack of water facilities, the necessity of setting up costly windbreakers for the raising of crops and vegetables, and the fact that a very few owned large parcels.

However, if the subdivision were approved, the homes will blend into the surrounding area and add to the aesthetics and beauty of the place. Mr. Ueoka felt it was the purpose of the law to see that taxes were assessed equitably and that in its present classification the owners were not carrying their fair share. Development of the subdivision would also aid the economy of Molokai. Based on all of the circumstances and facts, Mr. Ueoka recommended that a rural designation was justified.

Commissioner Ferry commented on the tremendous success enjoyed by the growers of potatoes and corn on Molokai and felt there would be pressing demands for additional rural-type lands in the future.

Chairman Thompson reminded the Commissioners that at the time of determining the final boundaries, the Commission did consider rural areas of 5 acres and sometimes 3 where there were existing structures.

Mr. Takeyama, legal counsel, advised that the Commission should concern itself with the petition as submitted by the petitioner, namely a reclassification from agricultural to rural, and disregard the suggestion of a special permit in the staff memorandum. Since the intent was for subdivision of the land, a special permit did not apply. Chairman Thompson directed that this be deleted from the records.

On his belief that this was a reasonable and valid request which merited consideration and on his intention to seek an expansion of the boundaries at a later date, Commissioner Ferry moved to approve the request for rural designation. It was seconded by Chairman Thompson and passed unanimously.

PETITION OF MAUI VENTURES (A66-134) TO RECLASSIFY APPROXIMATELY 49 ACRES OF AGRICULTURAL LANDS TO AN URBAN CLASSIFICATION AT MAKAWAO, MAUI

Staff memorandum presented by Mr. Leong recommended approval of the petition in view of the development trends in the Makawao area and recommended also that the approximately 100 acres within the present Makawao Urban District which apparently would be continued in use as agricultural lands be considered for the Agricultural District when the boundaries are reviewed next year (see copy of report on file).

Commissioner Ferry moved to approve the petition as recommended by staff, seconded by Commissioner Burns, and the motion was carried unanimously.

PETITION OF WAILUKU SUGAR CO. (A66-136) TO RECLASSIFY APPROXIMATELY 8/10's ACRE OF AGRICULTURAL LANDS TO URBAN AT WAILUKU, MAUI

It was recommended by staff that the petition be approved in view of the fairly tight urban scene and the availability of community facilities in the area. (See copy of report on file.)

Commissioner Wenkam moved that the petition be approved as recommended by staff, seconded by Commissioner Burns, and passed unanimously.

PETITION OF LAND USE COMMISSION (A66-139) TO RECLASSIFY 10 ACRES FROM AGRICULTURAL TO RURAL AT LIHUE, KAUAI

Following staff's recommendation for approval of the petition (see copy of report on file) Commissioner Ferry moved to recommend approval of the petition, seconded by Commissioner Nishimura. The motion was carried by a unanimous vote.

STATE OF HAWAII
LAND USE COMMISSION

Minutes of Public Hearing
and Meeting

Lihue District Court Room
Lihue, Kauai

December 16, 1966 - 2:30 p. m.

Commissioners
Present:

Myron B. Thompson, Chairman
C. E. S. Burns
Shelley Mark
Robert Wenkam
Leslie Wung
Goro Inaba
Shiro Nishimura

Commissioner
Absent:

Jim P. Ferry

Staff Present:

George Moriguchi, Executive Officer
Roy Miyamoto, Legal Counsel
Ah Sung Leong, Draftsman
Dora Horikawa, Stenographer

Chairman Thompson opened the meeting with a prayer, introduced the Commission and staff members, explained the procedure to be following during the hearing, and swore in persons planning to testify during the meeting.

HEARINGS

✓ PETITION OF LAND USE COMMISSION (WAILUA) (A66-139) TO AMEND THE DISTRICT BOUNDARIES FOR FOUR PARCELS LOCATED AT WAILUA, KAUAI FROM AGRICULTURAL TO RURAL

Mr. Ah Sung Leong presented the staff report recommending approval of the boundary changes on the basis of existing land use configurations, lot sizes, and contiguity to an existing Rural District (see copy of report on file).

Commissioner Wenkam raised the question on the effect this proposed land use amendment would have on the tax assessments of the properties concerned. Mr. Moriguchi thought that the lands would be reassessed on the new classification by the Tax Department at the time we notify them of the change. He also advised that all of the landowners affected by this petition for boundary change had been advised of the pending reclassification by letter.

At the request of Commissioner Wung, Mr. Leong elaborated on the present uses of the various colored areas on the map.

There was no further testimony and the hearing was closed.

ACTION

PETITION OF LIHUE PLANTATION CO. (A66-124) TO AMEND THE BOUNDARIES FOR 4.5 ACRES AT LIHUE, KAUAI, FROM AGRICULTURAL TO URBAN

Mr. Moriguchi read the staff memo recommending the approval of the petition (see copy of report on file). It was pointed out that with the exception of a small projection on the south side of Hoomana Road, the area was slated for residential development according to the Master Plan prepared for the petitioners.

Commissioner Wenkam moved that the petition be approved as recommended by the staff which was seconded by Commissioner Nishimura and carried unanimously.

DECLARATORY RULING

REQUEST FOR A RULING BY ROY JACOBSEN TO OPERATE "WORLD WISDOM CENTER" WITHIN AN AGRICULTURAL DISTRICT, ON LAND SITUATED AT ANAHOLA, KAUAI, TAX MAP KEY 4-9-05: 7

Based upon its field investigation and research into the request for a ruling, it was recommended by staff that this Commission rule that the proposed use as a park and museum not be permitted within an Agricultural District (see copy of report on file).

The following definition of a "park", as defined in Webster's dictionary and adhered to by staff, was offered by Mr. Leong: "A tract of ground kept in its natural state as for game, for walking, riding, or the like; a piece of ground, in or near a city or town, kept for ornament and recreation; also, an area maintained in its natural state as a public property".

Funk and Wagnall's version of a park "an attractive land generally large and used for park and recreation" was quite inclusive and left the definition of a park open to debate. Mr. Jacobsen submitted that there was no fixed definition of a park by the Land Use Commission.

Mr. Jacobsen elaborated that his plan was to develop a portion of the area as a little replica of an ancient Hawaiian village depicting the old way of life with emphasis on the wisdom of that culture. This exhibition area would be in addition to the museum in which he would display quotations, proverbs, etc. from the "world's wisdom literature". Depending upon the success of this venture, Mr. Jacobsen thought perhaps he would like to lease the surrounding 9½ acres and develop it into a park with gardens, and possibly create a replica of the park in India in which Buddha taught his students.

