A68-199 - JOSEPH S. BRUN

April 29, 1969

Mr. James Krueger
Greenstein & Cowan
Suite 1316 Ala Moana Building
1441 Kapiolani Boulevard
Honolulu, Hawaii 96814

Dear Mr. Krueger:

Subject: Mr. Joseph Brun's Land Reclassification--
Kalaheo, Kauai

This will acknowledge receipt of your letter dated April 28. I recommend that you do nothing until the Land Use Commission reviews all of the requests for boundary amendments and readopts the Kauai district boundaries.

The Commission has tentatively set June 6, 1969, 7 p.m., Wilcox Elementary School Cafetorium, for taking the final action. You may again be given the opportunity to summarize your request before the Commission takes action. If the Commission's final action does not meet with your approval, then you may petition the Commission for rezoning this property in the same manner as the original application.

Very truly yours,

RAMON DURAN
Executive Officer

January 14, 1969

Mr. Joseph S. Brun
P. O. Box 45
Kalaheo, Kauai

Dear Mr. Brun:

This is to acknowledge receipt of your letter dated December 24, 1968, requesting a reconsideration on your petition A68-199.

Please be advised that I referred this matter to the Attorney General's office and received the attached reply. In essence, the attorneys advised the Land Use Commission that they had the power to reconsider the request. The Land Use Commission met on January 10, 1969, in Honolulu at which time Mr. Hyman Greenstein appeared in your behalf. The Land Use Commission, after considerable discussion, defeated a reconsideration motion made by Commissioner Nishimura by a 3-4 vote. Therefore, the action of the Commission on December 20, 1968, not to rezone your property from Agricultural to Urban as requested, remains in effect as the Commission's final action.

Your recourse at this time appears to be:

1. Appeal the decision of the Land Use Commission to the Circuit Court.

2. Refile another rezoning application with the Land Use Commission.

3. Write a letter to the Commission requesting that your property be included in the Urban District when the land use district boundaries for Kauai are reviewed this summer as the Commission will be conducting public hearings throughout the State to re-establish the district boundaries pursuant to the mandatory 5-year boundary review contained in the statute.

I would strongly urge that you follow the latter recommendation in view of the past history of this case. Should you desire additional information, feel free to call upon this office.

Very truly yours,

RAMON DURAN
Executive Officer

Encl.
cc: Kauai Plann. Comm.

STATE OF HAWAII
LAND USE COMMISSION

Minutes of Meeting

Land Use Commission Hearing Room
Honolulu, Hawaii

January 10, 1969 - 1:00 p.m.

Commissioners Present: Wilbert Choi, Chairman Pro Tempore
Shelley Mark
Sunao Kido
Leslie Wung
Alexander Napier
Shiro Nishimura
Goro Inaba

Commissioners Absent: C. E. S. Burns, Jr.
Keigo Murakami

Staff Present: Ramon Duran, Executive Officer
Ah Sung Leong, Planner
George Pai, Legal Counsel
Jack Morse, Deputy Attorney General
Jean Soma, Stenographer

All those wishing to testify before the Commission were sworn in by Chairman Choi.

ADOPTION OF MINUTES

Minutes of the November 15, 1968, and November 29, 1968, meetings were approved as circulated to the Commissioners.

HEARINGS

PETITION BY THE TRUSTEES OF THE BERNICE P. BISHOP ESTATE (A68-201) TO REZONE 615 ACRES FROM AGRICULTURAL TO URBAN AT WAIAU, EWA, OAHU

Staff recommendation for denial of subject petition was based on the following reasons:

1. purpose and intent of the Land Use Law is to "prevent the shifting of prime agricultural land into non-revenue producing residential

Commissioner Wung moved that the Commission accept staff recommendation, which was seconded by Commissioner Inaba and unanimously carried.

RECONSIDERATION OF PETITION - JOSEPH S. BRUN (A68-199)

Executive Officer, Mr. Duran, informed the Commission that staff was in receipt of a letter from Mr. Brun dated December 24, 1968, regarding the denial of his boundary amendment. (See copy of letter on file.) There were only six Commissioners present at the action meeting, and the petitioner was advised to request a deferment until more Commissioners are present. Frances Suelto representing Mr. Brun at the action meeting on December 20, 1968, Lihue, Kauai, urged the Commission to reach a decision immediately. Consequently, action was taken and subject petition was denied by a 5 to 1 vote; and, Mr. Brun was so notified. Upon receipt of Mr. Brun's letter, staff forwarded a copy to the Attorney General's office. Subsequently, on Jaunary 9, 1969, Mr. Jack Morse, Deputy Attorney General, submitted a legal opinion on the reconsideration of the Commission's action. (Copy of legal opinion was sent to each Commissioner.) In essence, the Deputy Attorney General advised that the Commission could reconsider the request if it felt there was sufficient evidence to warrant a reconsideration. Therefore, the Commission could vote to reconsider this request, then, vote on the reconsideration issue.

In reply to Commissioner Kido's inquiry as to whether or not the reconsideration would be within the time limitation, Mr. Duran responded in the affirmative that the expiration date for action on subject petition was January 16, 1969. Moreover, the Deputy Attorney General recommended "that the Commission adopt comprehensive procedural rules" so that similar incidents do not recur in the future.

Chairman Choi explained that Mr. Duran advised petitioner it was not imperative for him to be present at the action meeting. However, petitioner could have been notified to safeguard himself.

The Commission has previously been confronted with similar situations, and rehearings have always been denied if petitioner did not submit protest within 24 hours of the Commission's decision--Mr. Brun did not submit protest within a 24-hour period.

Mr. Morse reported that under the statute, Chapter 98H, the Commission has the power to keep its procedural rules very flexible. Furthermore, the Commission has not adopted any parliamentary procedure such as "Robert's Rules of Order" or "Cushing's Manual of Parliamentary Practice" as an established guideline. Therefore, the Commission is not bound to these or any other rules of practice and procedure. The Commission has the preogative to add clauses to its Rules and Regulations if it deems that such statements are desirable and necessary.

Concerning the 24-hour period, Chairman Choi recollected that at a meeting held in Kona, it was determined that if the 24-hour period to protest the Commission's decision fell within the specified time limit not exceeding 90 days, the Commission could reconsider the petition.

Mr. Hyman Greenstein, attorney representing the petitioner, submitted that at certain times the Commission may suspend its Rules and Regulations. To this effect, Mr. Morse quoted Part I, Rules of Practice and Procedure, Sub-Part B, Proceeding before the Commission, 1.6 General: "Also, any rules in Part I, Rules of Practice and Procedure, may be suspended or waived by the Commission or the presiding officer to prevent undue hardship in any particular instance."

In response to Commissioner Mark's inquiry, Mr. Morse replied that no Commissioner should vote on the substitute matter, i.e., the reconsideration of a petition, unless he has had the opportunity to review the facts, staff report, etc., in the event he was not in attendance at the public hearing or action meeting.

Mr. Morse clarified the situation by stating that if a reconsideration vote is taken, the petition will stand as if no vote had been taken. On the other hand, if the Commission denies reconsideration of this petition, the December 20th action stands as is. In the past, in compliance with petitioner's request, action has been extended beyond the 90-day period primarily in the absence of a full Commission.

It was brought up by Chairman Choi that Mr. Brun has not specifically stated he will discontinue the operation of his slaughterhouse as this matter would determine his vote in the reconsideration issue. Mr. Greenstein retorted that Mr. Brun will raze his slaughterhouse at such time as he begins actual construction on his property for a proposed subdivision.

Mr. Duran then proceeded to read Mr. Brun's correspondence wherein he stated: "I will terminate the operation of the slaughterhouse as soon as construction is begun near it so as to make its operation objectionable. I would like to continue its operation for the time being." (See copy of letter on file.)

Commissioner Nishimura moved that the Commission reconsider its previous action on Mr. Brun's petition, seconded by Commissioner Wung.

Motion to reconsider was defeated by the following votes:

Ayes: Commissioners - Wung, Nishimura, and Kido.

Nays: Commissioners - Inaba, Napier, Mark, and Chairman Choi.

CONSULTANTS' REPORT - ECKBO, DEAN, AUSTIN AND WILLIAMS

Mr. Edward Williams submitted a "Progress Report to Land Use Commission on Boundary Review Program" to the Commission. (See copy on file.) Answers to the questionnaires have been compiled by computer and were distributed to Commissioners. Mr. Williams asked Commissioners to look over the findings and present any questions and comments at the January 17th meeting. By mid-February consultants propose to have the final summary and analysis.

Meetings have been arranged with the County Planning Commissions and interested legislators to keep them abreast of consultants' plans, proposals, etc., and also to receive any comments and recommendations from aforementioned bodies. In addition, consultants are continuing to meet with landowners and anyone concerned or interested in the boundary review project.

