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HONOIPU HIDEAWAY, LLC



BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of

HONOIPU HIDEAWAY, LLC

For Boundary Interpretation of certain
land consisting of approximately 17.5470
acres situated at 56-102 Old Coast Guard
Road, Tax Map Key No. (3) 5-6-001-074,
Kapaa-Upolu, North Kohala, County of
Hawai'i, State of Hawai'i.

DOCKET NO. DR21-73

**PETITIONER'S SUBMISSION OF
SLIDES FOR THE JUNE 24, 2026
MEETING OF THE LAND USE
COMMISSION**

ATTACHMENT A

CERTIFICATE OF SERVICE

**PETITIONER’S SUBMISSION OF SLIDES FOR THE JUNE 24, 2026
MEETING OF THE LAND USE COMMISSION**

Petitioner Honoipu Hideaway, LLC (“**Petitioner**”) hereby submits as Attachment “A” a copy of the slides to be used at the Meeting of the Land Use Commission scheduled for June 24, 2026.

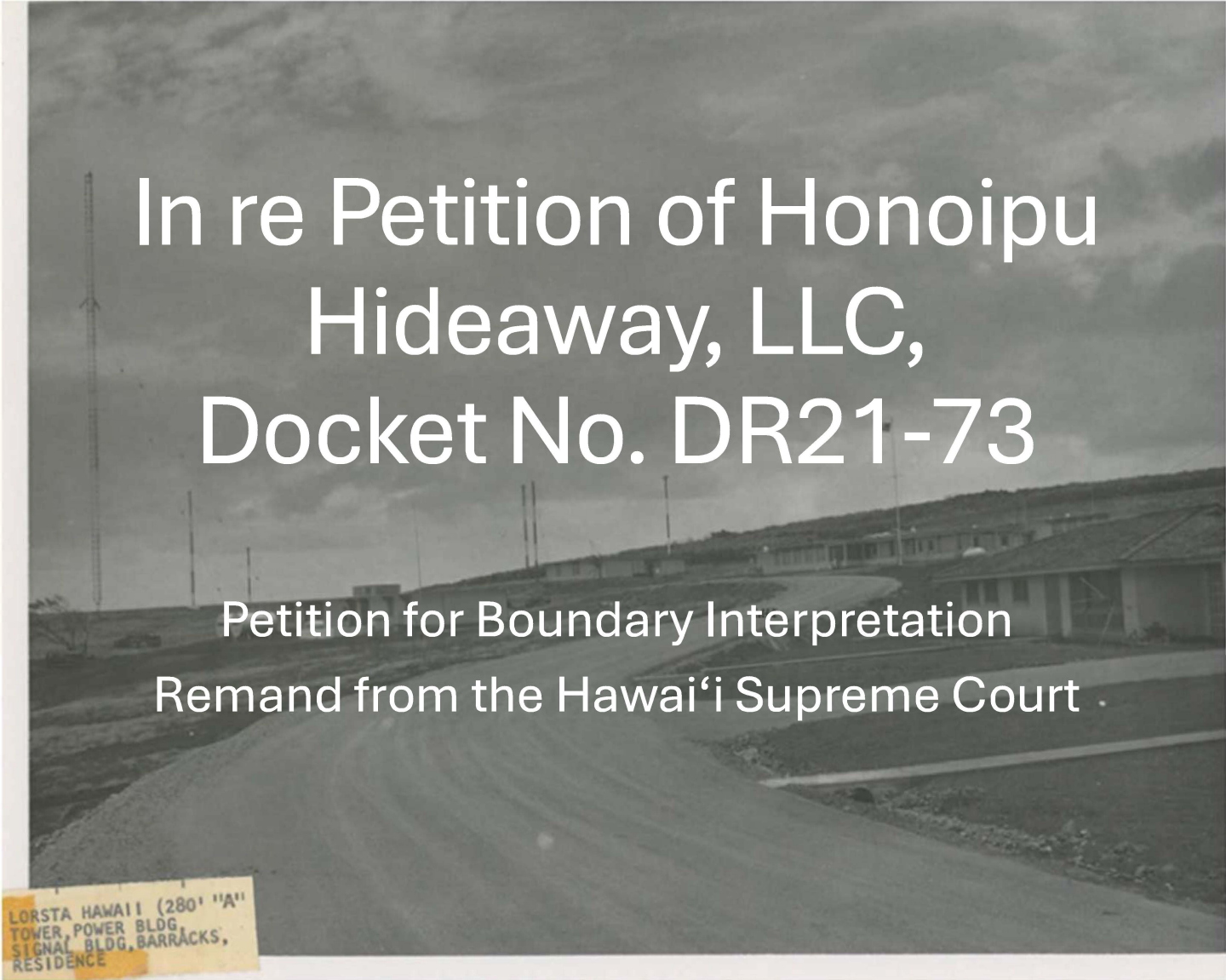
DATED: Honolulu, Hawai‘i, June 23, 2026.

CADES SCHUTTE
A Limited Liability Law Partnership

/s/ Christopher T. Goodin

CALVERT G. CHIPCHASE
CHRISTOPHER T. GOODIN
Attorneys for Petitioner
HONOIPU HIDEAWAY, LLC

ATTACHMENT A



In re Petition of Honoipu
Hideaway, LLC,
Docket No. DR21-73

Petition for Boundary Interpretation
Remand from the Hawai'i Supreme Court

LORSTA HAWAII (280' "A"
TOWER, POWER BLDG
SIGNAL BLDG, BARRACKS,
RESIDENCE

Exhibit 16

Introduction

Why are we here?

Standard to Apply

Discussion

The Property is outlined in light blue.

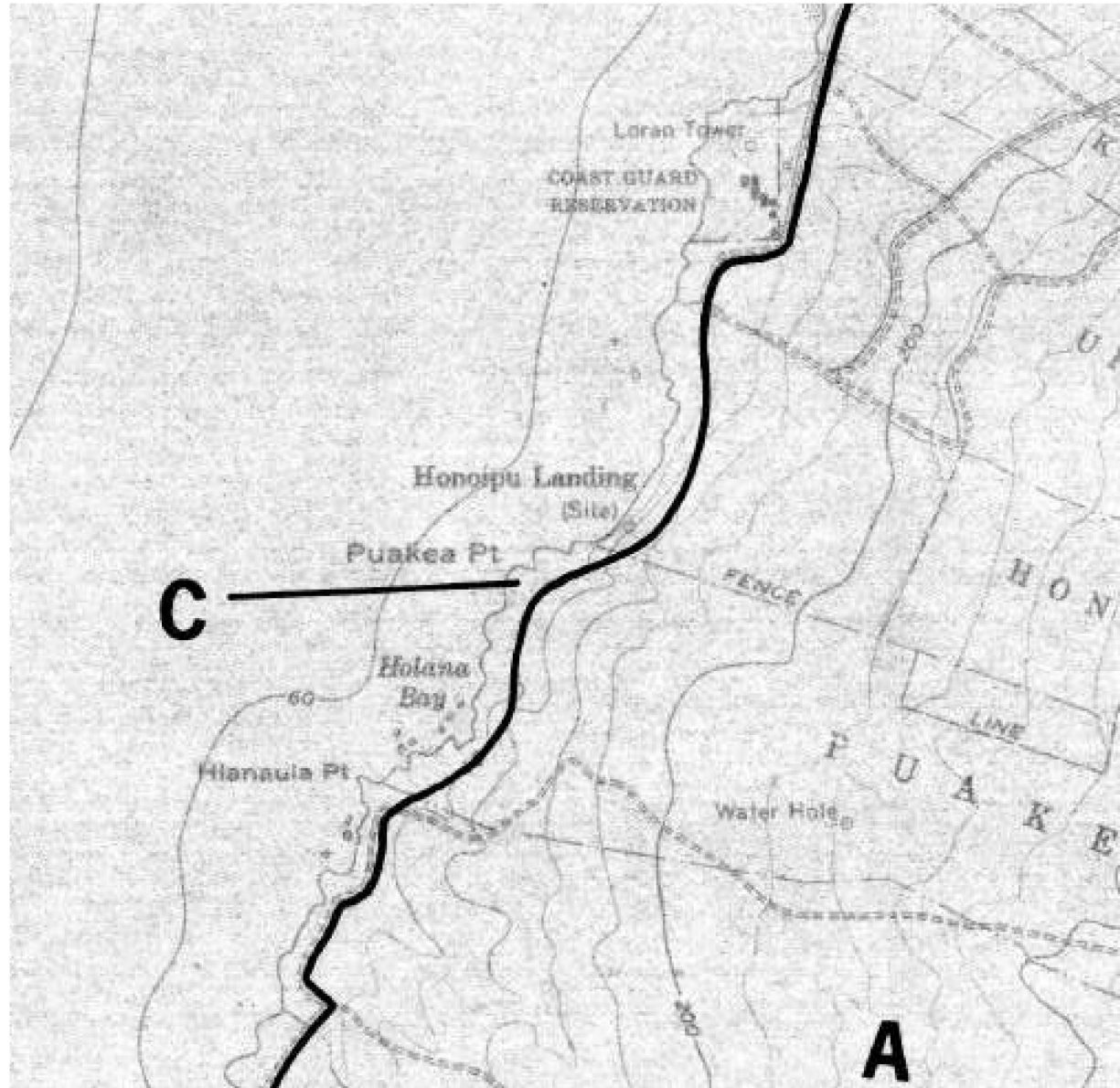
Source: Exhibit 49 (GIS)



Why are we here?

We are here for a boundary interpretation.

As the Supreme Court explained, “[D]istrict boundary interpretation under HAR § 15-15-22 functions to resolve uncertainties about the **spatial relationship between the LUC map and the land the map represents.** See, e.g., HAR § 15-15-22(e).” Exhibit 40.



Standard

The Hawai‘i Supreme Court concluded that the applicable standard did not require “compelling” evidence.

Instead, the applicable standard required merely a “**preponderance**” of evidence or, in other words, a showing that a fact was **more likely than not**. This is the amount of “evidence sufficient to **tip the scale slightly in [a person’s] favor**” Exhibit 40.