During the ensuing hearing, the following facts were elicited from Mr. Jacobsen:

1. There would be no fee charged. There will be a place to drop donations which, hopefully, will be sufficient to cover expenses. Booklets will also be available for which voluntary donations may be made. This will be heavily dependent upon the tourist trade.

2. There will not be an affiliation with any particular religious group.
3. The land is presently being leased from Henry B. Thronas.
4. The museum was presently being operated on the premise that a park is a permissive use, and petitioner requested that it be considered a park.
5. \$2,000 had already been expended on lumber, interior decorating.
6. If this request were determined as a permissible use within an Agricultural District, the County's agricultural zoning ordinance would apply.

Chairman Thompson commented that the issue here was one of determining whether Mr. Jacobsen's museum could be considered as a park operation.

Commissioner Wenkam reflected that on the surface the proposed use was quite harmless; however, to make a declaratory ruling in favor of the project might leave the door open for other uses which could prove undesirable in an Agricultural District. It was further pointed out that a special permit might be a more proper procedure here inasmuch as this will afford the County an opportunity to fully investigate the use, impose conditions and restrictions that may be desirable.

It was moved by Commissioner Wenkam to declare that this was not a park use and to advise Mr. Jacobsen to take the special permit route. It was seconded by Commissioner Wung and passed unanimously.

INTRODUCTION OF NEW KAUAI PLANNING DIRECTOR

Mr. Brian Nishimoto was introduced by Mr. Yamasaki as the new Planning Director, filling the vacancy left by Mr. David Wong, effective as of January 1, 1967.

ADOPTION OF MINUTES

The minutes of September 16, 1966 were approved as circulated.

February 21, 1967

Mr. Brian Nishimoto
Planning Director
Planning & Traffic Commission
P. O. Box 111
Lihue, Kauai

Dear Mr. Nishimoto:

The petition by the Land Use Commission (A66-139) to amend the Land Use District Boundaries from an Agricultural District to a Rural District for approximately 10 acres of land at Wailua, Kauai, identifiable by Tax Map Key 4-2-02: 27, 28, 52 and 117, was approved by the Land Use Commission at its meeting on February 17, 1967.

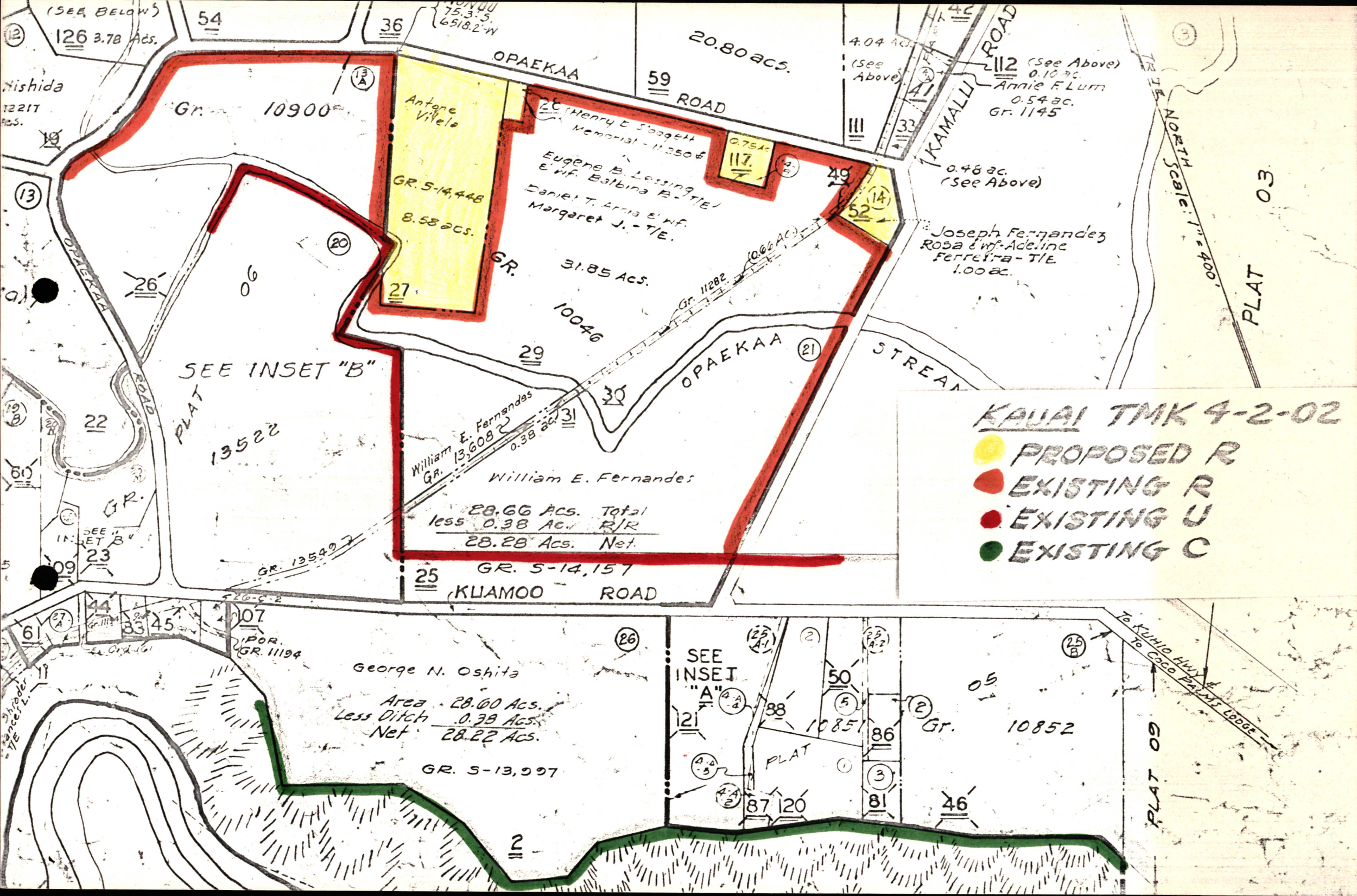
Very truly yours,

Ramon Duran

RAMON DURAN
Executive Officer

cc: Chairman Thompson
Department of Taxation
Department of Land & Natural Res.