Mr. Myron Thompson, Administrative Assistant to the Governor, commented that the development of some lands located in the Conservation District for a multiple-concept use should be urged. Therefore, how can the State encourage companies to become interested in investing in such lands? Mr. Williams answered that the Public Development Corporations Plan has been utilized in some states. In regard to the California State General Plan, it was suggested that a method for augmenting the economy in the Redwood area where lumbering

STATE OF HAWAII

LAND USE COMMISSION

VOTE RECORD

ITEM Joseph S. Brun. DATE 1/10/69

PLACE Hon TIME 3:50

	Yes	No		Absent
INABA, GORO		✓		
MURAKAMI, KEIGO				✓X
S WUNG, LESLIE	✓			
M NISHIMURA, SHIRO	✓			
Chairman CHOI, WILBERT		✓		
NAPIER, ALEXANDER		✓		
MARK, SHELLEY		✓		
KIDO, SUNAO	✓			
BURNS, C. E. S.				✓X

COMMENTS: Reconsider vote ✓ —

vote on issue X

2630

ADDRESS REPLY TO
"THE ATTORNEY GENERAL OF HAWAII"
AND REFER TO
INITIALS AND NUMBER

JCM:es

12b

CABLE ADDRESS:
ATTGEN

BERT T. KOBAYASHI
ATTORNEY GENERAL

STATE OF HAWAII
DEPARTMENT OF THE ATTORNEY GENERAL
HONOLULU, HAWAII 96813

RECEIVED
JAN 9 1969
State of Hawaii
LAND USE COMMISSION

January 9, 1969

Mr. Ramon Duran, Executive Officer
Land Use Commission
Department of Planning and
Economic Development
State of Hawaii

Dear Mr. Duran:

Subject: Reconsideration of Commission Action

You have requested our opinion regarding the power of the Land Use Commission to reconsider its denial of a petition for a boundary amendment. We are of the opinion that the Commission has the power to reconsider its previous action, subject of course to applicable time limitations.

We understand the facts to be as follows: (a) a petition (A68-199) was submitted to the Land Use Commission by the owner of approximately 6 acres of land at Kalaheo, Kauai, requesting that these premises be reclassified under Chapter 98H, Revised Laws of Hawaii 1955, as amended, from "agricultural" to "urban"; (b) the petitioner's request was recommended for approval by the Kauai County Planning and Traffic Commission; (c) after publication of notice, a public hearing before the Land Use Commission was held in Lihue, Kauai, on October 18, 1968 at which the Land Use Commission Staff recommended approval of the petition; and (d) at the Land Use Commission's meeting held on December 20, 1968, at which a total of six Commission members were in attendance, the petition was denied as the result of a vote of five Commissioners in favor of reclassification and one

1/10/69 - copies for Commissioners
1/13/69 - rest copy to Bruns

Commissioner opposed.[1]

We find nothing in our State statutory law or in the regulations adopted by the Land Use Commission which would preclude the Commission from reconsidering its action in this case. Furthermore, although authorities may be cited for a contrary result, we think the better view, supported by substantial authority, is that an administrative agency has inherent power to reconsider a prior action in the absence of a specific limitation or strong countervailing considerations of law or public policy.[2]

Having answered the question of the Commission's power to reconsider, we turn now to an examination of the question: Should the Land Use Commission reconsider its previous action in this case? The primary legal arguments for and against reconsideration of this petition are as follows.

The chief argument in favor of reconsideration is that the procedural rules to be followed by the Commission must remain flexible.[3] "The great purpose of all rules and forms is to subserve the will of the assembly, rather than to restrain it; to facilitate, and not to

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[1] The Land Use Commission is made up of nine voting Commissioners. A boundary amendment, such as requested in this petition, requires the affirmative vote of six Commissioners. § 98H-4, R.L.H. 1955, as amended.

[2] Albertson v. F.C.C., 182 F.2d 397, 399 (C.A., D.C., 1950). Wammack v. Industrial Commission of Arizona, 320 P.2d 950, 954 (Ariz. 1958). Dal Maso v. Bd. of County Commissioners, 34 A.2d 464, 467 (Md. 1943). Stafford Smith v. Zoning Bd., 158 A.2d 223, 226 (N.J. 1960).

[3] Land Use Commission Rule 1.6(a), covering procedural matters, is extremely flexible, to wit: "Procedures to be followed by the Commission shall . . . be such as in the opinion of the Commission will best serve the purposes of such proceedings."

obstruct the expression of their deliberate sense."[4]

In opposition to reconsideration, it is argued that there should be a point somewhere in the decision-making process where a person may be assured that the deliberative body has issued its final decision. This is commonly referred to as the doctrine of finality and it finds application in many areas of administrative activity,[5] and particularly in the field of zoning where the courts are often loath to permit administrative reconsideration of, or rehearing on, a petition unless it is shown that new facts or conditions have arisen since the first determination.[6]

In addition to specific procedural limitations to be found in statutes and administrative rules, particular fact situations underlying requests for reconsideration may invoke legal or policy considerations requiring denial of the requests. Such considerations include a change of position because of reliance upon the original determination, laches on the part of the petitioner, and the possibility of setting a troublesome precedent.

We do not offer an opinion as to whether or not the Land Use Commission should reconsider the petition in this case as we believe this is a matter for reasoned decision by the Commissioners. We do recommend, however,

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[4] Lowe, Cushing's Manual of Parliamentary Practice 301.

[5] E.g.: Evans v. Monaghan, 118 N.E.2d 452, 457 (N.Y. 1954) (administrative dismissal of police officers for misconduct). Hollywood Circle, Inc. v. Dept. of Alcoholic Beverage Control, 361 P.2d 712, 714 (Cal. 1961) (revocation of liquor license).

[6] Consiglio v. Bd. of Zoning Appeals, 217 A.2d 64 (Conn. 1966). Griauzde v. Nashua, 174 A.2d 432, 434 (N.H. 1961). Marks v. Zoning Bd. of Review, 203 A.2d 761, 764 (R.I. 1964).

that the Commission adopt comprehensive procedural rules (such as Cushing's Manual of Parliamentary Practice or Robert's Rules of Order) so that similar procedural questions in the future may be determined quickly and accurately by the Commission's Chairman.

Very truly yours,

JACK C. MORSE
Deputy Attorney General

STATE OF HAWAII
Department of PLANNING
AND ECONOMIC DEVELOPMENT

January 8, 1969
9:30 a.m.

Called Mr. Brun at Kauai 323431. Advised him that the Commission may (or may not) reconsider his petition at the January 10th meeting in Honolulu, and that if the Commission decides to reconsider a new vote will be taken on the petition. Advised him of the place, time, date of the meeting. Mr. Brun indicated that he will not attend the meeting but asked for an early notification of the results of the meeting.

Dh

426 Queen St.—Honolulu, Hawaii 96813
Phone 504-426

2618

P. O. Box 45
Kalaheo, Kauai, Hawaii

RECEIVED
DEC 26 1968
State of Hawaii
LAND USE COMMISSION

90 days expire Jan. 16th
Call Geo.

December 24, 1968

Land Use Commission
Mr. Ramon Duran, Ex. Ofc.
426 Queen Street
Honolulu, Hawaii

Dear Sir:

In references to your letters of December 9, 1968 and December 13, 1968, you stated that "there was no requirement for me to be present" and that it was "again recommend that the petition be approved." Due to these facts, I was under the assumption that the petition would be approved and therefore I did not attend.

I am requesting that you reconsider my petition. Had I been present I would ask for a postponement since there were only six commission members for the hearing.

The versions that I observe from different parties who were present seem to differ enormously, therefore I would like that a copy of the minutes of the last hearing be sent to me.

Very truly yours,

Joseph S. Brun

JSB/fs

Rec'd to G. Pai 1-2-69

December 23, 1968

Mr. Joseph S. Brun
P. O. Box 45
Kalaheo, Kauai

Dear Mr. Brun:

The petition by Joseph S. Brun (A68-199) for an amendment to the Land Use District Boundaries from an Agricultural District to an Urban District for approximately 6 acres at Kalaheo, Kauai, Tax Map Key 2-3-04: parcel 12, was denied by the Land Use Commission at its meeting on December 20, 1968.

Prior to taking action on your petition, the enclosed memorandum was presented to the Commission.

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

Very truly yours,

RAMON DURAN
Executive Officer

Enclosures: Memorandum
Minutes of October 18, 1968, Meeting

cc: Kauai County Planning Commission

STATE OF HAWAII
LAND USE COMMISSION

Minutes of Meeting

Board Room of the Board of Supervisors
Lihue, Kauai

December 20, 1968 - 2:00 p.m.

Commissioners Present:	Shiro Nishimura, Chairman Pro Tempore Sunao Kido Leslie Wung Alexander Napier Goro Inaba Keigo Murakami
Commissioners Absent:	C. E. S. Burns, Jr. Wilbert Choi Shelley Mark
Staff Present:	Ramon Duran, Executive Officer Ah Sung Leong, Planner Jean Soma, Stenographer

Persons planning to testify before the Commission were sworn in by Chairman Nishimura.

ACTION

PETITION BY HERBERT AND DOROTHY MIYAHARA (A68-196) TO RECLASSIFY 13 ACRES FROM AGRICULTURAL TO RURAL AT OMAO HOMESTEADS, KOLOA, KAUAI

Mr. Leong informed the Commission of the location of the property under discussion on the district map and delivered the staff memorandum in which the staff again recommended that this petition be approved. (See copy of memo on file.)

Directing his reply to Commissioner Kido, Mr. Leong reported that the area below the proposed Rural District is presently zoned agricultural. Staff has recommended that parcels 14 and 61 and several small parcels across the road from the subject property be considered for inclusion in the Omao Rural District when the district boundaries are reviewed in the near future.