RECKTENWALD, C.J., McKENNA, EDDINS, GINOZA, AND DEVENS, JJ.

OPINION OF THE COURT BY RECKTENWALD, C.J.

*369 **26 I. INTRODUCTION

This case concerns the correction of an alleged error in a conservation district boundary map on Hawai‘i Island. Appellant Honoipu Hideaway, LLC (Honoipu) seeks to use district boundary interpretation under [Hawai‘i Administrative Rules \(HAR\) § 15-15-22](#) (eff. 2019) to correct

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Honoipu Hideaway, LLC v. Land Use Commission, 156 Hawai‘i 367 (2025)
575 P.3d 24

an alleged error in the location of the conservation district boundary on the 1974 Land Use District Boundaries map. The Land Use Commission (LUC) denied Honoipu's petition, rejecting Honoipu's suggested interpretation of the district boundary. Honoipu appealed the LUC's Order Denying Petition for Declaratory Order, arguing, inter alia, the LUC imposed an incorrect burden of proof for its findings of fact. We hold that, absent rulemaking to the contrary, the proper burden of proof is the preponderance of the evidence standard. Because we conclude the LUC applied a heightened burden of proof, we vacate and remand to the LUC.

The Property

Nathan Eggen and his family live on the property.

Source: Exhibit 49 (GIS)



1969 Map

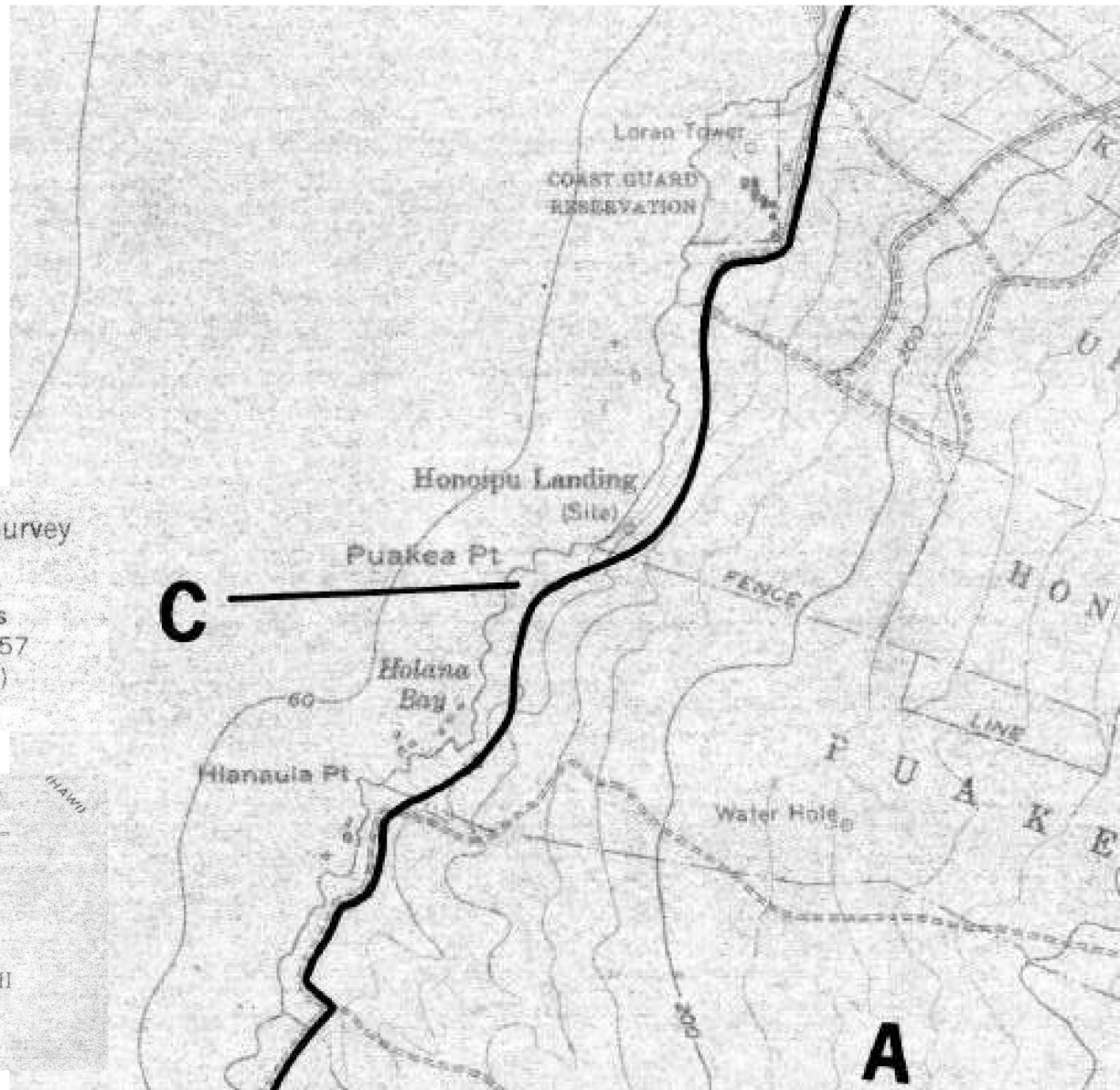
1969 LUC Map

Source: Exhibit 4

Mapped, edited, and published by the Geological Survey
Control by USGS and USC&GS
Topography from aerial photographs by multiplex methods
Aerial photographs taken 1954. Advance field check 1957
Hydrography compiled from USC&GS charts 4140 (1953)
and 4101 (1950)

H-3 MAHUKONA, HAWAII
N2011—W15562.5/7.5
1957

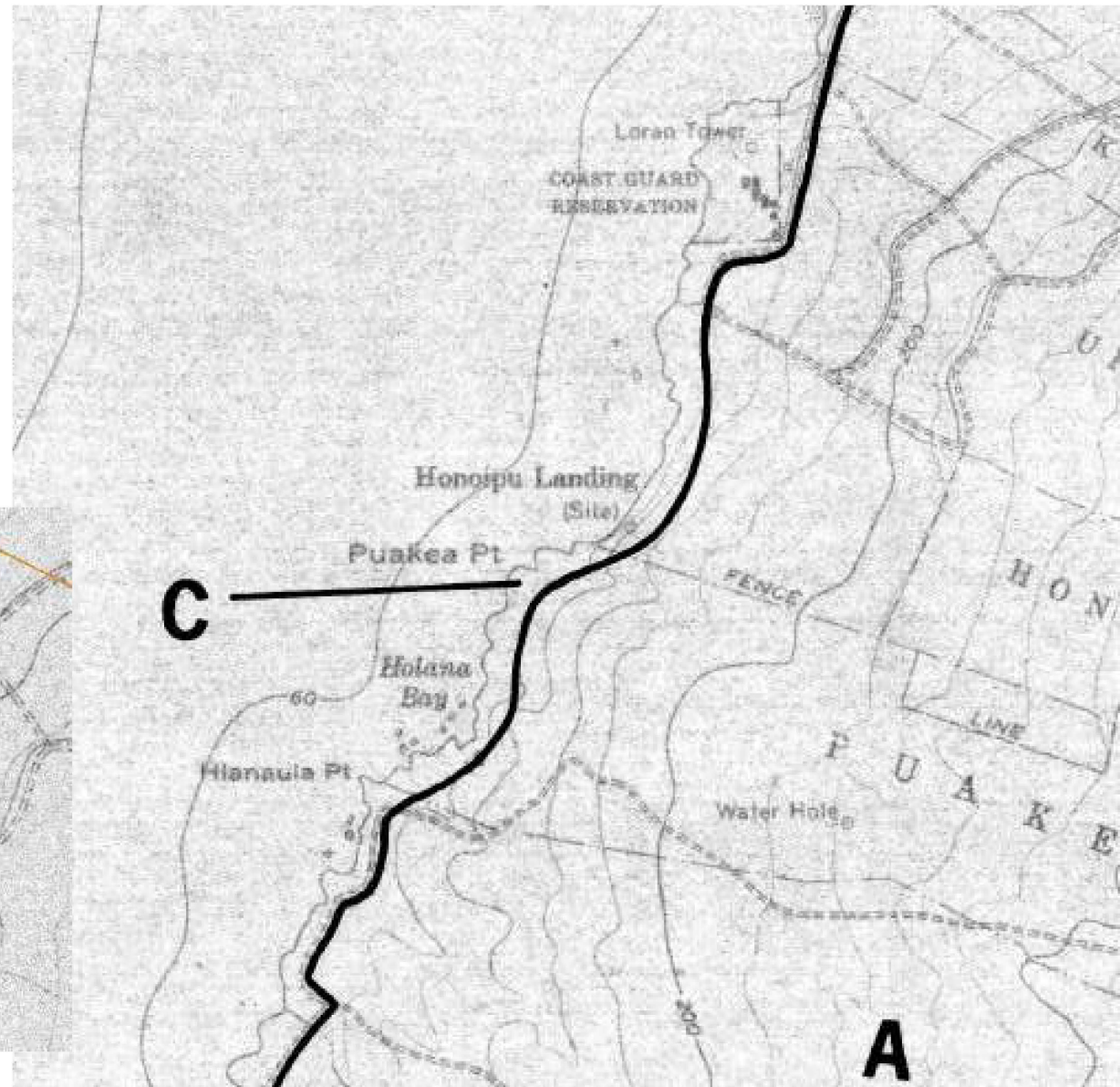
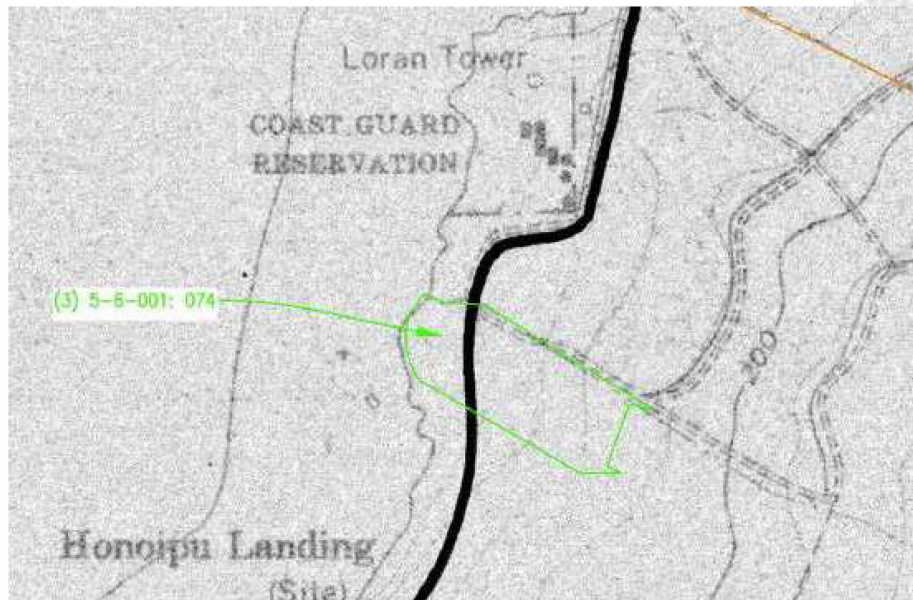
ROAD CLASSIFICATION
Medium-duty ——— Light-duty ———
Unimproved dirt - - - - -
○ State Route