Mr. Louis Mendes
Mr. Eugene B. Lessing
Mr. Joseph F. Rosa



STATE OF HAWAII
LAND USE COMMISSION

VOTE RECORD

Item A66-139. Land Use Comm Date 2-17-67
Place Kahului, Maui Time 3:13
(Wailua)

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

Comments:

ITD Approve to Rural

STATE OF HAWAII
LAND USE COMMISSION

February 17, 1967
Kahului, Maui

MEMORANDUM

TO: LAND USE COMMISSION

FROM: STAFF

SUBJECT: A66-135 - Sophie Judd Cooke Estate; A66-134 - Maui Ventures;
A66-136 - Wailuku Sugar Co.; A66-139 - Land Use Commission (Wailua)

1. A66-135 - ESTATE OF SOPHIE JUDD COOKE

A public hearing was held on November 23, 1966 on the petition submitted by Meyer Ueoka in behalf of the Estate of Sophie Judd Cooke, to reclassify approximately 4.9 acres of land situated at Kahanui, Molokai from Agricultural to Rural. At that time, the staff recommended denial of the petition since the petitioners had not substantiated the need for rural districting. A special permit approach was suggested in view of the use that was established on portions of the petitioner's land prior to the Land Use Law.

At the public hearing, Mr. Soon Oak Lee, Chairman of the Molokai Planning Advisory Committee, and Maui Board of Supervisors' member, testified that rural districting would not be contrary to good planning, nor would it harm the aesthetics of the area. Mr. Fred Whittemore, formerly of Cooke Trust and presently with the First National Bank, provided background data of the subject parcel and testified that the property has been in residential use for 50 years and has never been used for agricultural purposes. Under questioning from the Commission, he indicated that there would be no objection to a special permit if it would result in an acceptable solution.

Maui Planning Director Robert Ohata explained that the Maui Planning Commission's recommendation for urban districting was based on their reluctance to introduce a third land use classification in the Kalae area. Moreover, he indicated it was the County's feeling that the agricultural lands between the subject lands and the Kalae Urban District would be a natural extension of the Urban District in the near future.

Upon evaluation of the testimony given at the public hearing and all of the data submitted to date, the Land Use Commission staff concludes that substantiating evidence in support of a boundary amendment is still lacking and, therefore, maintains its recommendation for denial of the petition. It also reiterates the suggestion of a special permit procedure to resolve the problem.

February 17, 1967

2. A66-134 - MAUI VENTURES

On November 23, 1966 a hearing was held on this petition to reclassify approximately 49 acres of agricultural lands to an urban classification. The lands are located at Makawao, Maui, immediately adjacent and to the east of the existing Urban District. The Maui Planning and Traffic Commission recommended approval of the change for the portion within 750' of Makawao Avenue, but recommended that the remainder be reclassified to Rural in lieu of Urban.

A recommendation for approval of the entire 49-acre parcel was made by the Land Use Commission staff in view of the development trends in the Makawao area over the past 5 years, and in view of the approximately 100 acres within the present Makawao Urban District which apparently would be continued in use as agricultural lands or gulch lands.

No further data have been received to date since the public hearing and it is recommended that the Commission approve the petition.

3. A66-136 - WAILUKU SUGAR CO.

Wailuku Sugar Co.'s petition to reclassify approximately 8/10's acre of agricultural lands to an urban classification, located off Main Street in Lamalii Tract, Wailuku, Maui, was heard at a public hearing held on November 23, 1966. At that time it was reported that the Maui Planning and Traffic Commission recommended approval of the petition. The Land Use Commission's staff also recommended approval of the petition in view of the fairly tight urban scene in this area of Main Street, and in view of the community facilities available in the area.

There has been no further communication received to date on this matter and it is recommended that the petition be approved.

4. A66-139 - LAND USE COMMISSION (Wailua, Kauai)

The boundary amendment proposal initiated by the Land Use Commission for approximately 10 acres of land (involving 4 separate parcels) at Wailua, Kauai to be reclassified from agricultural to rural was publicly heard on December 16, 1966 at Lihue, Kauai.

The parcels involved are situated on Opaekaa Road in the Wailua Homestead area and are more specifically described by TMK 4-2-02: 27, 28, 52 and 117.

Letters were sent to the various property owners involved prior to the hearing date, notifying them of the proposed change. None of the owners affected were present at the hearing and no communication has been received to date either for or against the amendment.

Approval of this petition was recommended by the Kauai Planning and Traffic Commission.

February 17, 1967

At the hearing, the staff recommended, and presently recommends, approval on the following basis:

1. Lands to the north of Opaekaa Road are relatively large tracts used for grazing, while subject parcels are comparatively small and are primarily in low density residential use.
2. All parcels are bounded on 2 or more sides by the existing Rural District.
3. Therefore, it is more desirable and appropriate to reclassify these lands for rural use on the basis of existing land use configuration, lot size and contiguity to an existing Rural District. The adjusted rural boundary would then follow the south side of Opaekaa Road and along the west side of Kamalii Road.

December 1, 1966

Mr. Antone Vilela
Wailua Homesteads
Wailua, Kauai

Dear Mr. Vilela:

A Land Use Commission public hearing on a matter affecting your property (Tax Map Key: 4-2-02: 27) located at Wailua, Kauai, will be held on December 16, 1966 at the Lihue District Court Room at 3060 Umi Street, Lihue, Kauai, at 2:30 p.m. At that time, a proposed change in classification from an Agricultural District to a Rural District will be considered.

Maps showing the areas for the proposed change are on file with the Kauai Planning and Traffic Commission in Lihue and with this Commission in Honolulu. Should you have any questions on the matter, please check with any one of these offices. Your testimony on the subject may be presented in writing before the hearing or during the hearing.

Very truly yours,

GEORGE S. MORIGUCHI
Executive Officer

Same letter (except for different Tax Map Keys) sent to:

Mr. Louis Mendes

Kapaa, Kauai

~~Mr. Henry Schmitt~~ (TMK 4-2-02: 28), ~~Wailua Homesteads, Wailua, Kauai~~

Mr. Eugene B. Lessing (TMK 4-2-02: 117) Wailua Homesteads, Wailua, Kauai

Mr. Joseph F. Rosa (TMK 4-2-02: 52) Hanamaulu, Lihue, Kauai

STATE OF HAWAII
LAND USE COMMISSION

Lihue District Court Room
Lihue, Kauai

2:30 p.m.
December 16, 1966

STAFF REPORT

A66-139 - LAND USE COMMISSION
(WAILUA, KAUAI)

Upon its own motion, the State Land Use Commission has initiated boundary amendment processing for four parcels of land located at Wailua, Kauai. Property owners have been duly notified and a public hearing has been called to consider these changes.

The proposed amendment would place a total of approximately 10 acres of agricultural districted land within the Rural District.

Property owners involved are:

TMK 4-2-02:	parcel 27 (8.58 acres)	- Antone Vilela
"	" 28 (0.26 acres)	- Louis Mendes and wife Cherie
"	" 117 (0.75 acres)	- Eugene B. Lessing and wife Balbina
"	" 52 (1.00 acres)	- Joseph Fernandez Rosa and wife Adeline

The subject parcels are part of the Wailua Homesteads, First Series, and are situated approximately 2½ miles west of the Coco Palms Hotel at Wailua. All of the lands involved front on the south side of Opaekaa Road at its intersection with Kamalu Road. Lands in the general area are primarily in pasture use with scattered pineapple fields and diversified agricultural farms. The land immediately abutting the subject parcels, recently designated for rural use, are presently being cleared -- probably in preparation for subdivision into rural sized lots. Adequate paved roads serve the area with water service readily available. Rainfall in the vicinity is approximately 75 inches per

year with ground elevations at approximately 300 feet. Soils are known as the Lolekaa silty clay, which is well suited for machine cultivation and rated fair for pineapple and sugar cane crops.

