

BENDER, James

SP(T) 62-40

STATE OF HAWAII  
LAND USE COMMISSION

426 Queen Street  
Honolulu, Hawaii

This space for official use

Date Application and Fee  
received by LUC

RECEIVED

DEC 26 1962

State of Hawaii  
LAND USE COMMISSION

APPLICATION FOR SPECIAL PERMIT

(I) (We) hereby request approval of a special permit to use certain property located in the County of Kauai, Island of Kauai, Land Use Commission Temporary District Boundary map number and/or name K-5, for the following-described purpose:

Description of property:

Lot 196 (Grant 12,144), Kapaa Homesteads, Fourth Series, Kapaa, Puna, Kauai, Hawaii, area 15.24 acres. Tax Key 4-6-14-61.

Petitioner's interest in subject property:

Owner

Petitioner's reason(s) for requesting special permit:

To sell his present home and a portion of said property to raise money to build a new home on another part of said property.

Signature(s)

James Bender

Address:

Kapaa, Kauai, Hawaii

Telephone:

64314

This space for official use

The property is situated in a(n) Agricultural district, whose regulations adopted by the Land Use Commission prohibit the desired use.

Signature(s)

W.M. Mulaney

For (agency)

Land Use Commission

State Form B14

STATE OF HAWAII

OFFICIAL  
RECEIPT

Nº

34

LAND USE COMMISSION  
424 Queen St., Honolulu

Department, Bureau or Commission

Dec. 26, 1962

RECEIVED from

James Bender (Mrs.)

Fifty + no/100

DOLLARS

for public hearing by the Land Use Commission for  
Special Permit for lands on Kani

\$ 50.00

Robert L. Kai

Public Accountant

Ch. # 159. Barbed

STATE OF HAWAII  
LAND USE COMMISSION

AGENDA

Commission Meeting

Lihue, Kauai, Hawaii

April 25, 1963 - 6:00 P.M.

1. Items Pending Action

a a.	A(T) 62-24 Hawaii Kai Development Co.	Oahu
a b.	A(T) 62-25 W. C. Jennings	Maui
defer a c.	A(T) 62-26 Robert Tobey	Molokai
d.	A(T) 62-27 Eugene Kennedy	Oahu
a e.	A(T) 62-28 Murray Youlin	Maui
f.	SP(T) 62-40 James Bender	Kauai
g.	SP(T) 62-44 Everett Crumb	Hawaii
h.	SP(T) 62-45 Morgan Brown	Hawaii

2. Other Business

Land Use Commission  
426 Queen Street  
Honolulu, Hawaii

April 24, 1963

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SPECIAL PERMIT CHECK SHEET

LUC File SP(T)- \_\_\_\_\_

Petitioner: \_\_\_\_\_ County \_\_\_\_\_

Key \_\_\_\_\_

Date petition and fee received: \_\_\_\_\_

Suspense date for LUC action: \_\_\_\_\_

Date LUC survey \_\_\_\_\_

Notices of hearings

Dates

Publication

_____	_____
_____	_____
_____	_____

Hearings

Date

Place(s)

By

_____	_____	_____
_____	_____	_____
_____	_____	_____

Actions

Dates

Actions

By

_____	_____	_____
_____	_____	_____
_____	_____	_____

Notes:

LAND USE COMMISSION  
STATE OF HAWAII

Minutes of Meeting

Board Room

Lihue, Kauai

April 25, 1963 - 6:00 P.M.

Commissioners

Present:

E. C. Bryan  
Stanley C. Friel  
Wayne D. Gregg  
Yuichi Ige  
Edward Kanemoto  
Franklin Y. K. Sunn  
Roger T. Williams

Ex-Officio Members

Present:

George Siu

Staff Members

Present:

W. M. Mullahey, Acting Executive Officer  
R. Takeyama, Legal Counsel

APPLICATION FO JAMES BENDER (SP(T) 62-40), FOR SPECJ PERMIT TO CREATE A  
1.67 ACRE RESIDENTI LOT FROM A LARGER PARCEL OF LA IN KAPAA, KAUAI:  
Described as Fourth Division, TMK 4-6-14: 61

The acting XO reviewed the area and the request.

No follow-up was made on the deferment of the request because notes were not taken at the last meeting in Kamuela by the acting XO, and the tape did not come through on the recording of the meeting.

The acting XO stated that as the application stands, it is a 4 acre lot with the roadway access creating a residential lot in the middle of the lower third of the property and a 9,000 sq. ft. residential lot on the northwest corner of the larger lot, both of which have residences on at this time.