1969 Map

1969 LUC Map

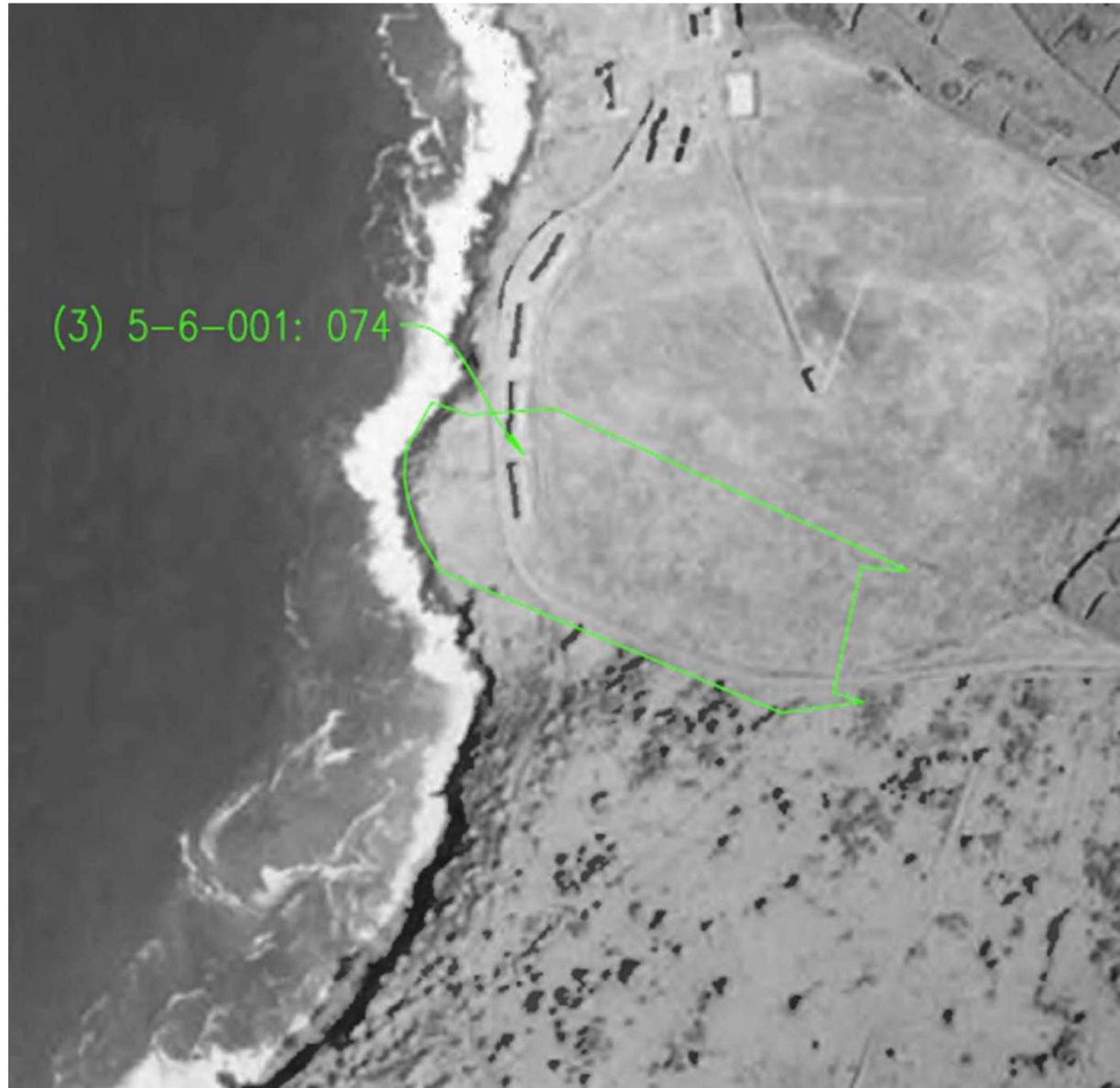
Source: Exhibits 4 & 4A



Realigned Road

Coast Guard realigned the road and built the houses in 1961.

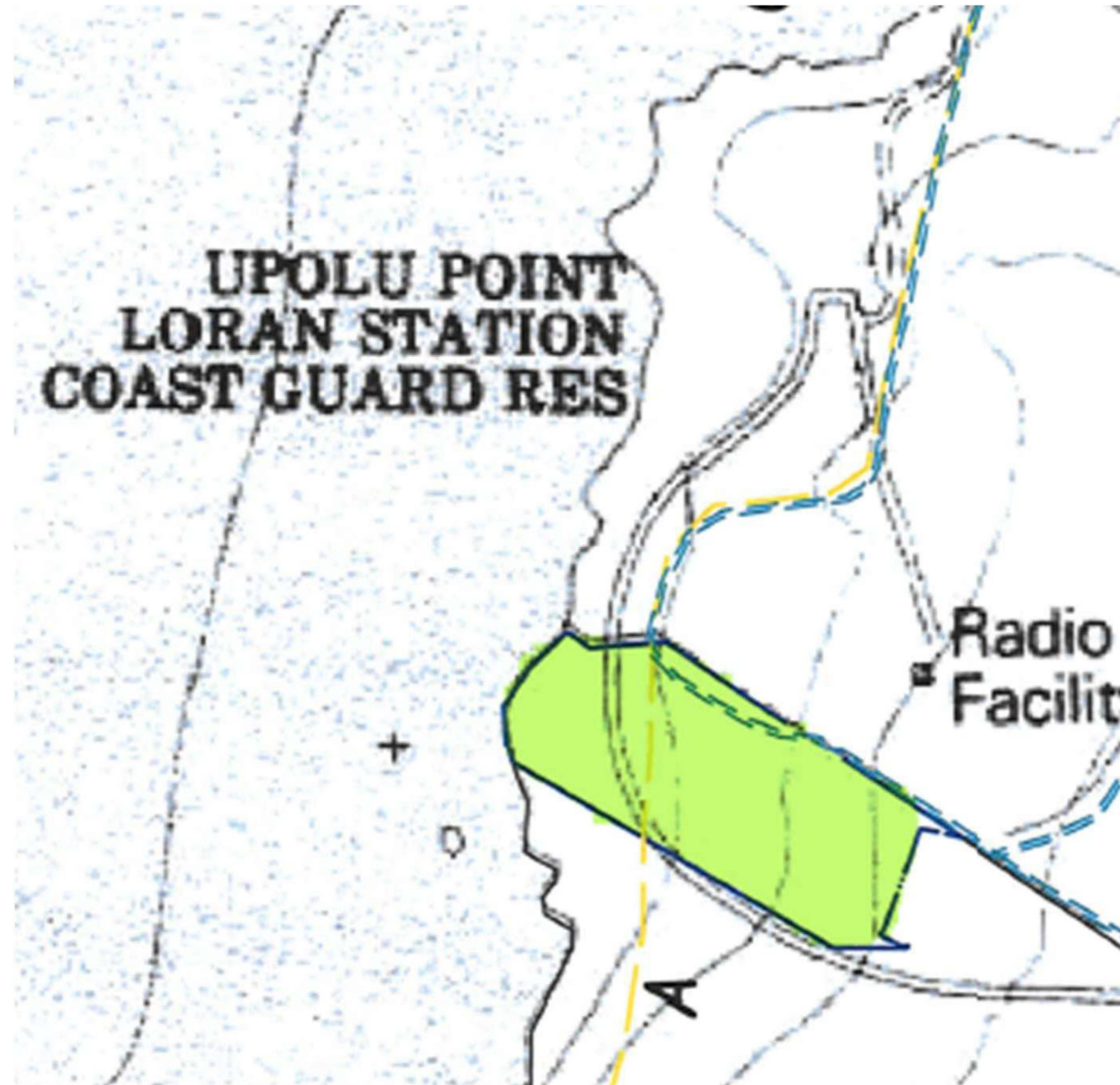
Source: Exhibit 11A (1965 USGS Aerial with TMK overlay)



Overlay

Petitioner's Property is highlighted in green.