A recommendation for approval of this boundary amendment was received from the Kauai Planning and Traffic Commission.

Lands to the north of Opaekaa Road are relatively large tracts devoted to grazing use while the subject parcels are comparatively small and primarily in low density residential use. All of the parcels involved are bounded on two or more sides by the recently amended Rural District, thereby forming small pockets of agricultural land projecting into the Rural District. It would be more appropriate and desirable to reclassify these lands for rural use on the basis of existing land use configuration, lot size, and contiguity to an existing Rural District. These lands form small indentations within a large existing Rural District, thereby constituting an undesirable mixture of two district classifications.

It is therefore recommended that the subject lands be reclassified from agricultural to rural.

8-30-66

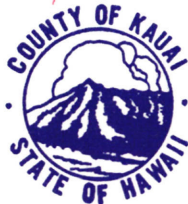


STATE OF HAWAII
**Department of PLANNING
AND ECONOMIC DEVELOPMENT**

Note to Files

Send letters to
all affected
property owners
when hearing date
is established.

[Signature]



LIHUE, KAUAI, HAWAII

2066
TELEPHONE 2781

RECEIVED

OCT 10 1966

State of Hawaii
LAND USE COMMISSION

October 7, 1966

ALG-139

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

Subject: Amendment to Land Use District Boundaries at Wailua, Kauai
TMK 4-2-93: 27, 28, 52 & 117

Gentlemen: *✓02*

The Planning and Traffic Commission, at its regular meeting held on October 6, 1966, voted to recommend approval of subject request for boundary change as initiated by the Land Use Commission affecting lands at Wailua, Kauai, from an Agricultural District to a Rural District.

It is recommended that Opaekaa and Kamalu Roads should serve as the limits of the Rural District in this area.

Very truly yours,

PLANNING AND TRAFFIC COMMISSION

Masashi Kageyama
Masashi Kageyama, Chairman *g*

August 30, 1966

Planning & Traffic Commission
County of Kauai
P. O. Box 111
Lihue, Kauai

Gentlemen:

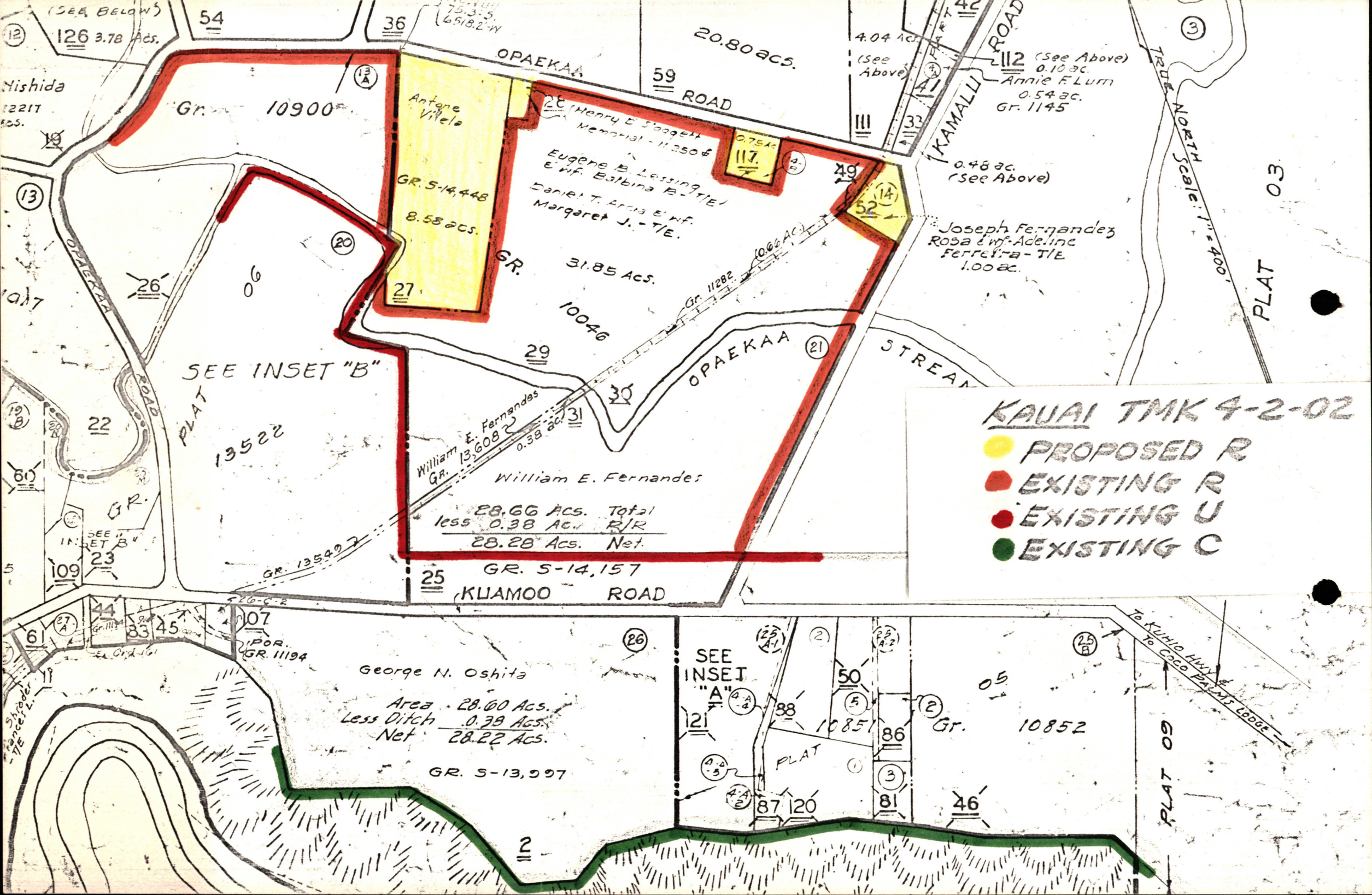
Upon its own motion, this Commission has initiated proceedings to amend the land use district boundaries at Wailua, Kauai as shown on the attached map, from an Agricultural District to a Rural District.

Your comments and recommendations will be appreciated.