Mr. Leong then pointed out the location of parcels 14 and 61 on the map.

3/3/69 sent copy to Bruns

The petitioner did not wish to submit any further testimony. Therefore, Commissioner Kido moved that the Commission grant approval of the boundary amendment. Motion was seconded by Commissioner Inaba and was unanimously carried.

PETITION BY JOSEPH S. BRUN (A68-199) TO RECLASSIFY 6 ACRES FROM AGRICULTURAL TO URBAN AT KALAHEO HOMESTEADS, KOLOA, KAUAI

In the staff memorandum presented by Mr. Leong, the staff maintained its original recommendation for approval of Urban Districting the property under consideration. Also, staff was in receipt of a letter from Dr. E. M. Christopherson, Director of the Western Consumer Protection Region, USDA, in which he stated that no slaughtering establishments have been approved for Federal inspection on the island of Kauai.

Executive Officer, Mr. Duran, advised Commissioner Kido that should this request be approved, no conditions can be placed on the approval. The Commission only has the petitioner's word that he will cease to operate his slaughterhouse at such time as he develops his property. Once his property is placed in the Urban District, it will be the County of Kauai's responsibility to plan and zone the property for whatever use they deem appropriate.

Chairman Nishimura informed Commissioner Wung that the nearest slaughterhouse is located on Mr. Andrade's property approximately one mile away from Mr. Brun's slaughterhouse and is also situated in an Agricultural District. The location of this slaughterhouse was pointed out on the district map. It is situated in an Agricultural District and is not within proximity of an urban development. The urban boundary line would be about 3,000 feet away from the agricultural line.

Commissioner Wung was of the consensus that there is a definite need to protect slaughterhouses. In the event that this petition is approved and the petitioner razes his slaughterhouse to develop his property and should Mr. Andrade also decide to discontinue the operation of his slaughterhouse, there will be no slaughterhouse in the area.

Frances Suelto representing the petitioner, Mr. Brun, apprised Chairman Nishimura that she had no idea when Mr. Brun will develop his property.

When question by Mr. Duran as to whether or not there is a need for slaughterhouses on Kauai at present, Frances Suelto stated that there are presently three slaughterhouses on the island. The petitioner is the only proprietor of a slaughterhouse on Kauai that slaughters both cattle and hogs.

Frances Suelto reiterated her statement from the public hearing held on October 18, 1968, that the Land Use Commission considered the area under discussion for inclusion in the Urban District in 1964. At that time the petitioner requested his property be retained in the Agricultural District because he desired to continue his agricultural activities. Frances Suelto then requested that since he no longer desires to continue his agricultural activities, the Commission act favorably on this rezoning petition.

Chairman Nishimura explained that because a full Commission was not present, the petitioner would need all 6 votes to have this petition approved. He then asked if the petitioner would prefer to have the petition's action deferred until some future meeting when more Commissioners were present. Frances Suelto claimed that she wished action to be taken today and did not desire to defer action.

Commissioner Kido advised Commissioner Wung that in addition to the petitioner's slaughterhouse there is one that slaughters only cattle and one that slaughters only hogs.

In reply to Commissioner Murakami's inquiry, Mr. Duran stated that Mr. Brun's property was placed in the Agricultural District when the temporary district boundaries were established. However, Mr. Brun's property was considered for an Urban District classification when the permanent boundaries were under discussion. Due to Mr. Brun's request, the property was retained in the Agricultural District when the permanent boundaries were finally adopted.

The chair then entertained a motion at which time Commissioner Inaba moved that the petition be approved as recommended by staff, seconded by Commissioner Murakami. Mr. Duran polled the Commissioners as follows:

Ayes: Commissioners Inaba, Murakami, Napier, Kido, and Chairman Nishimura

Nays: Commissioner Wung

Motion was defeated, and the petition was denied.

Frances Suelto then asked for the name of the Commissioner who cast the only dissenting vote and also his reason for voting unfavorably. Commissioner Wung replied by stating his name and that she should check with the staff after the meeting as his reason for denying the request would be borne out by the records.

STATE OF HAWAII

LAND USE COMMISSION

VOTE RECORD

ITEM A68-199 - Joseph S. Brun DATE December 20, 1968

PLACE Lihue, Kauai TIME 2:00 p.m.

	YES	NO		ABSENT
INABA, GORO	✓			
MURAKAMI, KEIGO	✓			
WUNG, LESLIE		✓		
CHAIRMAN NISHIMURA, SHIRO	✓			
CHOI, WILBERT				✓
NAPIER, ALEXANDER	✓			
MARK, SHELLEY				✓
KIDO, SUNAO	✓			
BURNS, C. E. S.				✓

M
S

COMMENTS:

to Approve defeated

STATE OF HAWAII
LAND USE COMMISSION

MEMORANDUM

December 20, 1968

TO: LAND USE COMMISSION

FROM: STAFF

SUBJECT: A68-199 - JOSEPH S. BRUN

This petition to redistrict approximately 6 acres of land located at Kalaheo, Kauai, from Agriculture to Urban was publicly heard on October 18, 1968.

The Kauai Planning & Traffic Commisssion and the Land Use Commission staff both recommended approval of this request.

In the course of the hearing, the petitioner stated that his slaughterhouse has been approved by the Federal Government. However, as a result of the staff's inquiry, Dr. E. M. Christopherson, Director of the Western Consumer Protection Region, USDA, replied that: "We have not approved any slaughtering establishments for Federal inspection on the island of Kauai. We did survey several State of Hawaii plants in our evaluation of the State's meat inspection system". A phone conversation with Dr. Max B. Smith, Hawaii's Chief of Meat Inspection, indicated that the inspection of Mr. Brun's slaughterhouse was conducted at the State level, although the federal inspector was present.

It is evident that even with federal approval of Mr. Brun's slaughterhouse, its continued operation would be highly undesirable if the property is to be developed for residential use.

12/13/68 sent copy to petitioner, Commissioners

However, the petitioner has indicated at the hearing and by letter dated October 14, 1968, that he will terminate the operation of the slaughterhouse as soon as construction is begun near it so as not to make its operation objectionable.

Therefore, it is again recommended that the petition be approved.

December 9, 1968

Mr. Joseph S. Brun
P. O. Box 45
Kalaheo, Kauai

Dear Mr. Brun:

The Land Use Commission next meets at 2:00 p.m. in the Board Room of the Board of Supervisors, Lihue, Kauai, on December 20, 1968.

On or about that time a decision on the petition by Joseph S. Brun (A68-199) will be rendered.

Although there is no requirment for you to be present, please feel free to do so should you wish to attend.

Very truly yours,

RAMON DURAN
Executive Officer

Spoke to Dr. Smith of the State Dept. of Ag. He says that Mr. Bruns statement needs to be clarified in that the inspection made was on a State level, altho' the Federal inspector was along on the inspection.

11/20/68 asv

2602

UNITED STATES DEPARTMENT OF AGRICULTURE
CONSUMER AND MARKETING SERVICE
Room 825, 630 Sansome Street
San Francisco, California 94111

December 4, 1968

Mr. Ah Sung Leong, Planner
Land Use Commission
426 Queen Street
Honolulu, Hawaii 96813

Dear Mr. Leong:

This refers to your November 20 inquiry. We have not approved any slaughtering establishments for Federal inspection on the island of Kauai. We did survey several State of Hawaii plants in our evaluation of the State's meat inspection system. Dr. Max B. Smith, Chief of Meat Inspection for the State of Hawaii, could probably give you some assistance in this matter.

Sincerely yours,

E. M. Christopherson

E. M. Christopherson, Director
Western Consumer Protection Region

2598

A8C ✓

File

UNITED STATES DEPARTMENT OF AGRICULTURE

~~AGRICULTURAL RESEARCH SERVICE~~

Consumer & Marketing Service
Meat Inspection Division
343 Federal Office Bldg.,
Honolulu, Hawaii - 96813

RECEIVED
NOV 29 1968
State of Hawaii
LAND USE COMMISSION

November 26, 1968

Mr. Ah Sung Leong, Planner
Department of Planning and Economic Development
Land Use Commission
426 Queen Street
Honolulu, Hawaii - 96813

Dear Mr. Leong:

Reference is made to your letter of November 20th, concerning the status of a slaughterhouse on property owned by Mr. Joseph Brun at Kalaheo, Kauai.

For reply, your letter has been forwarded to:

Dr. E.M. Christopherson, District Director
Western Meat Inspection District
Room 825 - 630 Sansome Street
San Francisco, California - 94111

Thank you for your inquiry.

Very truly yours,

John L. Kaseburg

John L. Kaseburg
Meat Inspector

Growth Through Agricultural Progress

November 20, 1968

U. S. Department of Agriculture
Consumer and Marketing Service
Meat Inspection Division
Federal Building
335 South King Street
Honolulu, Hawaii

Gentlemen:

Our office is presently processing an application to change the State districting of a parcel of land located at Kalaheo, Kauai, owned by Mr. Joseph Brun. The parcel comprises 6.0 acres and is described by Tax Map Key 2-3-04: 12.