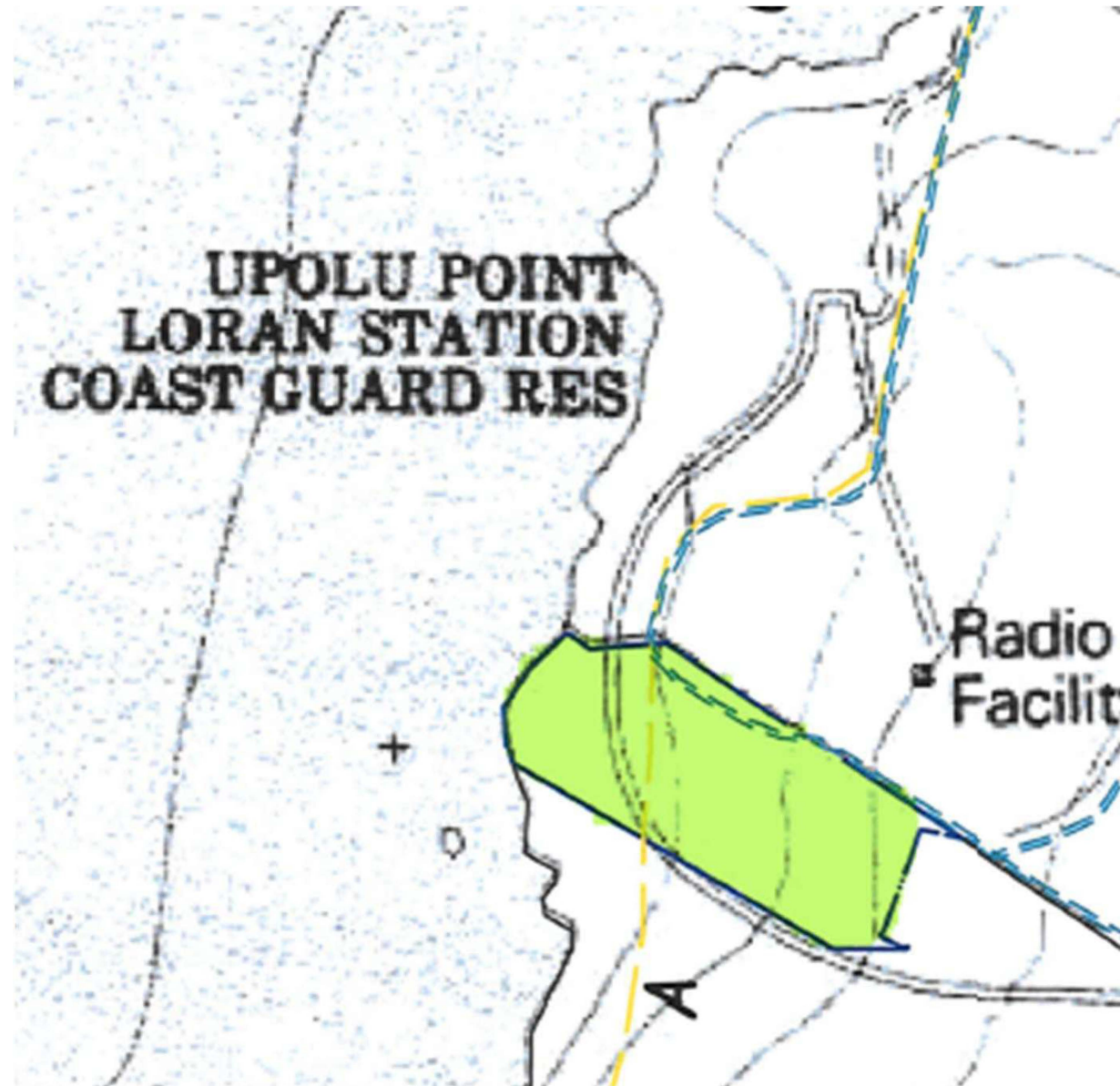
Source: Exhibit 8 (1982 USGS Map with TMK and boundary overlays)



1.3 Acres

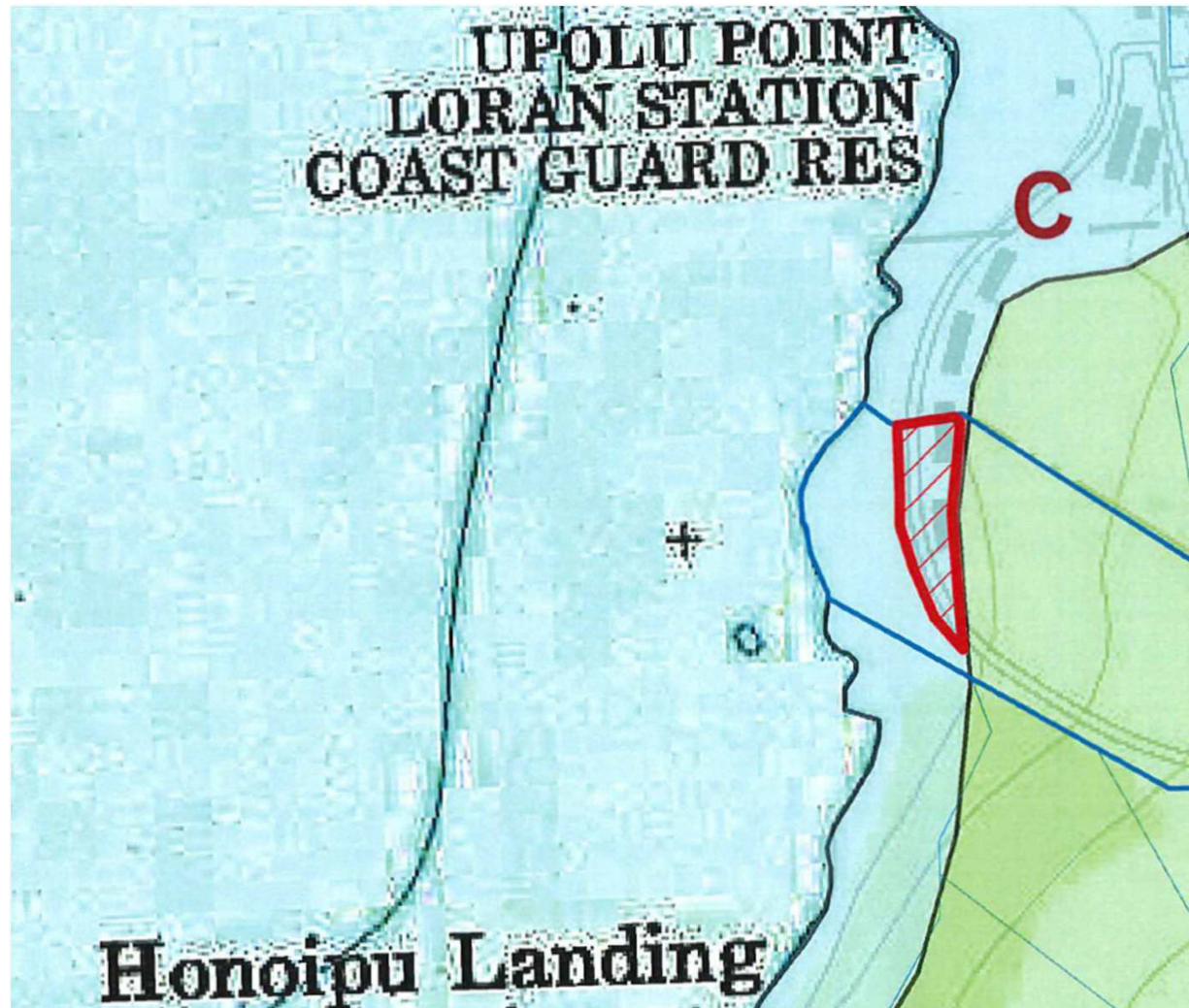
The requested interpretation concerns 1.3 acres, not 5.3 acres.

“If Petitioner would like to include the 5.319 acres into the Agricultural district”
Staff Report at 16.



Mauka Edge of the Road

The requested interpretation is to the mauka edge of the road, not the makai edge, as shown in the staff report figure 2.