Very truly yours,

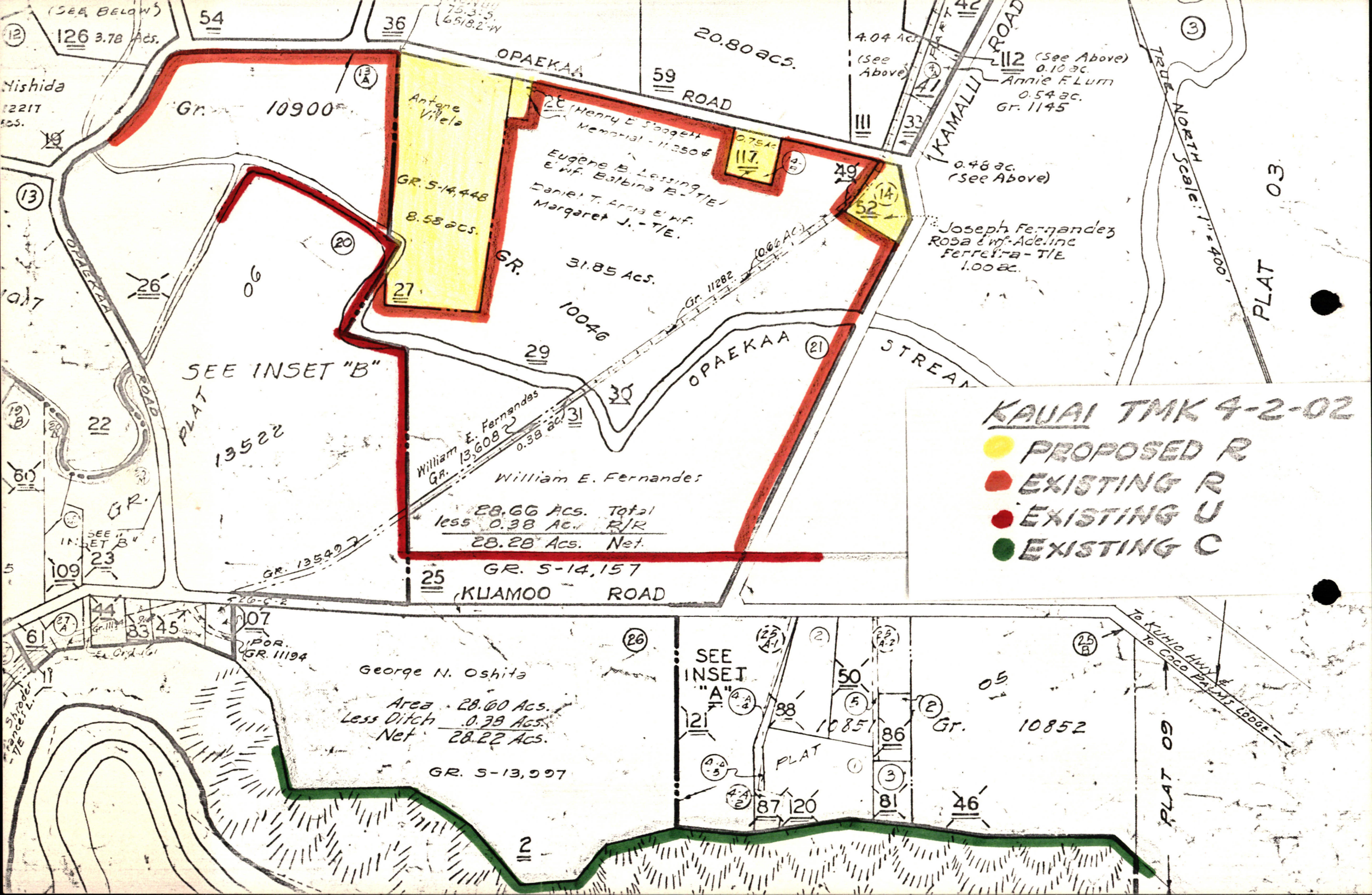
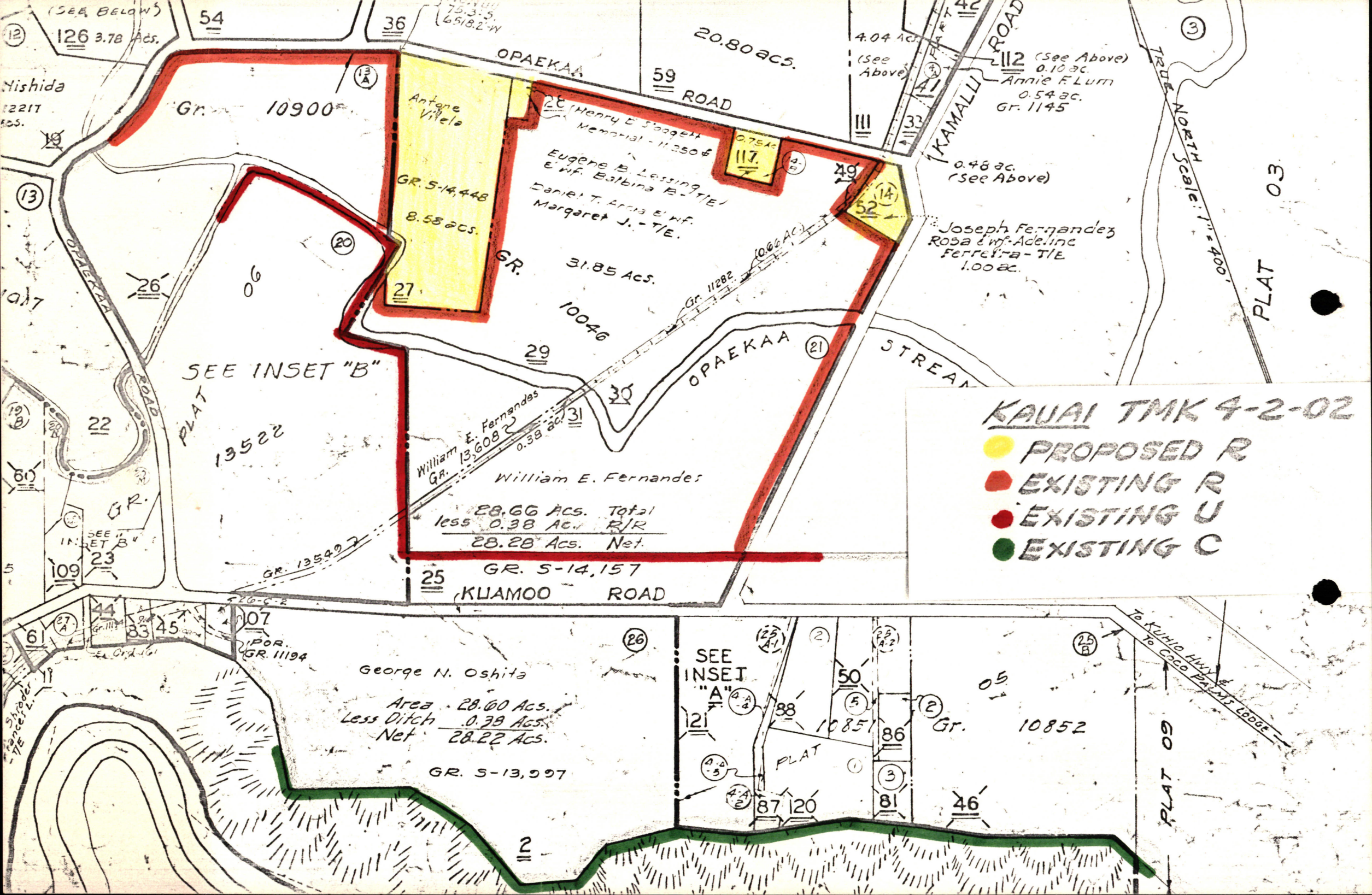
GEORGE S. MORIGUCHI
Executive Officer