In the course of the public hearing on this matter, Mr. Brun stated that the slaughterhouse which he operates on the property has passed federal inspection. He also stated that this approval will not be effective until the latter part of 1969.

We would appreciate receiving any information you can provide us regarding the approval, if any, of this slaughterhouse by your agency. A reply before December 13 will be appreciated.

Thank you for your cooperation.

Very truly yours,

AH SUNG LEONG
Planner

Enclosure

STATE OF HAWAII
LAND USE COMMISSION

Minutes of Meeting

Board Room of the Board of Supervisors
Lihue, Kauai

October 18, 1968 - 2:00 p.m.

Commissioners Present: C. E. S. Burns, Jr., Chairman
Wilbert Choi
Leslie Wung
Alexander Napier
Shiro Nishimura
Goro Inaba
Keigo Murakami

Commissioners Absent: Shelley Mark
Sunao Kido

Staff Present: Ramon Duran, Executive Officer
Ah Sung Leong, Planner
Jack Morse, Attorney General's Office
Jean Soma, Stenographer

Chairman Burns called the meeting to order and swore in persons wishing to testify at the hearing.

HEARINGS

PETITION BY HERBERT AND DOROTHY MIYAHARA (A68-196) TO RECLASSIFY 13 ACRES FROM AGRICULTURAL TO URBAN AT OMAO HOMESTEADS, KOLOA, KAUAI

Staff's recommendation to approve this request was presented by Mr. Leong on the basis that the extent of existing rural-type developments beyond the present Omao Rural District and the restriction on development imposed by Omao and Poeleele Streams to the east and west lead to the conclusion that the Omao Rural District should extend southward to include the existing rural developments adjacent to the subject property. (See copy of report on file.) In addition, it was recommended by the staff that parcels 14 and 61 (TMK 2-7-06: 14 and 61 - 2.846 acres) and the small parcels across the road from the subject property be considered for inclusion in the Omao Rural District when the district boundaries are reviewed in the near future.

See pg. 2

In reply to Chairman Burns' question regarding the ownership of TMK 2-7-06: 14, Mr. Leong replied that parcel 14 is owned by Mr. and Mrs. Charles H. McAlister and that parcel 61 is owned by the Yamamoto family. Mr. Leong also stated that neither the owners of parcel 14 or 61 have indicated any interest in the rezoning of their land.

Pursuant to Commissioner Murakami's inquiry as to the approximate slopes of the property in question, Mr. Leong stated that roughly 50% of the subject property contains slopes of approximately 21 to 35%.

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

PETITION BY JOSEPH S. BRUN (A68-199) TO RECLASSIFY 6 ACRES FROM AGRICULTURAL TO URBAN AT KALAHEO, KAUAI

Executive Officer, Mr. Duran, gave a detailed account of the property in question and also of the surrounding areas.

On the basis that the property in question abuts the Kalaheo Urban District; is poorly suited for agricultural use; and since it was proposed for inclusion within the Urban District when the "final" district boundaries were being considered in 1964, the staff recommended that this petition be approved.

The petitioner, Mr. Brun, reported that at the present time he has no plans to discontinue the operation of the slaughterhouse.

Mr. Brian Nishimoto, Director of the Kauai County Planning & Traffic Commission, informed the Land Use Commission that in the event that Mr. Brun subdivides his property in whole or if the County considers the slaughterhouse to be a nuisance factor, Mr. Brun will be required to raze his slaughterhouse.

Commissioner Murakami related his understanding of the matter that should the petitioner sell all of the lots on his property, he would not have to rid himself of the slaughterhouse. Mr. Nishimoto replied that the slaughterhouse is to be removed if the petitioner decides to subdivide his property.

Mr. Duran announced that the staff was in receipt of a letter from Mr. Brun in regard to the specific use of his land. The letter from Mr. Brun dated October 14, 1968, and read by Mr. Duran stated in part:

"In reply to your letter of September 26, 1968, permit me to supply the following answers:

1. If reclassified I would like to use the portion fronting the highway for business and the rear portion for residences.

2. See 1 above.

3. I will terminate the operation of the slaughterhouse as soon as construction is begun near it so as not to make its operation objectionable. I would like to continue its operation for the time being."

(See letter on file.)

Mr. Duran revealed that the feeling of the petitioner, Mr. Brun, as expressed in his correspondence, is that he will continue to operate the slaughterhouse until such time as the urban reclassification is granted by the Land Use Commission and residential and business construction is begun on his property near the slaughterhouse. Also, the County has the authority or the responsibility to determine whether or not Mr. Brun may subdivide his property.

Frances Welk, manager of Mr. Brun's business, testified in behalf of the petitioner stating that the Land Use Commission considered the area under discussion for inclusion in the Urban District in 1964. At that time the petitioner requested his property be retained in the Agricultural District due to the fact that he desired to continue his agricultural activities. However, Mr. Brun has discontinued his hog-raising operation and requests that his property now be designated urban.

When queried by Commissioner Napier as to his slaughterhouse passing federal inspection, Mr. Brun replied that a federal inspector had inspected his slaughterhouse and found it to be in conformance with federal standards. Commissioner Napier contested Mr. Brun's statement by reporting to the Commission that, to his knowledge, no slaughterhouse in the State of Hawaii has passed federal inspection.

Frances Welk then retorted that the petitioner was in receipt of a letter from the federal government that the slaugherhouse has been inspected and approved. In addition, another slaughterhouse on the island of Kauai owned by a Mr. Andrade has passed federal inspection.

Mr. Nishimoto commented on the stipulation made by the Kauai County Planning & Traffic Commission pertaining to the slaughterhouse. Mr. Brun had been contacted and notified that in the event he develops his property in totality, he must remove his slaughterhouse. Should the petitioner's request for urban classification be approved with the stipulation previously mentioned, the existing use of the slaughterhouse will be considered a non-conforming use.

Chairman Burns stated that the prime objective of the Land Use Commission is to district lands in the appropriate classification and that it is up to each individual County to enforce the Land Use Commission regulations or the appropriate County regulations.

In response to Vice-Chairman Choi's question as to the County having the authority of not permitting the petitioner's subdivision plans to go into effect in the event the slaughterhouse is still existing, Mr. Nishimoto explained that this matter would come under the Subdivision Ordinance. At the present time this ordinance cannot require Mr. Brun to discontinue his operation of the slaughterhouse.

Vice-Chairman Choi then posed another question to Mr. Nishimoto in regard to the County of Kauai having the authority of not granting Mr. Brun his subdivision request because of the slaughterhouse. In reply to this question, Mr. Nishimoto answered that he was not too clear on this on the basis that the slaughterhouse is an existing use on the property and that this matter would have to be checked out with the aid of an attorney.

Commissioner Nishimura commented it was his feeling that the question in the minds of the Commissioners was that it is a nuisance factor when you have an existing slaughterhouse where a housing development is proposed. If the property is zoned for urban use, then it is up to the County to permit the petitioner to develop his land for residential, business, etc., uses. Because of the fact that the slaughterhouse is a non-conforming use, the petitioner may leave it on his property or he could remove it under the present County Zoning Ordinance.

Mr. Nishimoto informed Commissioner Nishimura that he was correct in his understanding and that under the interim zoning, the petitioner is allowed to leave the slaughterhouse on his property. The petitioner then disclosed that he desired to continue his slaughterhouse operation, which was constructed in 1948, until such time as it becomes a nuisance factor.

In addition, Commissioner Wung asked Mr. Brun to submit a copy of the letter from the federal government stating that the slaughterhouse has passed federal inspection. Commissioner Wung stated his disbelief of any slaughterhouse in the State of Hawaii having passed federal inspection. In this regard, Frances Welk said that they would not submit a copy of the letter and that the Land Use Commission should seeks its own copy. Furthermore, Mr. Brun added that the approval of his slaughterhouse will not be effective until November or December, 1969, and reiterated his statement that a federal inspector has already inspected the slaughterhouse and found it to be in conformance with federal standards.

The hearing was closed thereafter.

ACTION

PETITION BY IRVING JENKINS AND JOSEPH TEXEIRA (A68-191) TO RECLASSIFY 18 ACRES FROM AGRICULTURAL TO URBAN AT KAPAA, KAUAI

In the staff memorandum presented by Mr. Leong, the staff maintained its original recommendation for approval of Urban Districting for parcels 7 and 61, owned by Mr. Texeira comprising approximately 9.8 acres, and disapproval of Urban or Rural Districting for parcel 24, owned by Mr. Jenkins comprising approximately 9 acres. Furthermore, it was again recommended that parcel 63 be included in the Urban District in the forthcoming boundary review.

Chairman Burns questioned Mr. Leong as to the ownership of parcel 63. In response, Mr. Leong stated that the parcel is owned by the Henriques family and also that they have not indicated any interest in this matter.

In regard to Commissioner Napier's inquiry as to the result of the Henriques family not desiring parcel 63 to be included in the Urban District, Mr. Duran answered that this matter will be considered during a public hearing conducted during the boundary review program. At that time the Henriques family should be contacted to appear at the public hearing to present their views on this matter.