Commissioner Gregg was asked to enlighten the commissioners on the subject. Commissioner Gregg stated that one of the things the Commission wished to establish was whether the lot on which the applicants were building the new house was a lot of record. He stated that in his talk with Mr. Wong, Mr. Wong was sure that where the applicants were now building was not a lot of record, and where they had built was a lot of record. Commissioner Gregg stated that on the other hand the applicants stated that where they are now building the house is a lot of record and was made that way so they could borrow money against it; the other was not a lot of record because the applicants had owned that house as part of the 15.7 acres. Commissioner Gregg stated that the applicants did not include the whole area other than the lot they wished to sell because the American Security Bank does not require that amount and the applicants did not want that amount in the lease. Commissioner Gregg stated that there are 3 lots involved, but only two lots are lots of record: the lot with the old house and pasture as one; and the lot with the new house which includes 9,000 sq. ft. as the other.

The commission was faced with the problem of resolving whether Mr. Bender's request was unusual and reasonable, and whether there was any hardship. The following comments were made:

Commissioner Gregg felt that the hardship stemmed from the area where the people who own their land could not sell their homes they lived in, unless they are given permission by the Commission.

Chairman Bryan felt that in this particular county (Kauai) a request for a small house lot for residential purposes only in an agricultural district is apparently unusual because of the County's standard of 3 acres.

Commissioner Sunn stated that in Act 187 it calls for an unusual and reasonable use. If this Commission were to consider this request as an unusual use, the Law states, "and reasonable". If we were to consider this a reasonable use: having an urban lot in this agricultural area, then it is not really much sense in having this Land Use Act and applying these laws to the County of Kauai

Chairman Bryan posed this question before the Commission: "How important to the intent and purposes of Act 187 is this particular parcel of agricultural land?" This problem then became a policy matter to which each commissioner had to ask himself whether or not approval of this request would affect the economy of Hawaii.

Commissioner Gregg moved to approve James Bender's request as being reasonable and unusual in character and not in conflict with the intent and purposes of Act 187, subject to the condition that approval of the County of Kauai be obtained for the proposed use. Commissioner Friel seconded the motion.  
acting

The/XO polled the Commissioners: Approval - Commissioners Kanemoto, Williams, Friel, Ige, Gregg and Chairman Bryan. Disapproval - Commissioners Sunn, Siu.

Ref. No. LUC 691

October 21, 1963

Mr. David F. Wong, Planning Director  
Planning and Traffic Commission  
County of Kauai  
Lihue, Kauai, Hawaii

Dear Mr. Wong:

Enclosed is a copy of a Special Permit granted by the Land Use  
Commission to:

Mr. James Bender - SP(T) 62-40

Very truly yours,

GORDON SOH  
Associate Planner  
Department of Planning and  
Economic Development

Enclosure

Ref. No. LUC 690

October 21, 1963

Mr. J. K. Burgess, Jr., County Clerk  
County of Kauai  
Lihue, Kauai, Hawaii

Dear Mr. Burgess:

Enclosed is a copy of a Special Permit granted by the Land Use  
Commission to:

Mr. James Bender - SP(T) 62-40

Very truly yours,

GORDON SOH  
Associate Planner  
Department of Planning and  
Economic Development

Enclosure

22000310411981  
1106-CL-25  
90476-24

STATE OF HAWAII  
LAND USE COMMISSION

426 Queen Street  
Honolulu, Hawaii

LUC File	(T)62-40
Applicant(s)	James Bender
Public Hearing at	Kapaa, Kauai
on	March 5, 1963

SPECIAL PERMIT

The Land Use Commission of the State of Hawaii, pursuant to hearing and consideration required by the provisions of Act 187, SLH 1961, hereby grants special permission to use the following described property:

(County) Kauai (Island) Kauai

Fourth Division, TMK 4-6-14: 61

for the following purpose(s):

Creation of a 1.67 acre residential lot from a larger parcel of land in  
Kapaa, Kauai

subject to the following conditions, in the interest(s) of proper community development.

1. That the approval of the County of Kauai be obtained for the proposed use.

As authorized by the State Land Use Commission

(Signed) GORDON SON

(Title) Associate Planner

Department of Planning & Economic Development

Date of Grant April 25, 1963

Ref. No. LUC 542

April 23, 1963

Mr. James Bender  
Kapaa, Kauai, Hawaii

Dear Mr. Bender:

The State of Hawaii Land Use Commission at their regular meeting of March 27, 1963 voted to defer final action on your application for Special Permit pending further clarification.

The Land Use Commission will be holding a meeting on the Island of Kauai on April 25, 1963, at 6:00 p.m., in the Boardroom of the Kauai County Board of Supervisors, Lihue, Kauai and your application for Special Permit has been placed on the agenda for consideration by the Commission. Final action may be taken at that time.