Encl.



KAUAI TMK 4-2-02

- PROPOSED R
- EXISTING R
- EXISTING U
- EXISTING C



STATE OF HAWAII
LAND USE COMMISSION

Minutes of Public Hearing
and Meeting

Lihue Police Station
Lihue, Kauai

August 26, 1966

Commissioners
Present:

Myron B. Thompson, Chairman
Jim P. Ferry
Robert G. Wenkam
Shelley Mark
Goro Inaba
Leslie Wung
Shiro Nishimura

Absent:

C. E. S. Burns

Staff Present:

George S. Moriguchi, Executive Officer
Roy Takeyama, Legal Counsel
Ah Sung Leong, Draftsman

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

APPLICATION OF MCBRYDE SUGAR COMPANY, LTD. (SP66-30) FOR A SPECIAL PERMIT TO
BUILD A SMALL AIRCRAFT RUNWAY AT KOLOA, KAUAI

Staff report (see copy on file) was read by the Executive Officer in which it was recommended that the application be approved since the proposed use may be classified as an unusual and reasonable use.

Mr. Moriguchi advised that the five-year lease referred to in the staff report was a stipulation imposed by the petitioner. The intent here was to enable McBryde Sugar Company to replant the area at some future date, should they choose to do so.

Mr. Moriguchi further elaborated that the construction of the aircraft runway would have to meet all federal and state requirements, and that the request was only for a 100' x 2600' strip and did not include any building or other facilities.

Commissioner Wenkam moved to approve the special permit as recommended by the staff, seconded by Commissioner Nishimura. The motion was carried unanimously.

PUBLIC HEARING

PETITION OF LIHUE PLANTATION COMPANY, LTD. (A66-124) TO AMEND THE URBAN DISTRICT BOUNDARY AT LIHUE, KAUAI FOR APPROXIMATELY 4.5 ACRES. PRESENTLY IN AN AGRICULTURAL DISTRICT

Mr. Moriguchi presented the staff report (see copy on file) recommending approval of the petition as modified.

See page 4

Commissioner Wenkam brought out the fact that at the time of the last request by Lihue Plantation to reclassify agricultural lands to urban, due to the frequent recurrence of these requests, the Commission had requested staff to report on lands master-planned for urban uses by Lihue Plantation with the idea of entertaining a motion to bring this to a public hearing. He added that the Commission had acted previously to reclassify all lands master-planned for urban uses for other large landowners, under a single motion.

Mr. Moriguchi agreed to check back into the records and report on the Commission's request.

A detailed and comprehensive discussion of the surrounding uses, slopes in and around the area, elevations, depths of the lots, etc. was held by the Executive Officer and the Commissioners.

Commissioner Wenkam expressed his concern over setting a precedent by allowing the petitioner to build houses on the steep slopes, although he felt that in this instance it was a reasonable use due to the flatness of the major portions of the lands.

Chairman Thompson felt that this would not constitute a precedent since the Commission had taken similar action previously, that instead it could be considered as an adjustment.

Commissioner Nishimura commented that he could see no justification for urbanization of the yellow area jutting out as shown on the map. Mr. Moriguchi explained that the yellow area was actually the road.

Mr. Clinton Childs, representing the petitioner, presented his testimony. He commented that in order to upgrade the uses in the commercial area which heretofore had been interspersed with residences, they had moved the employee housing to the residential area. He added that these were not newly constructed homes.

In reply to Commissioner Wenkam's earlier reference to a master plan by Lihue Plantation, Mr. Childs advised that they were presently in the process of contacting John Carl Warnecke & Associates to conduct an analysis and re-evaluation of Lihue's holdings. They felt this was in order since their last master plan was six years old. Mr. Childs did not think the new master plan would be completed for several months.

Commissioner Nishimura expressed concern over Lihue Plantation's reluctance to urbanize its lands despite the great demand by the people for such lands. Mr. Childs disagreed and replied that Lihue Plantation was just as interested in making more lands available for urban purposes.

Replying to Commissioner Inaba's comments about the adequacy of urban lands for the next ten years in Lihue as specified by Mr. Hansen during a previous hearing, Mr. Childs agreed that the statement was true - that this included a particular type of homes requiring certain architectural standards and in a higher price level, differing from the normal type of subdivision. He interpreted "normal" subdivision to mean tract-type homes varying in price from \$11,000 to \$30,000.

Commissioner Wenkam wondered if it would be feasible to continue the public hearing on the petition by Lihue Plantation until such time as the Commissioners

were able to examine the new master plan. Mr. Moriguchi advised that the deadline for the hearing on this petition was September 8, 1966. Commissioner Wenkam continued that he wanted to be fully satisfied that the extension of the urban boundary was in keeping with the proposed master plan. Mr. Childs thought that it was probably just outside of the master-planned urban area.

Mr. Takeyama advised that since the law specifies that the public hearing shall be advertised within 60 to 120 days, it would have to be held within a reasonable period of the specified number of days. It would be difficult to observe this stipulation if the hearing were postponed, in this instance, since there was no assurance of the completion date of the master plan.

Commissioner Nishimura referred to the master plan prepared by Mr. George Houghtailing and Mr. Childs replied that the Commission was in possession of a master plan in its files. He added that Lihue Plantation was not contemplating a new master plan - they were requesting a re-evaluation and analysis of the existing one.

Chairman Thompson felt that a deferral of the hearing was not justified at this time.

Mr. Walter Bryant, an interested party, urged that the Commission not delay action on the petition and give it its favorable consideration.