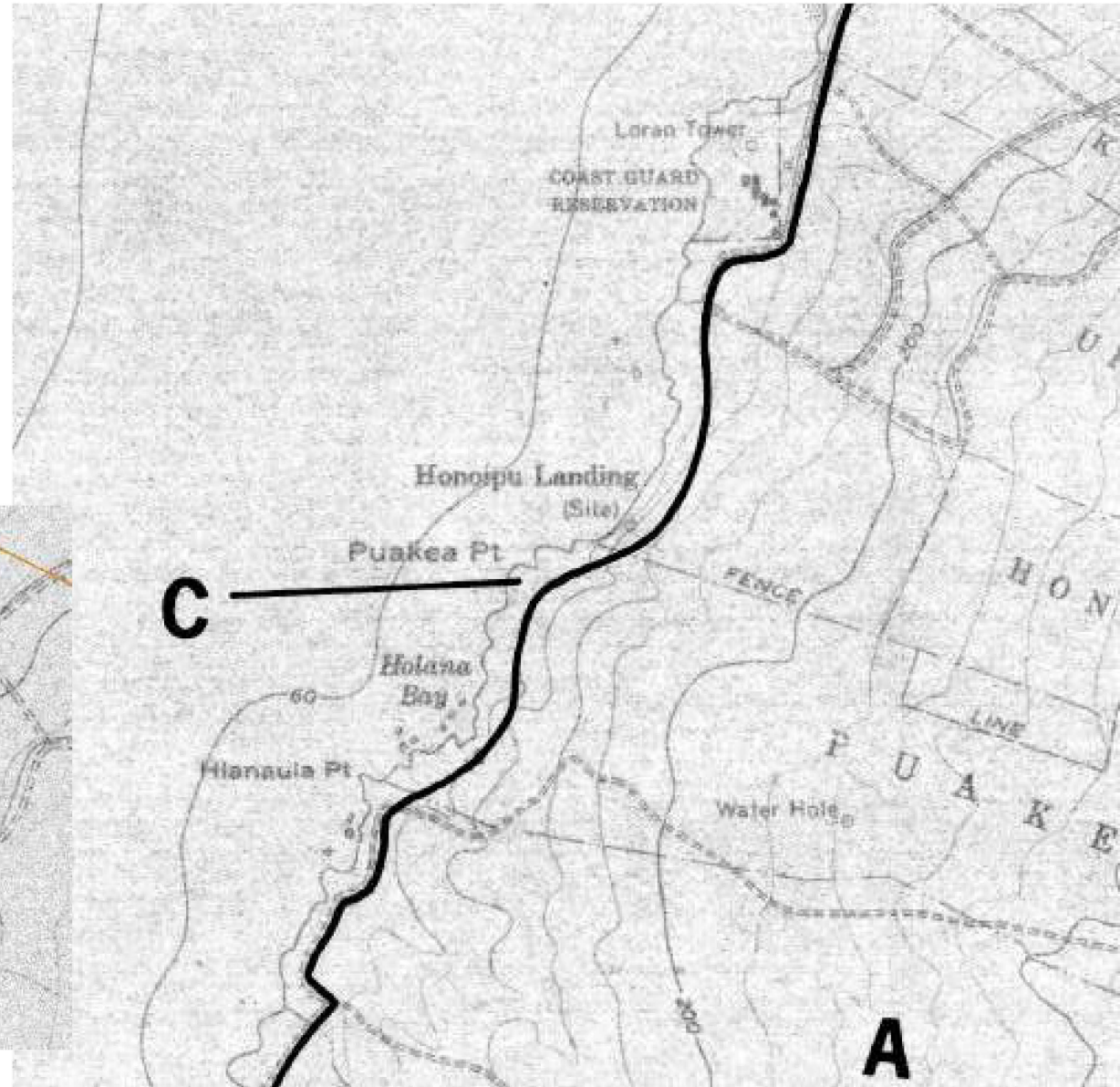
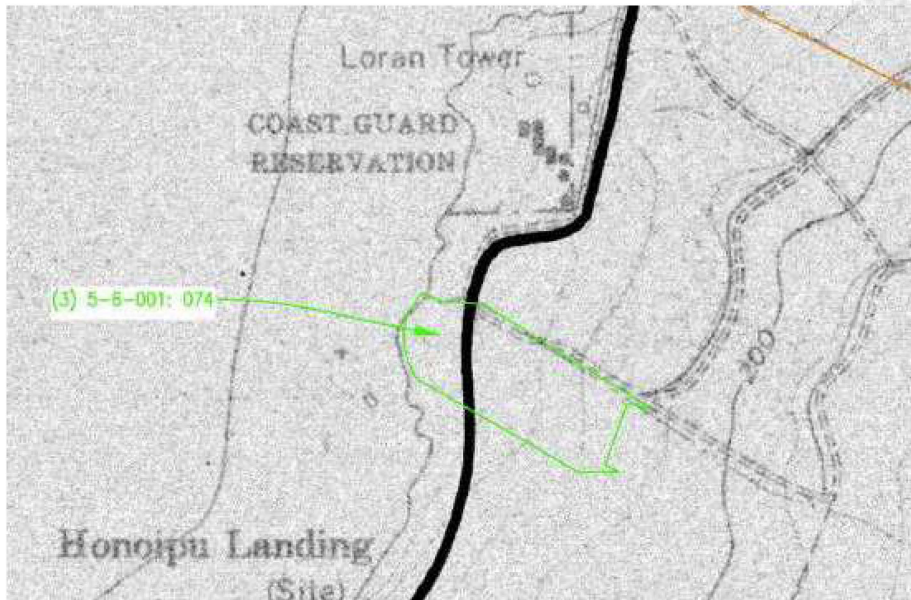


What did the Commission intend
when it set the boundary in
1969?

There are three options.

What did the Commission intend when it set the boundary in 1969?

Option 1: For the boundary to follow the road shown on the 1969 map.

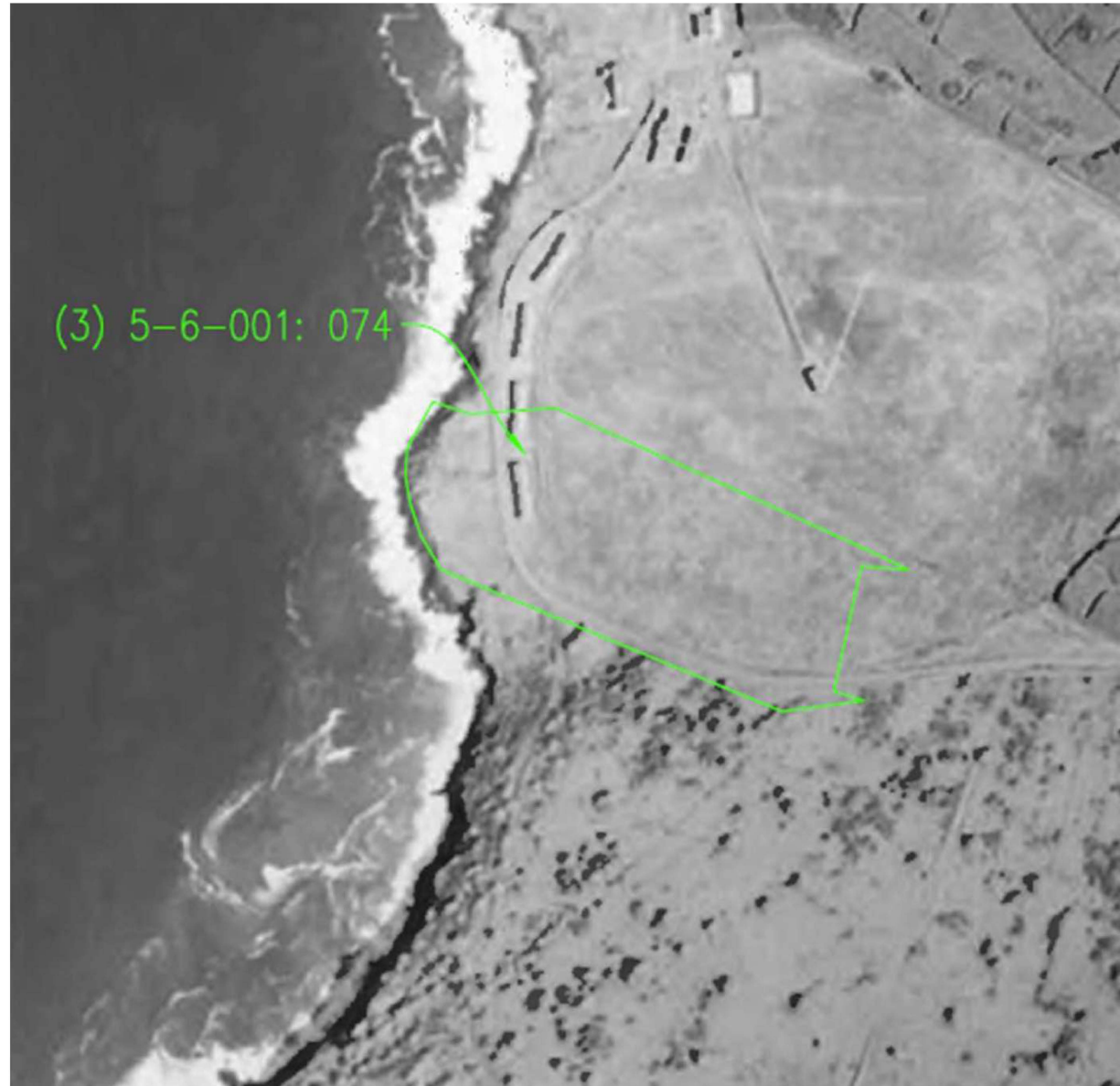


What did the Commission intend when it set the boundary in 1969?

Option 1: For the boundary to follow the road shown on the 1969 map.

That makes no sense, because **the road shown on the 1969 map did not exist in 1969.**

Source: Exhibit 11A (1965 USGS Aerial with TMK overlay)



What did the Commission intend when it set the boundary in 1969?

Option 1: For the boundary to follow the road shown on the 1969 map.

The road had been realigned in 1961.

Source: Exhibit 15 (Hawaii Tribune Herald Article)

250 Kohalans Tour Coast Guard Facility At Upolu

UPOLU POINT, Kohala—About 250 Kohala residents visited the Coast Guard Loran Station here Friday in an open house held to commemorate completion of \$1.5 million rebuilding job.

Lt. (jg) Norman Fabra, commanding officer of the station here, and a group of Coast Guardsmen led the visitors on tours through the installation.

All of the old buildings at the station were torn down in the project, and four new buildings were put up.

In addition, four duplex quarters for married personnel were constructed.

A new road leads to the station, taking the place of the former drive by the Upolu Point Airport.

The new construction includes an administrative section, enlisted men's quarters, signal building, generator building and combination mess hall and recreation room.

The station quarters, Fabra said, take care of only about one-half of the married personnel in the station's complement of 24 enlisted men and two officers.

The remainder live with their families in Hawi.

Following their tours through the building, the visitors enjoyed coffee, rookies and ice cream.