Very truly yours,

W. M. MULLAHEY  
FIELD OFFICER

cc: Mr. Clinton I. Shiraishi  
P. O. Box 628  
Lihue, Kauai, Hawaii

STATE OF HAWAII  
LAND USE COMMISSION

VOTE RECORD

ITEM Border  
DATE 3/29/63  
PLACE Kaim Covert House  
TIME 11:30

NAMES	YES	NO	ABSTAIN	ABSENT
KANEMOTO, E.	✓			
WILLIAMS, R.	✓			
② FRIEL, S.	✓			
SUNN, F.		✓		
IGE, Y.	✓			
① GREGG, W.	✓			
LOMBARDI, F.				
COOK, E. H.		✓		
BRYAN, E.	✓			

COMMENTS:

Approve as Submitted  
finding of fact on tape

Ref. No. LUC 503

March 21, 1963

Mr. James Bender  
Kapaa, Kauai, Hawaii

Dear Mr. Bender:

The Land Use Commission of the State of Hawaii will hold a meeting on the Island of Oahu on March 27, 1963, at 3:00 p.m., in the August Ahrens School Auditorium, Waipahu, Oahu, Hawaii.

As the waiting period prescribed by the Commission's Rules of Practice and Procedure, Sub-Part C, Sec. 1.20(f), will have expired, your application for Special Permit has been placed on the agenda for consideration by the Commission. Final action may be taken at that time.

Very truly yours,

W. M. MULLANEY  
FIELD OFFICER

cc: Mr. Clinton I. Shiraishi  
P. O. Box 628  
Lihue, Kauai, Hawaii



PLANNING AND TRAFFIC COMMISSION

COUNTY OF KAUAI  
LIHUE, KAUAI, HAWAII

February 8, 1963

RECEIVED

FEB 11 1963

State of Hawaii  
LAND USE COMMISSION

State of Hawaii  
Land Use Commission  
426 Queen Street  
Honolulu 13, Hawaii

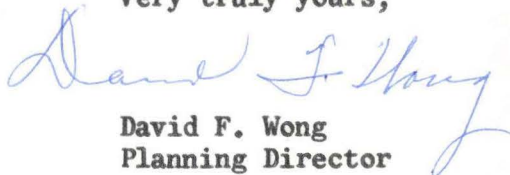
Gentlemen:            Subject: Special Permit Application - James  
Bender, Tax Key 4-6-14-61, Your Ref.  
No. LUC 368

Petition for Amendment of Temporary  
District Boundary - Sensuke Ueunten,  
Tax Key 2-3-02, Your Ref. No. LUC 399

At its regular meeting held on February 7, the Planning  
and Traffic Commission approved the recommendations of the Planning  
Director relative to subject applications recommending approval of  
the above two applications.

Copies of the Director's reports are attached.

Very truly yours,

  
David F. Wong  
Planning Director

attach.

*m*

KAUAI PLANNING AND TRAFFIC COMMISSION  
LIHUE, KAUAI, HAWAII

January 23, 1963

MEMO TO: Planning Commissioners

SUBJECT: Special Permit Application - James Bender

Submitted herewith is a report with reference to a special permit request submitted by Mr. James Bender, owner of Lot 196 (Grant 12,144) Kapaa Homesteads, Fourth Series, Kapaa, containing an area of 10.79 acres as shown on tax map 4-6-14 as tax parcel 61.

The petitioner's reason for requesting a special permit is to permit him to build another new single-family dwelling within said property by selling his present home located within the same parcel of land to raise sufficient funds for the construction of a new home.

In his desire to sell his present home with a portion of land this would require a subdivision of his lot of 10.79 acres.

The property in issue is located along the South side of Kealia River and Hauaala Road approximately 3,000 feet from the junction of Kawaihau and Mailihuna Roads running North and West along Hauaala Road. The entire property is vacant except for the single-family dwelling presently located on the lot. A field inspection of the property was made and by observation it seems the area was used for grazing rather than for the planting of crops due to the topography, having a slope of about ten percent from the roadway uphill to the rear of the lot. On the East side of this property are cane lands under the Lihue Plantation Co., Ltd. operations. To the West of this property are other owners of property with single-family residences with no visible signs of intensive agricultural activities.

It is recommended that the request for approval of a special permit be granted to Mr. James Bender for reasons outlined in his application.