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

ACTION

PETITION OF JOHN M., MARIE V., AND JULIET MEDEIROS (A66-114) TO RECLASSIFY APPROXIMATELY 18 ACRES OF LAND PRESENTLY IN AN AGRICULTURAL DISTRICT TO A RURAL DISTRICT AT OMAO, KOLOA, KAUAI

Staff memorandum (see copy on file) presented by Mr. Moriguchi recommended approval of the petition since there was no adverse testimony presented at the public hearing or the period following thereafter.

Motion to accept staff recommendation for approval was made by Commissioner Nishimura, seconded by Commissioner Ferry, and carried unanimously.

PETITION OF JOHN COSTA AYRES (A66-116) TO RECLASSIFY 1.2 ACRES OF LAND FROM AGRICULTURE TO URBAN, AT LAWAI, KAUAI

Recommendation for approval of the petition was made in the staff memorandum (see copy on file) based on the fact that topographically the subject parcel was a part of the upper plateau of the existing Urban District.

Commissioner Wung's request for background information was supplied by the Executive Officer.

Commissioner Ferry moved to accept staff recommendation for approval of the petition, seconded by Commissioner Nishimura, which was passed unanimously.

PETITION OF WILLIAM FERNANDES & MARGARET ARCIA (A66-120) TO RECLASSIFY APPROXIMATELY 55 ACRES OF AGRICULTURAL LANDS TO A RURAL CLASSIFICATION AND APPROXIMATELY 5 ACRES OF URBAN LANDS TO A RURAL CLASSIFICATION

Staff recommended approval only for change of the fifty-five acre portion from Agricultural to Rural. The five acre portion involving change from Urban to Rural was not recommended. It was also recommended that the Commission initiate a petition to reclassify the three parcels fronting on the south side of Opaekaa Road from Agricultural to Rural, in the event that the Fernandes-Arcia petition was approved.

Commissioner Ferry moved to accept staff recommendation, seconded by Commissioner Inaba and the motion was passed unanimously. Commissioner Nishimura was not polled for this motion.

PETITION BY LAND USE COMMISSION TO RECLASSIFY THE THREE PARCELS FRONTING ON THE SOUTH SIDE OF OPAEKAA ROAD FROM AGRICULTURAL TO RURAL

It was moved and seconded that the Land Use Commission initiate petition to reclassify three parcels fronting on the south side of Opaekaa Road from the Agricultural District to the Rural District. The motion was carried unanimously.

REQUEST OF MAUI COUNTY PLANNING COMMISSION FOR RECONSIDERATION OF PETITIONS

At the request of the Chairman, Mr. Moriguchi gave a resume of the events leading up to the present request by the Maui County Planning and Traffic Commission to reconsider the Commission's decisions on three petitions involving lands in Maui, namely:

1. 58 acres from Agricultural to Rural
2. 6 1/2 acres from Agricultural to Rural
3. Approximately 15,000 square feet at Iao Valley, Kepaniwai Park, from Conservation to Rural

In addition, Mr. Moriguchi continued, the Commission was also in receipt of a resolution from the Maui County Board of Supervisors (see copy on file) also requesting reconsideration.

Chairman Thompson reminded the Commissioners that the Commission's policy in the past had always been for reconsideration of a decision only up to twenty-four hours following the decision, and thereafter all decisions became final.

Chairman Thompson observed that, at this point, the most logical course for the petitioners was to submit another petition with additional evidence which would be heard at another public hearing. The floor was opened for discussion.

Commissioner Ferry expressed surprise to learn of the Commission's decision on all three petitions, upon his return from the Mainland, since he was familiar with the areas involved and did not feel that any of them were controversial matters. He also pointed to the fact that there were only four Commissioners present at the time of the public hearings of the subject petitions.

Commissioner Wenkam stated that considerable discussion had taken place during the deliberation of the three petitions and that if there was additional

information now that had not been available at the time of the hearing, it would be wise for the petitioners to present it.

Mr. Takeyama, legal counsel, advised that in the light of the policy adopted by the Commission, it would not be possible to entertain a re-hearing of petitions. However, there was nothing in the Land Use Law nor in the Rules and Regulations that stipulated a time limit for reconsideration of petitions. On the other hand, he did feel that reconsideration should be entertained within a reasonable time following decision - say two days at the most.

Commissioner Wenkam raised the question of the propriety of changing the policy to accommodate one petitioner. Mr. Takeyama replied that since the policy was adopted by the Commission, the Commission was also empowered to change the policy. However, whether this would constitute a precedent was for the Commission to decide.

Commissioner Wenkam commented that if the petitioner could present additional new information never presented before, the Commission could re-open the petition or reconsider it.

Chairman Thompson summarized that the thinking of the Commission was to communicate with the Planning and Traffic Commission of Maui, recommending that new petitions be submitted with additional evidence.

For the records, Chairman Thompson advised that according to the law, the Executive Officer was empowered to conduct a public hearing by himself in the absence of any other Commissioner.

COMMUNICATIONS FROM THE DEPARTMENT OF LAND AND NATURAL RESOURCES

Mr. Moriguchi referred to two communications which were received by the Land Use Commission from the Department of Land and Natural Resources (copies transmitted to each Commissioner):

1. Decision of the Board of Land and Natural Resources to permit Hawaii Loa College to utilize approximately 149 acres of State lands for construction and operation of a four-year liberal arts college.
2. Notice of public hearing held on the application of Valley of the Temples Corporation for the proposed cemetery use of approximately 216 acres in the Conservation District in Ahuimanu Valley.

Commissioner Ferry agreed with Chairman Thompson that these communications were transmitted merely to keep the Land Use Commission apprised of applications either pending or acted upon by the Land Board within the Conservation District. The Land Board was not actively seeking any reaction or recommendation from the Land Use Commission.

Commissioner Ferry added that cemetery use was not covered within the permitted uses under Regulation IV of the Land Board; thus, necessitating a public hearing.

Commissioner Wenkam contended that at the time of the public hearing involving subject lands, the owners had indicated that they would not require any additional lands for development in the future if the Commission would place the conservation boundary as requested by the owners. Chairman Thompson concurred with

Commissioner Wenkam that this information would be relevant to the records of the Land Board.

Since cemetery use was not permitted in either the Conservation or Agricultural District, Chairman Thompson wondered if it more properly belonged in the Urban District. Commissioner Wenkam felt that a memorial park constituted one of the best uses within a Conservation District. Commissioner Ferry added that leading conservationists were exponents of the theory that cemetery uses were the highest uses within the Conservation District.

PETITIONS INVOLVING SUBSTANTIAL ACREAGE OF LAND

Chairman Thompson reviewed the thinking expressed during previous meetings with respect to special permit applications pending before the Land Board involving substantial acreage of lands:

1. Request for change of land use involving substantial acres should be referred to the Land Use Commission for boundary change.
2. Staff was directed to meet with the Land Board staff to arrive at some criteria for "substantial" acreage.