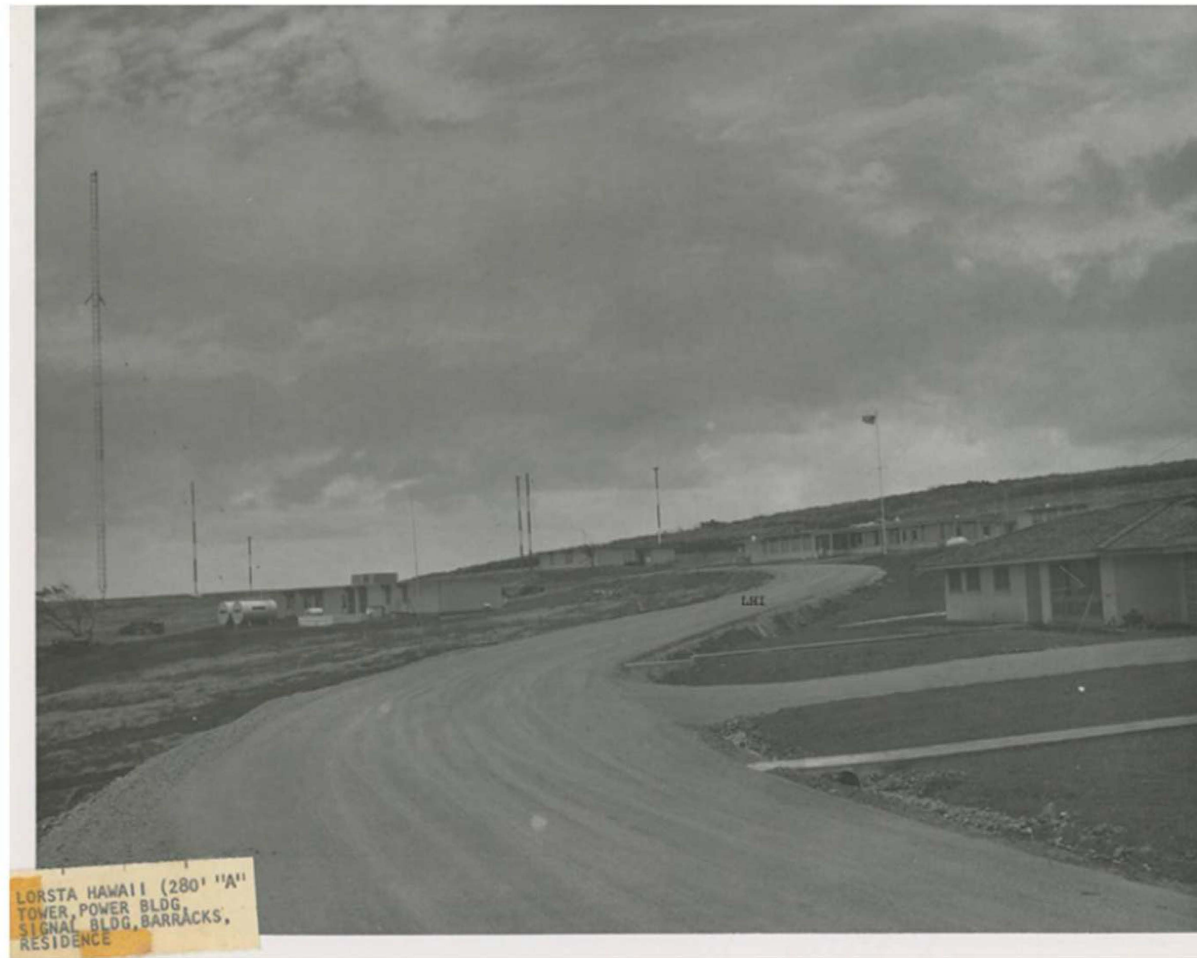
What did the
Commission intend
when it set the boundary
in 1969?

Option 1: For the boundary
to follow the road shown on
the 1969 map.

The road had been realigned
in 1961.

Source: Exhibit 16 (1961
USGS Photo)

See also Exhibit 17 (1961
USGS Photo)



What did the
Commission intend
when it set the boundary
in 1969?

Option 2: For the boundary
to follow a 300-foot setback.

That is what the staff report
says.

Source: Staff Report at 15.
See *also* Staff Report at 10,
11, 12, 14, 16.

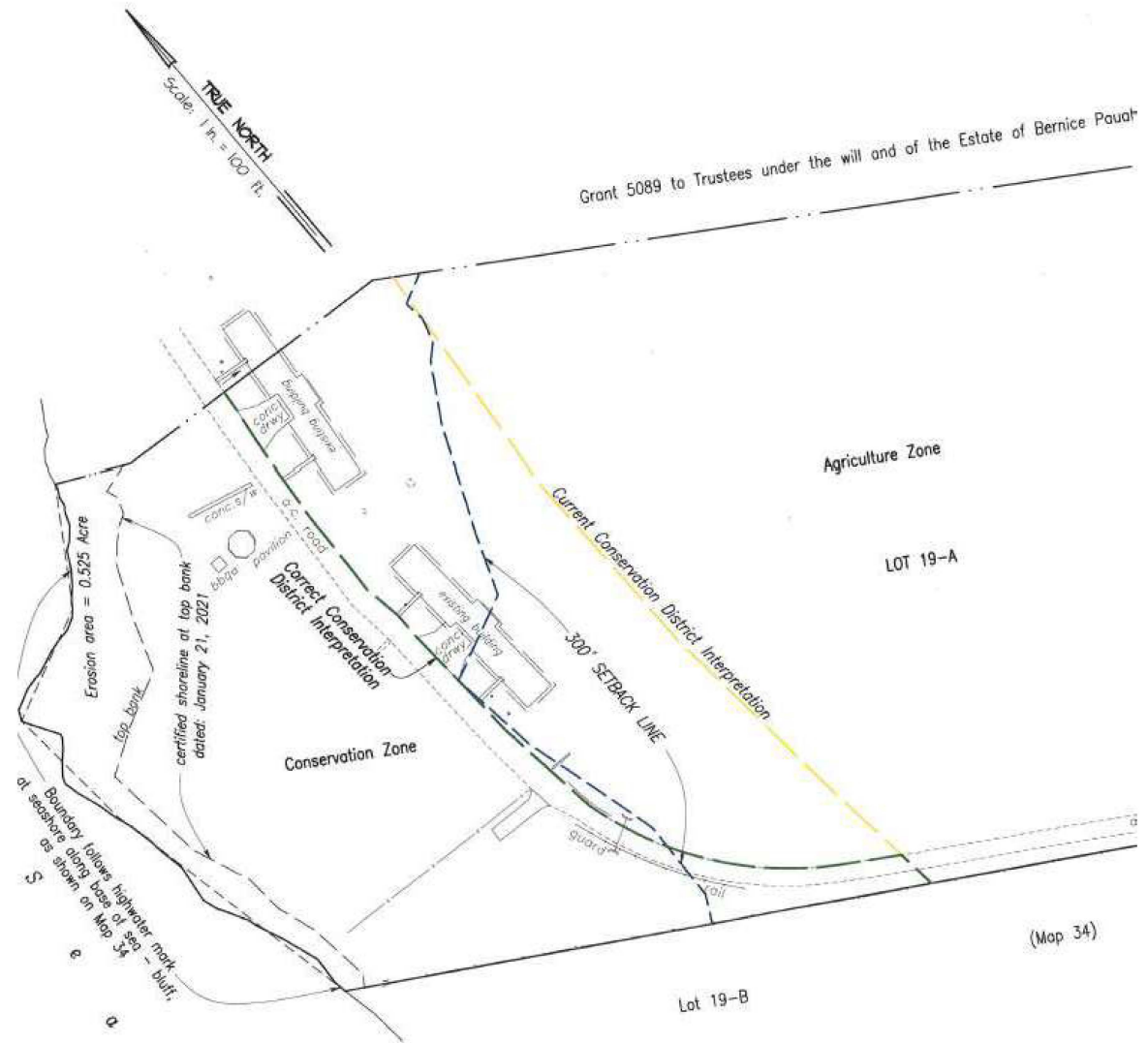
“The 300-foot setback from the
shoreline consistently and neatly
portrays the boundary for a
remote section of coastline that
would have been difficult and
costly to re-map otherwise.”

What did the Commission intend when it set the boundary in 1969?

Option 2: For the boundary to follow a 300-foot setback.

This overlay shows what a 300-foot setback would look like.

Source: Exhibit 6 (overlay)



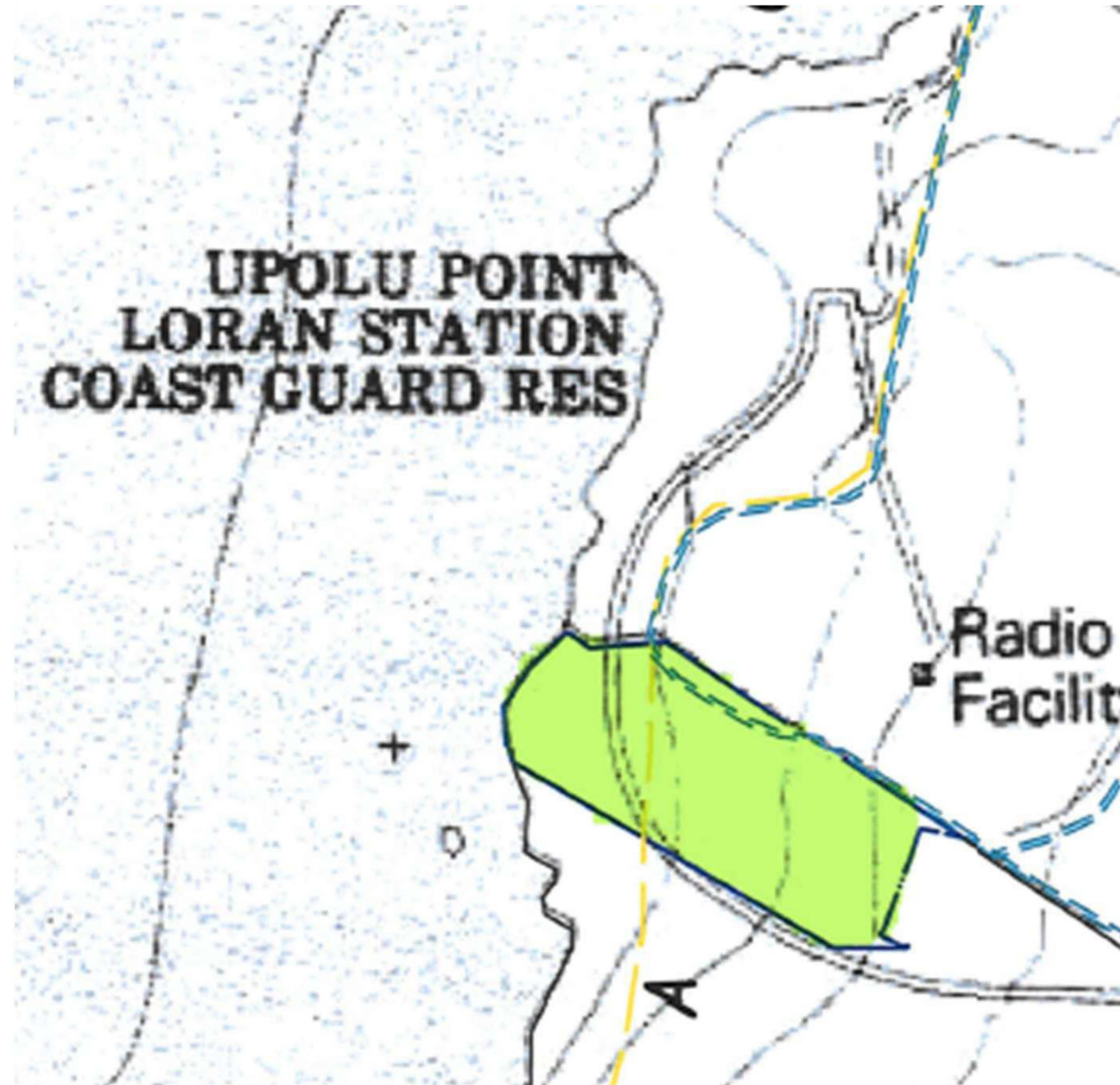
What did the Commission intend when it set the boundary in 1969?