  
\_\_\_\_\_  
David F. Wong  
Planning Director

KAUAI PLANNING AND TRAFFIC COMMISSION  
LIHUE, KAUAI, HAWAII

February 7, 1963

MEMO TO: Planning Commissioners

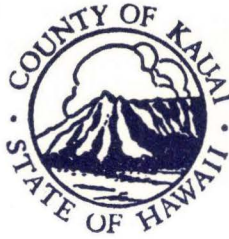
SUBJECT: Change of Temporary District Boundary

With reference to Mr. Sensuke Uemura's petition for change of temporary urban district boundary, it is recommended that approval be granted as requested since the area in issue has been included in the proposed final urban classification as approved for public hearings by the State Land Use Commission.

The parcel of land in issue is located along the East side of Papalina Road, Kalaheo, approximately 200 feet Southeast of the junction of the entrance road to Kukuiohono Park and Papalina Road. It is presently vacant and the ground slopes about 10 percent from Papalina Road to the rear of said property.

  
\_\_\_\_\_  
David F. Wong  
Planning Director

P. O. BOX 111



541  
TELEPHONE 2781

LIHUE, KAUAI, HAWAII

February 7, 1963


RECEIVED  
FEB 8 1963  
State of Hawaii  
LAND USE COMMISSION

Mr. R. J. Darnell, Executive Director  
State Land Use Commission  
426 Queen Street  
Honolulu 13, Hawaii

Dear Sir:                      Subject:    Special Permit Application of  
   James Bender

Your letter of January 17, 1963, touching upon the marginal subject has been referred by the Board of Supervisors of the County of Kauai to its Public Works Committee which is headed by Supervisor George H. Toyofuku for study and a report.

Very sincerely,

  
J. K. Burgess, Jr.,  
County Clerk, County of Kauai.

KKY:c

M

OFFICE  
LIHUE TEL. 23-361

CLINTON IKUZO SHIRAISHI  
ATTORNEY AND COUNSELOR AT - LAW  
P. O. BOX 628

RESIDENCE  
WAIMEA TEL. 382-941

468

LIHUE, KAUAI, HAWAII

December 28, 1962

RECEIVED

JAN 2 1962

State of Hawaii  
LAND USE COMMISSION

To Bender  
SP(T) 62-

Mr. R. J. Darnell  
Executive Officer  
Land Use Commission  
State of Hawaii  
426 Queen Street  
Honolulu 13, Hawaii

Re: Your Ref. No. LUC 334

Dear Mr. Darnell:

In accordance with your letter of December 26th, I enclose here-  
with a verifaxed copy of the preli-  
minary map of the proposed subdivision.

The present use of the properties are as a residence and for cattle raising. If you need any other information, please write to me directly.

Yours very truly,

*Clinton I. Shiraishi*

CLINTON I. SHIRAISHI

CIS:fn

encl.

1

OFFICE  
LIHUE TEL. 23-361

**CLINTON IKUZO SHIRAISHI**  
ATTORNEY AND COUNSELOR AT - LAW  
P. O. BOX 628

RESIDENCE  
WAIMEA TEL. 382-941

LIHUE, KAUAI, HAWAII

December 21, 1962

RECEIVED

DEC 26 1962

State of Hawaii  
LAND USE COMMISSION

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

Gentlemen:

I enclose herewith the Application for Special Permit of Mr. James Bender, together with his check payable to you for \$50.00.

I trust that everything is in order; if not, please advise.

Yours very truly,



CLINTON I. SHIRAISHI

CIS:fn

encls.

Ref. No. LUC 426

February 15, 1963

Mr. James Bender  
Kapaa, Kauai, Hawaii

Dear Mr. Bender:

This is to inform you of the public hearing called by the Land Use Commission of the State of Hawaii on March 5, 1963, at 1:30 p.m., in the National Guard Armory, Kapaa, Kauai. Your application for Special Permit will be heard at that time.

Publication of Legal Notice appeared in the Honolulu Star-Bulletin on February 12, 1963 and the Garden Isle on February 13, 1963.

Very truly yours,

R. J. DARNELL  
EXECUTIVE OFFICER

cc: Mr. Clinton I. Shiraishi  
P. O. Box 628  
Lihue, Kauai, Hawaii

Ref. No. LUC 368

January 17, 1963

Planning and Traffic Commission  
County of Kauai  
Lihue, Kauai, Hawaii

Attention: Mr. David F. Wong, Planning Director

Gentlemen:

The State Land Use Commission has requested me to solicit your comments and recommendation regarding a matter pending before the Land Use Commission from the County of Kauai.

Enclosed is the submittal pertaining to an application for Special Permit from James Bender.

The Commission has not set a date for the public hearing as yet; however, the Commission would appreciate your recommendation in writing at your earliest convenience.