Commissioner Ferry argued that "substantial" on Oahu and "substantial" on Hawaii could have wide variance due to the differences in land ownership, population, etc.

Commissioner Ferry suggested that the Land Use Commission could, upon its own motion, initiate a petition for boundary change whenever it felt that the projected uses within the Conservation District were objectionable. He felt that the time factor involved in holding such a public hearing could be worked out between the two agencies.

Chairman Thompson commented that this was an approach which had not been considered during the previous meetings and that this was the kind of thinking the administration was seeking.

SALT LAKE APPLICATION

Commissioner Wenkam requested some affirmation or consensus from the Commission with respect to the reasons Salt Lake was placed in a Conservation District. He was convinced that the decision was based on very definite reasons in light of the fact that the surrounding areas were placed in urban.

Commissioner Ferry offered that his reason for voting it into the Conservation District was based on the fact that it was a body of water.

Chairman Thompson felt that Commissioner Wenkam's request for a consensus from the Commission on the reasons behind the decision to place Salt Lake in the Conservation District was unreasonable, coming at this time. However, the transcribed tape of the proceedings involving Salt Lake might provide the answer and the discussion could be re-opened at that time.

It was pointed out that the tape for this particular hearing had not been transcribed due to staff shortage. Requests for additional staff had never been

resolved. Commissioner Wenkam requested and Chairman Thompson directed that the minutes for the Salt Lake hearing be transcribed.

NEXT MEETING SCHEDULE

It was decided that the next Land Use Commission meeting will be held on September 16, 1966 at 9:00 a.m.

HOUSE RESOLUTION ON THE MATTER OF RURAL AND AGRICULTURAL LANDS

Chairman Thompson reminded the Commission of the pending House Resolution concerning conveyance of rural and agricultural lands to family members.

In the opinion of Mr. Takeyama, he did not believe this was a legal matter. Rather, during discussions the Commission had raised the question of good planning and had felt that allowing non-conforming subdivisions in a Rural or Agricultural District to accommodate a few families would be contradictory to the Land Use Law. However, a recommendation to the Legislature was in order. Chairman Thompson agreed that a study should be conducted and a recommendation readied for the next Legislature.

STATE OF HAWAII
LAND USE COMMISSION

VOTE RECORD

Item Open space change by LUC Date 8-26-66
Place Lihue Time _____

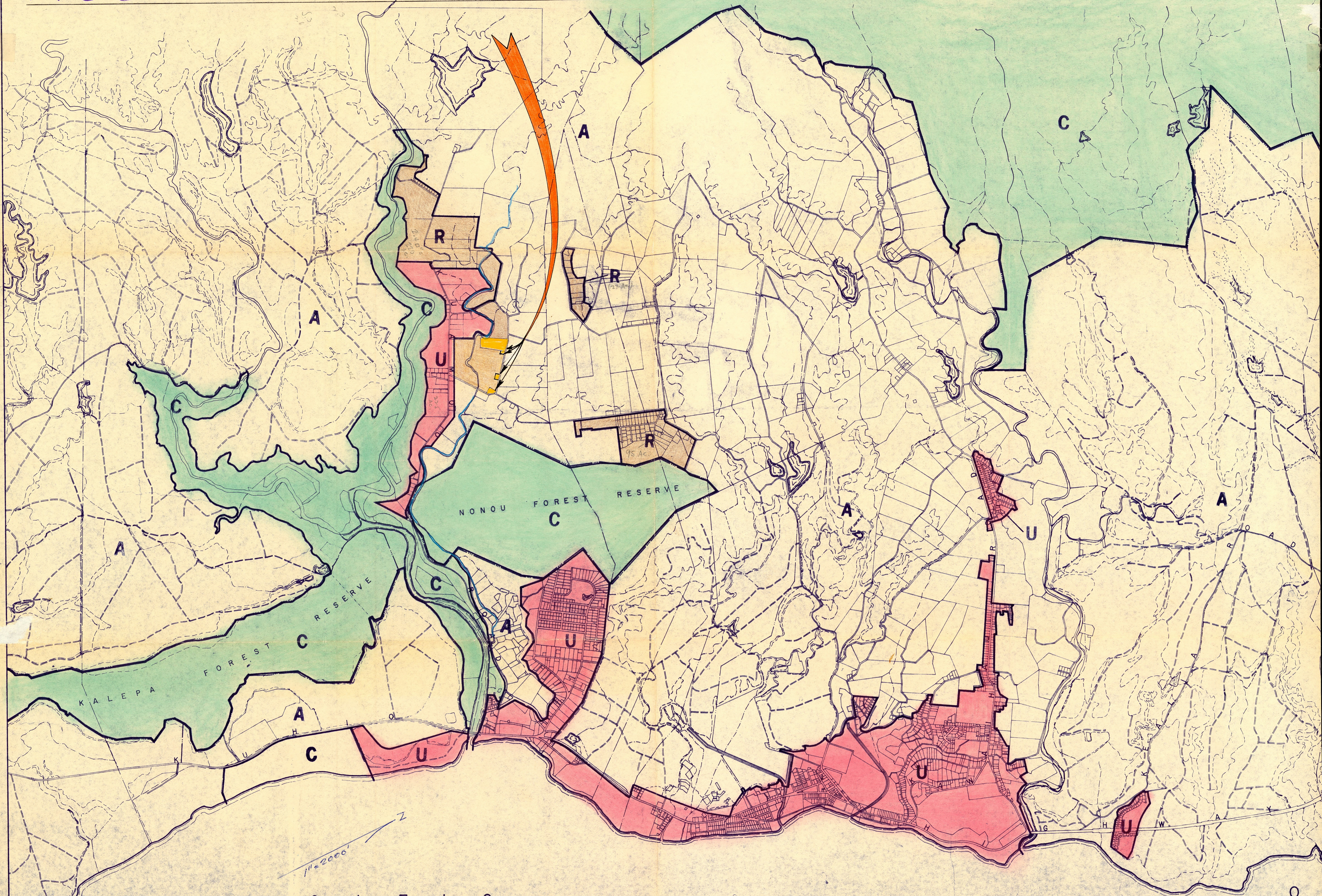
Names	Yes	No	Abstain	Absent
M WUNG, L.	✓			
INABA, G.	✓			
OTA, C.				
WENKAM, R.	✓			
BURNS, C.E.S.				✓
NISHIMURA, S.	✓			
MARK, S.	✓			
S FERRY, J.	✓			
THOMPSON, M.	✓			

Comments:

motion to initiate boundary change
adjacent area of A66-121 A to R.

Wailua, Kauai

A66-121 FERNANDES & ARCIA



P A C I F I C

A66-139 LAND USE COMMISSION

A66 139 LAND USE COMMISSION