In reply to Commissioner Nishimura's question, Mr. Leong advised that the staff is recommending denial for parcel 24 owned by Mr. Jenkins on the basis that it is unsuited for residential development because of the steepness of the terrain and that despite Mr. Jenkins' request for Rural Districting, it is still

2555

Mr. Ramon Duran, Executive Officer
Dept. of Planning & Economic Dev.
Land Use Commission

Dear Mr. Duran:

In reply to your letter of September 26, 1968, permit me to supply the following answers:

1. If reclassified I would like to use the portion fronting the highway for business and the rear portion for residences.

2. See 1 above.

3. I will terminate the operation of the slaughter house as soon as construction is began near it so as to make its operation objectionable. I would like to continue itsoperation for the time being.

Respectfully,

Joseph L. Brun

STATE OF HAWAII
LAND USE COMMISSION

Board Room of the Board of Supervisors
Lihue, Kauai

October 18, 1968
2:00 p.m.

STAFF REPORT

A68-199 - JOSEPH S. BRUN

A petition for the reclassification of approximately 6 acres of land situated at Kalaheo, Kauai, has been submitted by Mr. Joseph S. Brun. The land is described by parcel 12 of TMK 2-3-04 and presently lies in the Agricultural District. It was previously used for hog raising and, since the petitioner has discontinued this activity, he wishes to have the land redistricted for urban use.

At a special meeting held on September 19, 1968, the Kauai County Planning & Traffic Commission accepted the recommendation of the Planning Director and voted to recommend approval of the petition. It was the Planning Director's finding that:

1. The property is no longer used for hog raising with the exception of the slaughterhouse which is still in use.
2. The land is considered to be reasonable for residential use and reclassification would effect a more contiguous urban boundary.
3. The landowner will provide waterline improvements along Kaumualii Highway if approval is granted.

The following stipulation is also a part of the Director's recommendation:

> "Should the owner develop the entire parcel, the slaughterhouse be removed; and/or should a portion of the parcel be developed, the slaughterhouse be removed if it is considered a nuisance factor to the nearby developed areas."

Approximately 70% of the property under consideration abuts the Kalaheo Urban District. It is bounded to the north by Kaumualii Highway and the Jardin Tract subdivision; to the east by the Holy Cross Church and School; to the south by a five-acre parcel owned by the petitioner which is in the Urban District; and to the west by a reservoir and extensive cane lands owned by the McBryde Sugar Company. Lands in the vicinity which have been subdivided are substantially developed.

According to the Land Study Bureau, the soil is rated "D", indicating poor suitability for overall agricultural use. Most of the lands in this series are presently used for grazing. The rainfall at Kalaheo approximates 54.4 inches annually, and the elevation above sea level is approximately 675 feet. The topography is suitable for residential development and does not appear to have any flood problems.

Analysis

The parcel under discussion was proposed for inclusion within the Urban District when the "final" district boundaries were being considered in 1964. However, on the basis of a

request by Mr. Brun to retain the land in the Agricultural District since substantial sums had been invested to continue agricultural activities, the Land Use Commission designated the parcel in the Agricultural District.

Although no substantiating evidence was submitted by the petitioner pointing to the need for reclassification, the staff finds that the circumstances described above need to be considered. It is also noted that the land pattern of the area involving the Agricultural and Urban Districts is such that inclusion of the parcel within the Urban category would result in a more reasonable and logical boundary than presently exists. Moreover, existing facilities in the immediately abutting Urban District will be more fully utilized without undue expansion of such facilities.

Recommendation

Therefore, on the basis of the discussion presented above, it is recommended that the petition be approved.

October 8, 1968

Mr. Joseph S. Brun
P. O. Box 45
Kalaheo, Kauai

Dear Mr. Brun:

The Land Use Commission next meets on October 18, 1968, at 2:00p.m., at the Board Room of the Board of Supervisors, Lihue, Kauai. At that time your application (A68-199) to amend the land use district boundaries at Kalaheo Homesteads, Koloa, Kauai, will be heard.

Very truly yours,

RAMON DURAN
Executive Officer

September 26, 1968

Mr. Joseph S. Brun
P. O. Box 45
Kalaheo, Kauai

Dear Mr. Brun:

In order to more fully evaluate your petition to amend the land use district boundaries on TMK 2-3-04: parcel 12 located at Kalaheo, Kauai, the following items should be clarified:

1. To what specific urban use will your land be put if it is reclassified?

2. If you are contemplating a residential subdivision, will the entire parcel be developed or will only a portion be developed?

3. How long do you intend to continue the slaughter house operation on the subject property?

An early reply to the above questions will be appreciated. Thank you for your cooperation in this matter.

Very truly yours,

RAMON DURAN
Executive Officer

Encl.

A68-199 Joseph Brun

① Soil classification = D-26 (Poor overall suitab.) poorly suited for machine tillage; non-stony; deep; 21 to 35% slopes; well drained; 50-75" rainfall; existing uses - grazing.

② Rainfall
Key # 930.1 Kalaheo - (Elev 530')
= 54.4" median annual rainfall

③ Elevation = approx. 675' above sea level

④ Abuts the Roman Catholic Holy Cross School & Church which is in the U.D.

⑤ Under Proposed "Final" Bound, the parcel was included in U. However, as a result of a protest by Mr. Brun, the 6± acres was placed in the "A" Dist.
See Protest # 1036
Std Apr 3 '69 in this File folder

P. O. Box 45
Kalaheo, Kauai, Hawaii

Protest #1036

April 3, 1964

Req. / granted by LUC 6/11/64

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

Gentlemen:

The undersigned respectfully petitions your Honorable Body for retaining the following described 6.013 acres of land under its original agricultural classification, to wit:

Lot No. 97, Grant 7058, further identified under Fourth Taxation Division Key No. 2-3-004-012, portion of Kalaheo Homesteads, 1st Series, Koloa, Kauai, Hawaii.

Since 1948 your petitioner has owned and operated a piggery and slaughter house on the said premises, buildings and fixtures alone exceeding the sum of Twenty Thousand Dollars. Prior thereto and for a period of more than forty years this same area had been dedicated solely to the raising of sugar cane and pineapples and also some ranching. To this present day and date the area involved borders agricultural lands, on its southern and western boundries. On its northern and eastern boundries the town of Kalaheo has extended it-self, thereby sandwitching the land in question between the urban and agricultural districts. While the wheels of progress has brought this urbanized use to your petitioner's doorsteps, same as the city of Pittsburgh it-self did to the steel mills of said city, it was matter of final judicial determination by the Supreme Court of the State of Pennsylvania, in that latter situation that the steel mills with its nuisance discharges of smoke and soot could not be forced out of existence despite of the ill effects upon the health and welfare of the City of Pittsburgh. While your petitioner's problem does not compare in enormity to that of the Pittsburgh matter, yet the principle involved is the same, namely, the agricultural use was there long before the urbanized purpose and to change it at this late hour would work severe hardship on your petitioner who knows no other

way of life and even if he did is too well gone in years to start life anew. It might be argued that petitioner may avail himself of the provisions of the non conformity use as set forth in the rules and regulations governing the land use system. However, as the regulations so read, a land use commission as directed in Section 4.0, page 18, of said rules and regulations, is called upon to and petitioner so quotes, follow "the intent of this Part to recognize that eventual elimination, as expeditiously as is reasonable, of existing uses or structures that are not in conformity with the provisions of this Part.." etc. (end of quote) which in plain words means putting your petitioner out of business. Furthermore your petitioner is loosing a piece of pasture land containing more than forty acres from the State of Hawaii in the Weliweli area. Your petitioner has been a dedicated farmer - rancher spending most of his work life and life savings to this sole purpose and surely it would not be asking your Honorable Body the unreasonable to be permitted to continue the agricultural way of life.

Respectfully submitted,

JSB/fs

Joseph S. Brun, Petitioner

OK
use
approved

2536

P. O. BOX 111

COUNTY OF KAUAI
STATE OF HAWAII

LIHUE, KAUAI, HAWAII 96766

TELEPHONE 23-661

September 20, 1968

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

Subject: Petition for Amendment to the Land Use
District Boundary
Tax Map Key: 2-3-04:12
Kalaheo, Kauai

Gentlemen:

At a special meeting held on September 19, 1968, the Planning and Traffic Commission accepted the recommendation of the Planning Director and voted to recommend approval of subject petition.

Attached is the staff's report covering same.

Very truly yours,

PLANNING AND TRAFFIC COMMISSION

Brian Nishimoto

Brian Nishimoto
Planning Director

attach.

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

(I) (We) hereby request an amendment to the Land Use Commission District Boundary respecting the County of Kauai, Island of Kauai, map number and/or name (T.K. 2-3-04-12) Joseph S. Brun 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: Tax key 2-3-04-12 Kalaheo, Kaúai
(Map enclosed)

Petitioner's interest in subject property:

Wishes to change from agriculture back to urban

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

(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. (See attach)

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

(a) ~~The subject property is suitable and available for the use it is proposed for reclassified.~~

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

RECEIVED
AUG 2 1968
PLANNING & TRAFFIC COMMISSION
COUNTY OF KAUAI
LIHUE, KAUAI

Signature(s) Joseph S. Brun

Address: P. O. Box 45 - Kalaheo, Kauai

Telephone: 323431

XEROX COPY

XEROX COPY

KAUAI PLANNING AND TRAFFIC COMMISSION
LIHUE, KAUAI, HAWAII

STAFF REPORT

TO: Planning and Traffic Commission

RE: Application for Land Use District Boundary Change

APPLICANT: Joseph S. Brun

Location: Portion of Kalaheo Homesteads, 1st Series, Kalaheo, Koloa, Kauai.