Option 3: For the boundary to follow the road as it existed in 1969.

There was a road there.

It had been realigned eight years before in 1961.

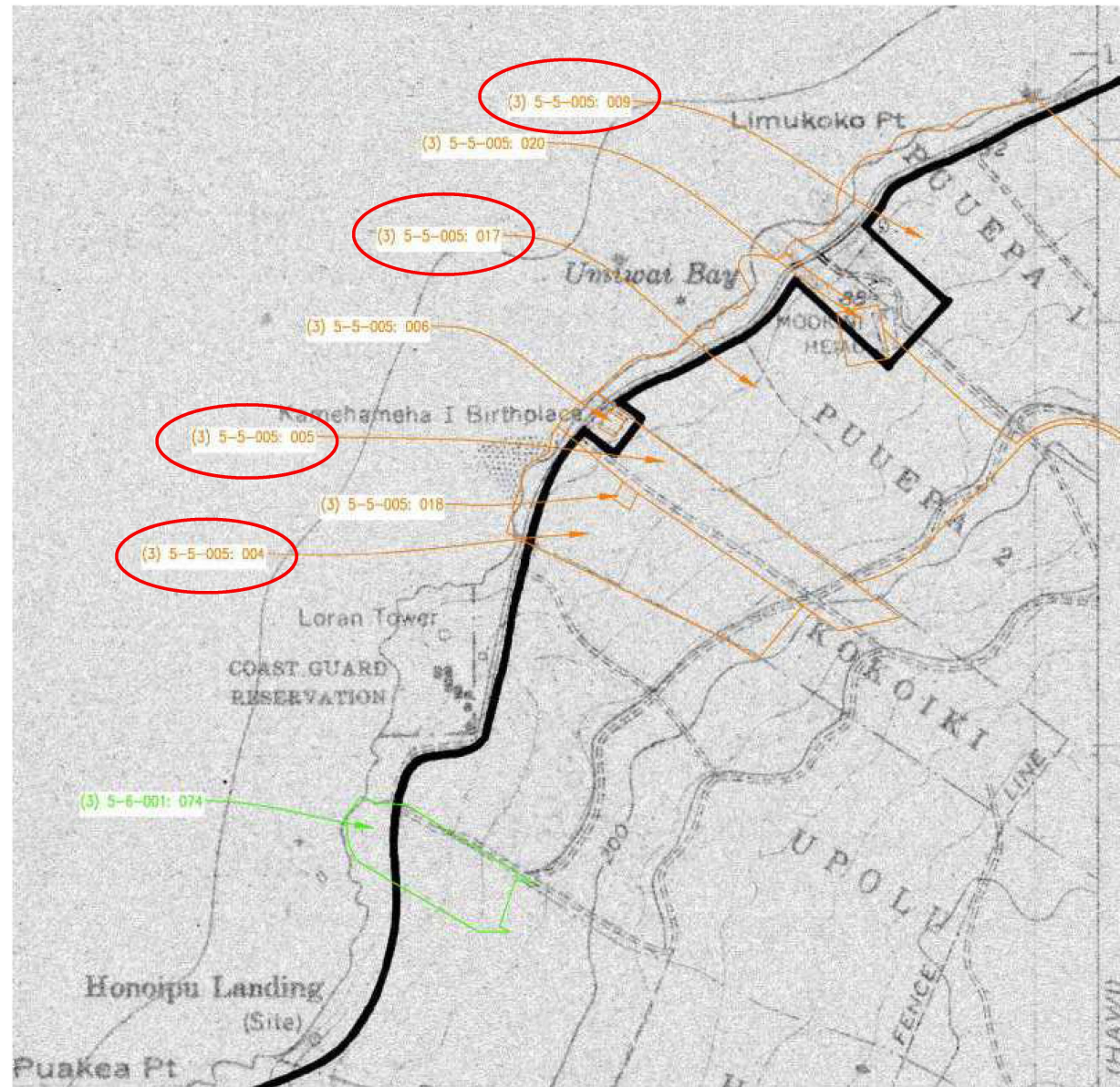
Source: Exhibit 8
(composite map)



What did the Commission intend when it set the boundary in 1969?

Option 3: For the boundary to follow the road as it existed in 1969.

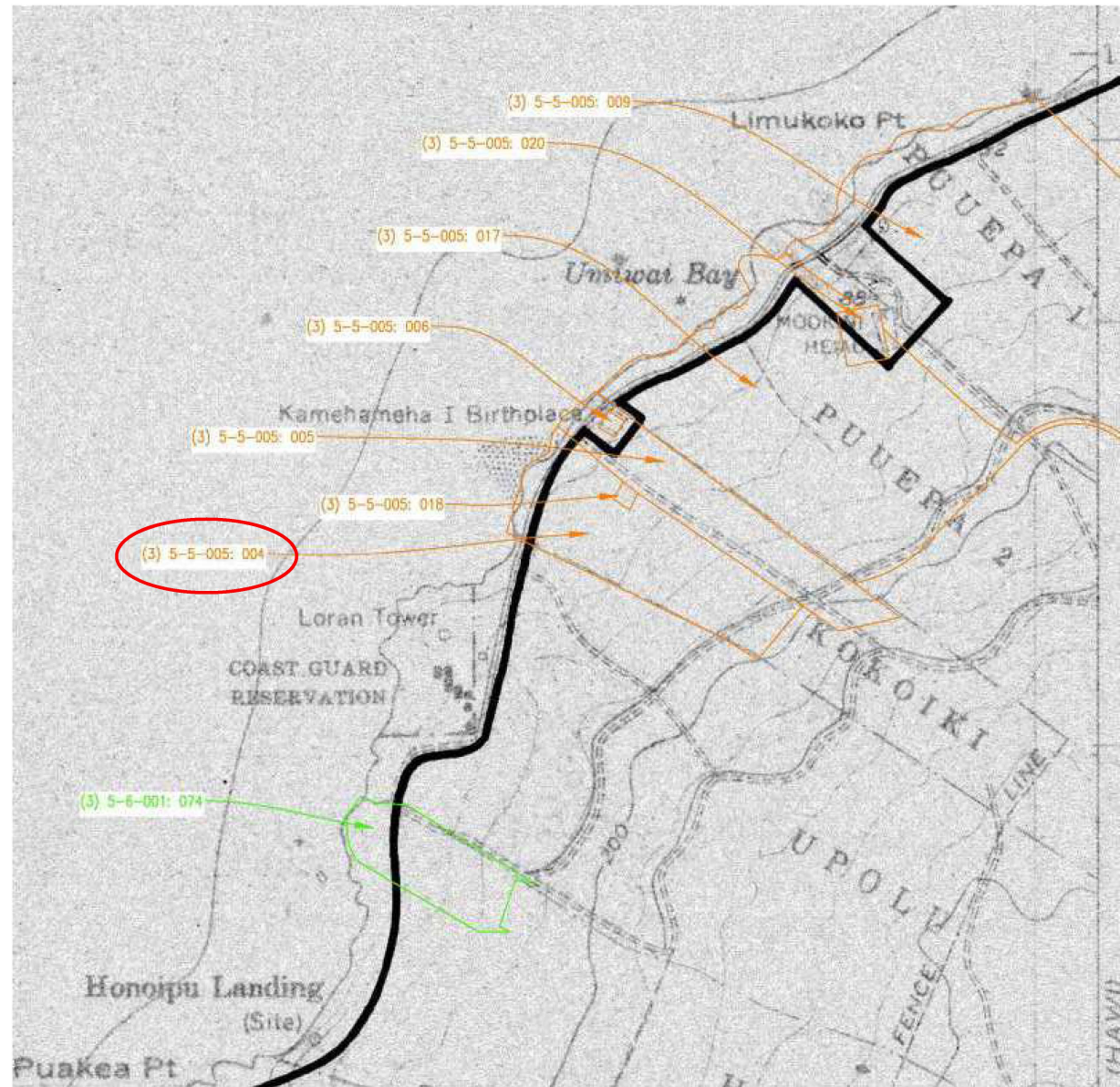
In 1978, the LUC issued a boundary interpretation for TMK No. (3) 5-5-005: 004, 005, 017, and 009 (circled in red) and interpreted the boundary as following the mauka side of the “dirt road.” Ex. 51.



What did the Commission intend when it set the boundary in 1969?

Option 3: For the boundary to follow the road as it existed in 1969.

In 1998, the LUC issued a boundary interpretation for TMK No. 5-5-005:004 (circled in red) and interpreted the boundary as following the “**MAUKA SIDE OF THE ROAD AS IT EXISTED IN 1969.**” Ex. 48.