Tax Key: 2-3-04:12

Lot No.: 97

Lot Area: 6.013 Acres

Background:

This subject property is situated on the south boundary of Kaumualii Highway, approximately 800 feet west of the junction of Papalina Road, identified by Tax Map Key 2-3-04:12, being Lot 97, Grant 7058, portion of Kalaheo Homesteads, 1st Series, Kalaheo, Koloa, Kauai, Hawaii.

An easement (60 ft. wide) for electric transmission line (McBryde Sugar Co., le.) runs across the southerly portion of the lot in an east to west direction (see map "Exhibit A"). A remnant (remnant 7) containing an area of 0.613 acres runs along the northerly portion of the lot (being on the south boundary of Kaumualii Highway) in an east to west direction (see map "Exhibit A").

The land use survey conducted in 1959-60 indicates that the lot was used for hog raising and pasturing purpose.

Owner of the land submits that he no longer raises hogs and therefore wishes to urbanize the lot.

Field investigation conducted on August 7, 1968, indicated that there is a slaughterhouse and an old single family residence on the lot and the remaining portions being vacant.

Interim boundaries established on April 21, 1962, by the State Land Use Commission included this lot in question in urban category.

On August 27, 1962, Mr. Joseph S. Brun petitioned the State Director of Taxation (Petition No. 68) and it was disapproved because of the urban category. The Director requested that the final decision be left to the State Land Use Commission.

E-1

The State Land Use Commission in establishing the final amended boundaries on August 23, 1964, excluded this subject property from the urban district and classified it in agricultural category.

Urban boundaries are located on the east and south boundaries of this lot. Directly to the west is a reservoir in favor of the McBryde Sugar Company.

ANALYSIS:

Master Plan Designations: The County General Plan indicates that the area in question will fall within a residential category.

The proposed comprehensive zoning map indicates agricultural classification as established on August 23, 1964, by the State Land Use Commission.

Public Facilities:

Water Supply: Although water is sufficient for the present use, any future development of the subject lot would require extensive correctional measures insofar as the pipeline is concerned.

Sanitary Sewerage Disposal: In the absence of sewer systems in the Kalaheo area, all sewerage disposal methods are subject to the Health Department rules and regulations. All final construction plans subject to plan approval.

Public Roadway and Drainage: Kaumualii Highway is the main point of ingress and egress to the subject property.

Any new construction or alteration of any accessway or drainage facilities will require plan approval of the Division of Highways, State of Hawaii.

Topography: Topography of the general area as follows:

(1) Approximately 50% of the land has slopes ranging from between 0% to 10%.

(2) Approximately 35% of the land ranges from 11% to 20%.

(3) Approximately 15% of the land ranges from about 21% to 30%.

Land Type: Detailed Land Classification of Kauai, L.S.B. Bulletin No. 9, classifies the subject property as having a productivity rating of D-26.

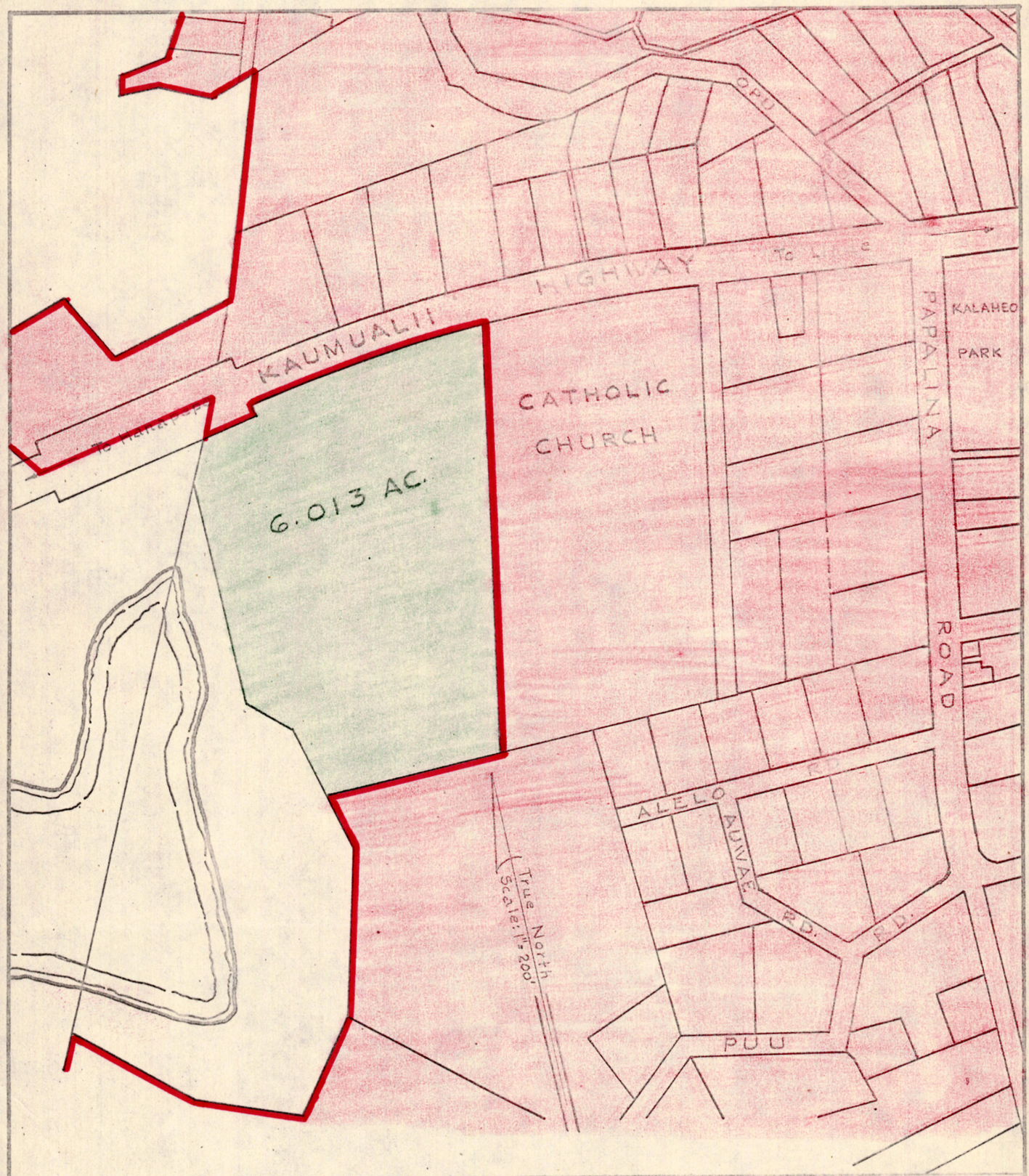
E-1

D-26 are lands poorly suited for machine tillability, non-stony, deep soil (over 30"), generally with slopes of 21% to 35%, moderately fine textured soil, well drained, with median annual rainfall of about 50-75 inches, generally at elevations of 200-750 feet, with reddish brown soil, and of dominant soil series "Kalaheo."

Brian Nishimoto
Planning Director

Sept. 5, 1968

E-1



Agricultural To Urban

Existing Agricultural

Existing Urban District

COUNTY OF KAUAI

PLANNING AND TRAFFIC COMMISSION

MAP SHOWING

L.U.C. BOUNDARY CHANGE

FOR

JOSEPH S. BRUN

KALAHEO, KOLOA, KAUAI

DRAWN BY: T. H.

TRACED BY:

CHECKED BY:

SCALE: 1 in. = 200 ft.

DATE: 8-1-62

TAX KEY: 2-4-04:12

APPROVED:

PLANNING DIRECTOR

REF. NO. A-62-6

E-1

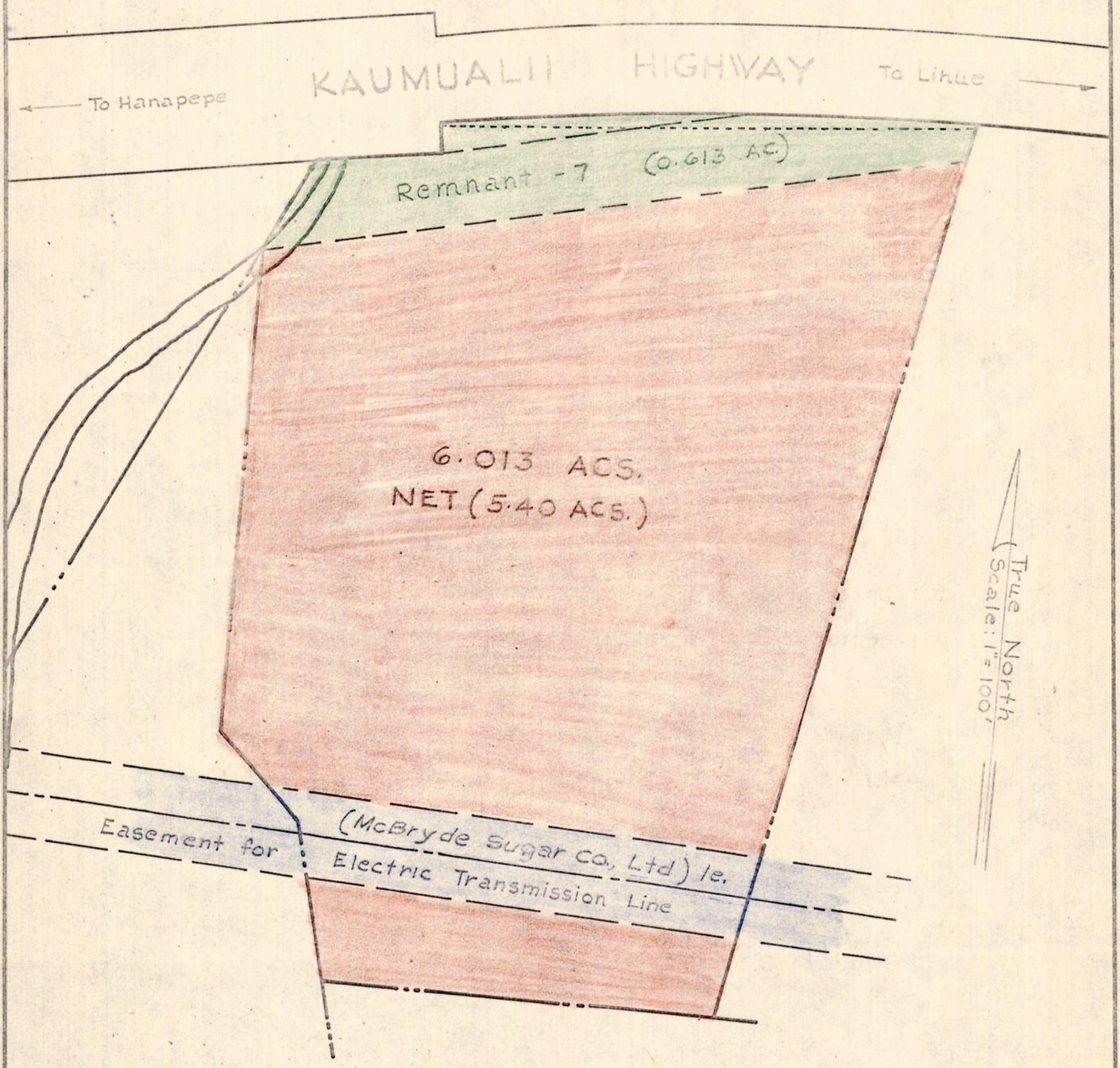


EXHIBIT "A"

COUNTY OF KAUAI
PLANNING AND TRAFFIC COMMISSION

MAP SHOWING
L. U. C. BOUNDARY CHANGE
FOR
JOSEPH S. BRUN
KALAHEO, KOLOA, KAUAI

DRAWN BY: T. H.	SCALE: 1 in. = 100 ft.
TRACED BY:	DATE: 8-12-68
CHECKED BY:	TAX KEY: 2-3-04: 17
APPROVED: PLANNING DIRECTOR	REF. NO. A-68-5

KAUAI PLANNING AND TRAFFIC COMMISSION
LIHUE, KAUAI, HAWAII

TO: Planning and Traffic Commission

RE: Application for Land Use District Boundary Change

APPLICANT: Joseph S. Brun

COMMENTS AND RECOMMENDATIONS:

The staff finds that the subject property is no longer used for hog raising with the exception of the slaughterhouse which is still in use. Within an Urban District, the proposed comprehensive zoning ordinance permits slaughterhouses only in a heavy industrial district. The County General Plan designates subject property in the single family land use category.

The staff considers the land reasonable for urban usage in the residential category. Also, a district boundary change here would create a more contiguous urban district at this location. The owner of the land is willing to provide for the nominal water line improvements along Kaumualii Highway required by the Board of Water Supply should the land be developed for urban usage.

The staff therefore recommends approval of the petitioner's request with the following condition:

1. Should the owner develop the entire parcel, the slaughterhouse be removed; and/or should a portion of the parcel be developed, the slaughterhouse be removed if it is considered a nuisance factor to the nearby developed areas.

Brian Nishimoto
Planning Director

Sept. 18, 1968

B-1

July 30, 1968

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

Attention: Mr. Brian Nishimoto, Director

Gentlemen:

Pursuant to Section 98H-4, RLH 1955, as amended, and Act 32 SLH 1965, a copy of a petition for amendment to the land use district boundaries, submitted by Joseph S. Brun, together with supporting data and map, is forwarded to you for your comments and recommendations.

Act 32 provides that within 45 days after receipt of the petition, the Commission of the County wherein the land is located shall forward its comments and recommendations to the Land Use Commission. It also provides that upon written request by the County Planning Commission, the Land Use Commission may grant an extension of not more than 15 days for the receipt of such comments and recommendations.

Thank you for your cooperation.

Very truly yours,

RAMON DURAN
Executive Officer

js
Enclosure

July 30, 1968

Mr. Joseph S. Brun
P. O. Box 45
Kalaheo, Kauai

Dear Mr. Brun:

This is to acknowledge the receipt of your check in the amount of $50 and your petition to amend the land use district boundaries as shown on Tax Map Key 2-3-04: 12, at Kalaheo, Kauai.

In accordance with Section 98H-4, RLH 1955, as amended, and Act 32 SLH 1965, this Commission must schedule a public hearing on this 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 this petition.

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

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

Very truly yours,

RAMON DURAN
Executive Officer

js
cc: Kauai Planning & Traffic Commission

State Form B14

STATE OF HAWAII

OFFICIAL RECEIPT No. 299

Department of Planning and Economic Development

Department, Bureau or Commission

Aug. 2 1968

RECEIVED from Joseph S. Brun

- Fifty and no/100 DOLLARS

LUC - filing fee

$ 50.00

Esther Umeda

Public Accountant

State Form B14

STATE OF HAWAII

OFFICIAL RECEIPT No. 209

Land Use Commission
Department, Bureau or Commission

July 29 1968

RECEIVED from Joseph S Brun

Sixty & no/100 DOLLARS

Petition for Boundary Change

$ 50.00

Jean Sona
Public Accountant

STATE OF HAWAII
LAND USE COMMISSION

426 Queen Street
Honolulu, Hawaii

RECEIVED
JUL 29 1968
State of Hawaii
LAND USE COMMISSION

This space for LUC use

Date Petition and Fee received by LUC _____

Date forwarded to County for recommendation _____

Date Petition, and County recommendation received by LUC _____

PETITION FOR AMENDMENT TO THE LAND USE COMMISSION DISTRICT BOUNDARY

(I) (We) hereby request an amendment to the Land Use Commission, District Boundary respecting the County of ~~Kauai~~, Island of ~~Kauai~~, map number and/or name (T.K. 2-3-04-12) ~~Joseph S. Brun~~ to change the district designation of the following described property from its present classification in a(n) Agricultural district into a(n) ~~Urban~~ district.

OK

Description of property: Tax Key 2-3-04-12 Kalaheo, Kauai
(Map enclosed)
6.013 Ac

Petitioner's interest in subject property:

Wishes to change from agriculture back to urban

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

Check Protest File
Kauai #1036
parcel formerly in
(proposed) U

(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. (See attach)

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

(a) ~~The land is suitable and available 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) Joseph S. Brun