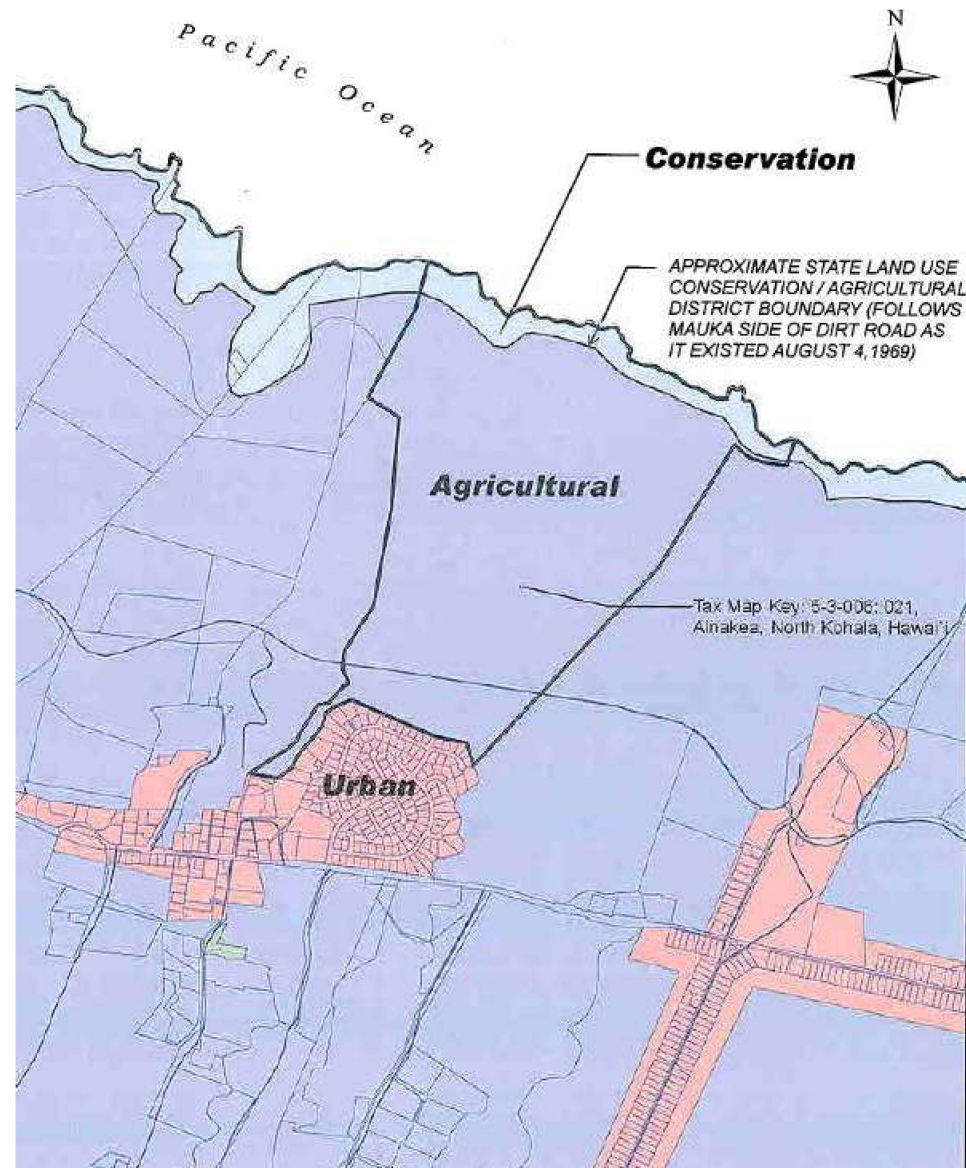


What did the Commission intend when it set the boundary in 1969?

Option 3: For the boundary to follow the road as it existed in 1969.

In 2008, the LUC issued a boundary interpretation for TMK No. 5-3-006:021, which is one map to the east.

The LUC interpreted the shoreline boundary as following the “**MAUKA SIDE OF DIRT ROAD AS IT EXISTED ON AUGUST 4, 1969.**” Exhibit 46.



What did the Commission intend when it set the boundary in 1969?

Option 3: For the boundary to follow the road as it existed in 1969.

Under the 1969 Commission Review Guidelines, the first landmark to follow is roads on the edge of agricultural use.

The LUC 1969 review classified this entire area as being in agricultural use. Ex. 39 at 43 (area used for grazing); see also remand brief at 18 n.8.

Source: Exhibit 1 (1969 Review)

cent agricultural uses and districts. Similar problems do not exist in relation to Urban or Rural Districts along the sea because the Land Use Commission has designated shorelines in these situations as part of the Urban or Rural Districts and these areas are therefore under county control.

Four major conditions have been recognized and recommendations based upon these conditions have been made for the new Conservation District boundaries.

1. Where a plantation road, farm road, access way or public road exists at the edge of the agricultural use within reasonable proximity to the shoreline, it was used as the boundary between the Agriculture and Conservation Districts.
2. Where a vegetation line such as a windbreak or row of trees more clearly marks the edge of the agricultural practice, this was used.
3. In cases where the shoreline is bounded by steep cliffs or a pali, the top of the ridge was used.
4. Where no readily identifiable physical boundary such as any of the above could be determined, a line 300 feet inland of the line of wave action was used.

It has become increasingly clear during the course of this study that an action plan should be prepared for the conservation and development of the Hawaii shoreline.

no grazing potential have been placed in Agriculture Districts, and it provides part of the public confusion. It is recognized that the Law does not specifically provide for these marginal lands which have been called wastelands, residual areas and a number of other names for lack of better definition. If the subzones of the Conservation District were designed to allow for these kinds of areas, the problem could be resolved administratively. The Law would not have to be changed.

When such situations arose in determining boundaries under the present review they were resolved by establishing priorities. Where agricultural practices were intensive and not destructive to natural resources, they received priority for Agriculture Districts. Where agricultural uses were marginal, such as in the case of a forest area partially grazed, and where the conservation values were highly significant, then these received priority for Conservation Districts. Where this system worked it was fine, but where there was vagueness in definition and where areas suitable for urban development were classified Conservation, or lava flows were classified Agriculture, it became obvious that a gap existed. When the values or lack of values were equal or there were other factors present, the decision was difficult and sometimes inconsistent choices had to be made.

In addition to the above conflict arising from loose criteria, one of the primary

What did the Commission intend when it set the boundary in 1969?

By a preponderance of the evidence, more likely than not, did the Commission intend:

- to follow a road that did not exist in 1969,
- to follow a 300-foot setback, or
- to follow the road that existed in 1969?

RECKTENWALD, C.J., McKENNA, EDDINS, GINOZA, AND DEVENS, JJ.

OPINION OF THE COURT BY RECKTENWALD, C.J.

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This case concerns the correction of an alleged error in a conservation district boundary map on Hawai'i Island. Appellant Honoipu Hideaway, LLC (Honoipu) seeks to use district boundary interpretation under [Hawai'i Administrative Rules \(HAR\) § 15-15-22](#) (eff. 2019) to correct

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Honoipu Hideaway, LLC v. Land Use Commission, 156 Hawai'i 367 (2025)
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The Journey

Petitioner has been seeking this boundary interpretation for the last seven years.

- 2019: Nathan works with LUC staff and they suggest a request for boundary interpretation.
- Jan. 2020: Nathan requests a boundary interpretation.
- Oct. 2020: LUC staff issues a boundary interpretation.
- Jun. 2021: Counsel files a petition for declaratory order for boundary interpretation.
- Dec. 2021: Hearing on petition.
- Feb. 2022: LUC order.
- Mar. 2022: Appeal to circuit court.
- Jul. 2022: Transfer to Hawai'i Supreme Court.
- Aug. 2025: Supreme Court opinion.
- June 2026: LUC hearing on remand.

Why this Matters

Supreme Court noted Nathan’s testimony regarding how this request would assist Petitioner, “You know, [the conservation district boundary] makes it hard to do things as simply as landscaping or planting trees. You know, installing an irrigation system, trying to get solar panels, you know, to reduce my energy costs. Things like repaving my driveway. . . . And I think that correcting this issue would really simplify our lives.” Exhibit 40.

RECKTENWALD, C.J., McKENNA, EDDINS, GINOZA, AND DEVENS, JJ.

OPINION OF THE COURT BY RECKTENWALD, C.J.

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This case concerns the correction of an alleged error in a conservation district boundary map on Hawai‘i Island. Appellant Honoipu Hideaway, LLC (Honoipu) seeks to use district boundary interpretation under [Hawai‘i Administrative Rules \(HAR\) § 15-15-22](#) (eff. 2019) to correct

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Impact

1.3 acres.

No new development.

Public access trail and parking area would remain in the Conservation District.



Neighbors

Supportive testimony has been submitted.

Source: 6/16/26 Public Testimony by Doris Dryman who lives “next to” the property

See also Exhibits 41, 42 (next-door neighbor), 52 (next door neighbor); 6/17/26 Public Testimony by Marcelle Loren who lives two doors down



[EXTERNAL] My Testimony in Support of DR21-73 Honoipu Hideaway LLC

From Doris Dryman

Date Tue 6/16/2026 5:21 PM

To DBEDT LUC <dbedt.luc.web@hawaii.gov>

Aloha Land Use Commissioners,

I have lived next to the Honoipu Hideaway property on Old Coast Guard Road for many years and got to know my neighbors very well.

In that time, I have seen how the family that owns the property fixed up a portion of Old Coast Guard Road on their own, using their money and time to improve it for everyone.

They also invested their time and money again, without hesitation to fix up and improve the access to the shoreline for the public with a nice walking trail along their property.

They have made such a positive impact on our neighborhood. I support this boundary correction because it is clear that the same shoreline road in front of their house runs all the way north to the Upolu Airport.

With Aloha,
Doris Dryman



Consistency

In the 1998, the LUC interpreted the boundary as following the **“MAUKA SIDE OF THE ROAD AS IT EXISTED IN 1969.”** Ex. 48.

In the 2008, the LUC interpreted the boundary as following the **“MAUKA SIDE OF DIRT ROAD AS IT EXISTED ON AUGUST 4, 1969.”** Exhibit 46.

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Hawai'i, State of Hawai'i.

DOCKET NO. DR21-73

CERTIFICATE OF SERVICE

CERTIFICATE OF SERVICE

The undersigned hereby certify that on this date, a copy of the foregoing document was duly served on the following persons at their last known address by email:

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State of Hawaii and Office of Planning and Sustainable Development

DATED: Honolulu, Hawai'i, June 23, 2026.

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Attorneys for Petitioner
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