Address: ~~P. O. Box 45 - Kalaheo~~, Kauai

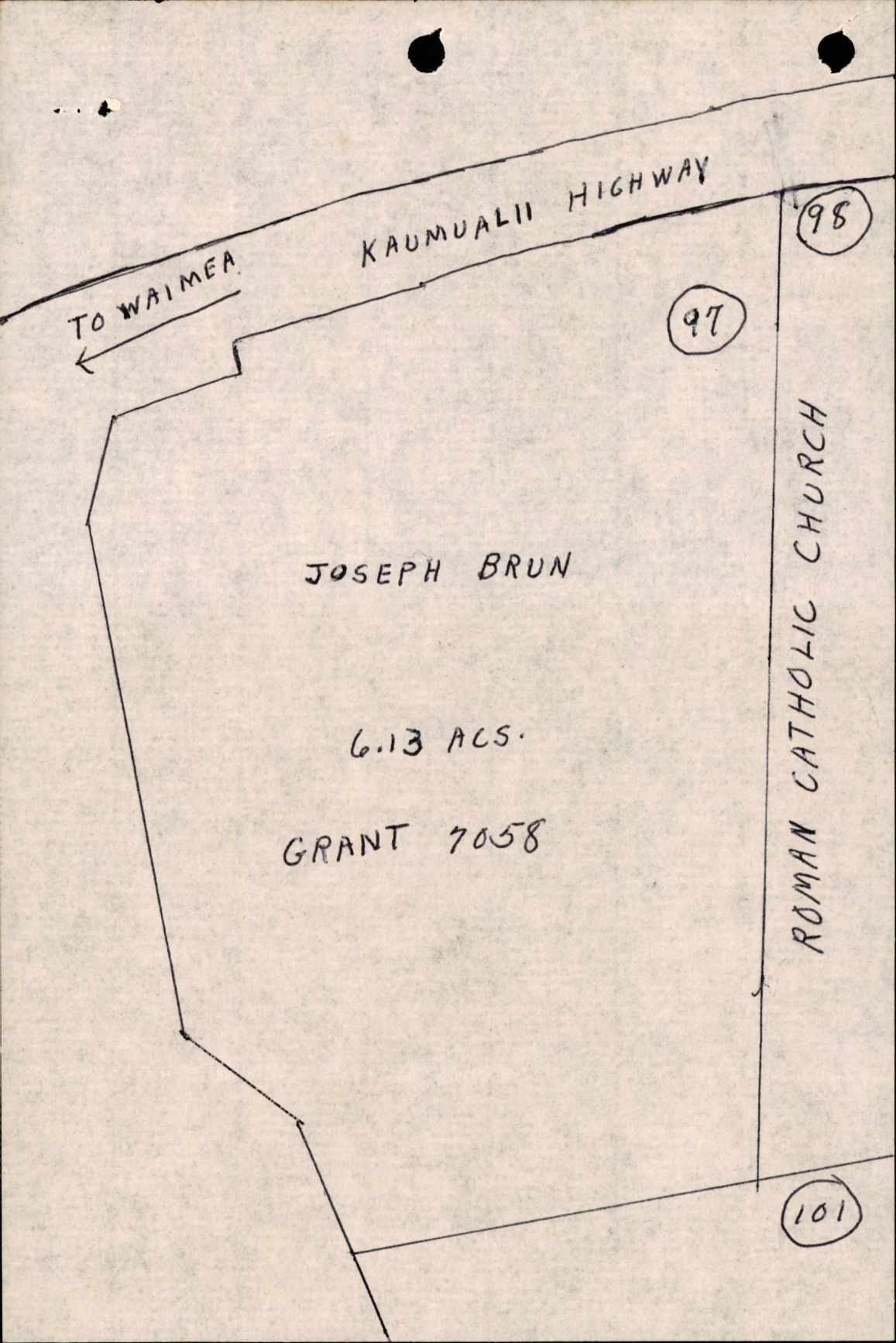
Telephone: 323431

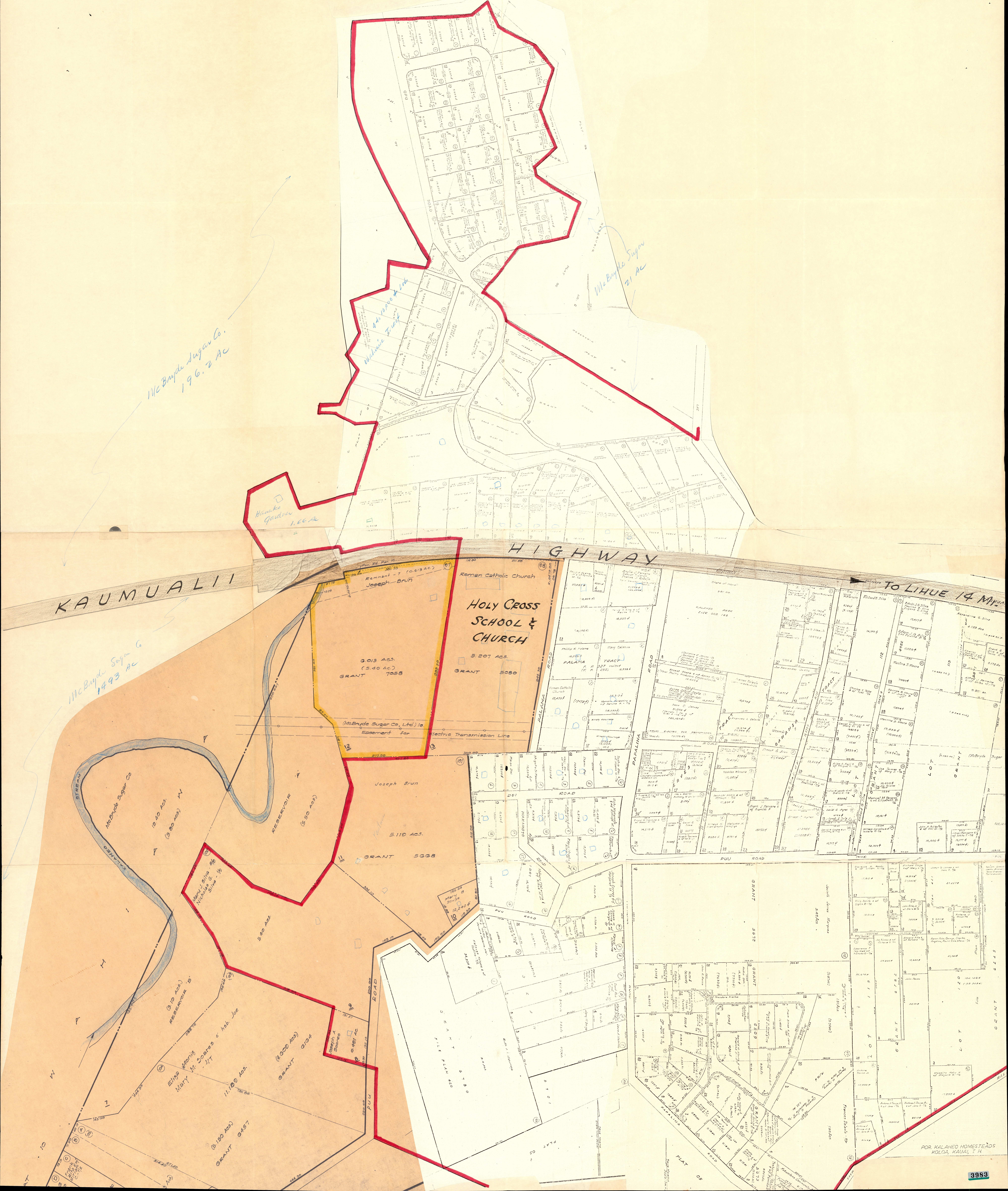
XEROX COPY XEROX COPY XEROX COPY

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

I no longer raise hogs in lot 97, tax key 2-3-04-12, therefore I wish to have it changed back to urban.

Joseph S. Brun


KAUMUALII HIGHWAY
TO WAIMEA
98
97
ROMAN CATHOLIC CHURCH
JOSEPH BRUN
6.13 ACS.
GRANT 7058
101



KAUMUALII HIGHWAY
To LIHUE 14 Miles
HOLY CROSS SCHOOL & CHURCH
Roman Catholic Church
5.207 Acs.
GRANT 5080
Remnant - 7 (0.613 Ac.)
Joseph Brun
6.013 Acs.
(5.40 Ac.)
GRANT 7058
(McBryde Sugar Co., Ltd.) le.
Easement for Electric Transmission Line
Joseph Brun
5.110 Acs.
GRANT 5668
McBryde Sugar Co
12.40 Acs.
(3.80 Acs.)
RESERVOIR "A"
(5.50 Acs.)
KALAHEO STREAM
Mary J. Silva - 8/9
Nicholas G. Silva - 1/9
5.40 Acs.
(3.10 Acs.)
RESERVOIR "B"
Eliza Moniz
Mary M. Soares & hsb. Joe - J/T
11.180 Acs.
(4.600 Acs.)
GRANT 6164
(5.150 Acs.)
GRANT 6457
Joseph A. Soares
0.491 Ac
Mary B. Souza
12,240 #
PUU ROAD
PALAMA ROAD
PALAMA TRACT
PAPALINA ROAD
KALAHEO PARK
DOI ROAD
WAKAMOTO ROAD
GANANSA TRACT
GRANT 5672
Jacinth James Marques
5.40 Acs.
GRANT 6782
GRANT 6780
FILE PLAN 420
GRANT 5701
GRANT 6609
GRANT 6245
PLAT 05
McBryde Sugar Co. 196.2 Ac
McBryde Sugar Co 1493 Ac
McBryde Sugar 21 Ac
4 to 10,000 # Lots
Wahiawa Tract
Hanako Gardner 1.66 Ac
RESERVOIR PLAT 08
POR. KALAHEO HOMESTEADS
KOLOA, KAUAI, T. H.
3983

LAND USE DISTRICT BOUNDARIES		
DISTRICT MAP	STATE OF HAWAII	DISTRICTS
K-3	LAND USE COMMISSION DEPT. OF PLANNING & ECONOMIC DEVELOPMENT EFFECTIVE DATE: AUG 23, 1964	U = URBAN R = RURAL A = AGRICULTURAL C = CONSERVATION

KALAHEO
LAWAI
OMAO
KOLOA
HAUPU FOREST RESERVE
HIGHWAY
MALUHIA ROAD
KOLOA ROAD
POIPU ROAD
LAWAI ROAD
PACIFIC OCEAN
A68 - 199 BRUN
SCALE IN FEET
0 1000 2000 3000 4000 5000
KOLOA - POIPU
PLANNING AND TRAFFIC COMMISSION
COUNTY OF KAUAI
LIHUE, KAUAI, HAWAII
DECEMBER, 1960
THE PREPARATION OF THIS MAP WAS FINANCED IN PART THROUGH AN URBAN PLANNING GRANT FROM THE HOUSING AND HOME FINANCE AGENCY, UNDER THE PROVISIONS OF SECTION 701 OF THE HOUSING ACT OF 1954, AS AMENDED.
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