Very truly yours,

R. J. DARNELL  
EXECUTIVE OFFICER

Enclosure

Ref. No. LUC 367

January 17, 1963

The Honorable Members of the  
Board of Supervisors  
County of Kauai  
Lihue, Kauai, Hawaii

Attention: The Honorable Raymond X. Aki, Chairman  
and Executive Officer

Gentlemen:

The State Land Use Commission has requested me to solicit your comments and recommendation regarding a matter pending before the Land Use Commission from the County of Kauai.

Enclosed is the submittal pertaining to an application for Special Permit from James Bender.

The Commission has not set a date for the public hearing as yet; however, the Commission would appreciate your recommendation in writing at your earliest convenience.

Very truly yours,

R. J. DARNELL  
EXECUTIVE OFFICER

Enclosure

Ref. No. LUC 334

December 26, 1962

Mr. Clinton I. Shiraishi  
Attorney and Counselor-at-Law  
P. O. Box 628  
Lihue, Kauai, Hawaii

Dear Mr. Shiraishi:

We are in receipt of the application of Mr. James Bender for Special Permit concerning property described as Fourth Division, TMK 4-6-14: 61.

While this application will be processed normally, additional information will be needed to allow the staff to make a recommendation to the Land Use Commission, namely:

1. present use of property, and
2. sketch map, or survey of proposed new lot to be created to allow conveyance of existing house.

Public hearing on this item has not yet been scheduled. You will be notified as soon as this has been accomplished.

Very truly yours,

R. J. DARNELL  
EXECUTIVE OFFICER

HAWAII NEWSPAPER AGENCY, INC.  
 HONOLULU STAR-BULLETIN, INC. AND  
 ADVERTISER PUBLISHING COMPANY, LTD.

P.O. BOX 3350

PHONES 57911/52977

NEWS BUILDING, 605 KAPIOLANI BLVD.  
 HONOLULU 2, HAWAII

LAND USE COMMISSION  
 195 S KING ST  
 HONOLULU 13 HAWAII

62327

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DAY	YR			CLASS	LINE	TIMES					
1263	15		148				1550		61.05		61.05
1263	15		ST TAX							2.14	2.14
											63.19

RETAIL  
 1 STAR-BULLETIN  
 2 ADVERTISER  
 31 SUNDAY  
 51 UNIT

NATIONAL  
 63

MAKE CHECKS PAYABLE TO  
 HAWAII NEWSPAPER  
 AGENCY, INC., AGENT

NOTICE OF PUBLIC HEARINGS TO  
 CONSIDER

- (1) PROPOSED FINAL DISTRICT BOUNDARIES
- (2) PROPOSED FINAL DISTRICT REGULATIONS AND
- (3) AN APPLICATION FOR SPECIAL PERMIT, WITHIN THE COUNTY OF KAUAI, BEFORE THE STATE OF HAWAII LAND USE COMMISSION

NOTICE IS HEREBY GIVEN OF PUBLIC HEARINGS TO BE HELD IN THE COUNTY OF KAUAI, by the State of Hawaii Land Use Commission to consider (1) proposed Final District Boundaries for the County of Kauai; (2) proposed Final District Regulation and; (3) an application for Special Permit, within the County of Kauai, as provided for in SECTION 2, Sections 4, 7 & 8, Act 187, Session Laws of Hawaii 1961.

MONDAY, MARCH 4, 1963, Board Room of the Kauai County Board of Supervisors, County Building, LIHUE, KAUAI, at 7:00 p.m., or as soon thereafter as those interested may be heard.

TUESDAY, MARCH 5, 1963, National Guard Armory, HANAPEPE, KAUAI, at 9:00 p.m., or as soon thereafter as those interested may be heard.

TUESDAY, MARCH 5, 1963, National Guard Armory, KAPAA, KAUAI, at 1:30 p.m., or as soon thereafter as those interested may be heard.

Schedule of Items to be heard:

- (1) Proposed Final District Boundaries for the County of Kauai—all three hearings.
- (2) Proposed Final District Regulations—all three hearings.
- (3) Application of James Bender SP(T) 62-40 for Special Permit to create a 1.67 acre residential lot from a larger parcel described as Fourth Division, TMK 4-6-14: 61 — National Guard Armory, Kapaa, Kauai.

Maps showing the proposed Final District Boundaries for the County of Kauai and the area under consideration for Special Permit; copies of the proposed Final District Regulations; and the Interim Regulations governing the Application for Special Permit are on file in the Offices of the Kauai County Planning and Traffic Commission and the Land Use Commission, and are open to the public for inspection during office hours.

All written protests regarding the above items to be heard may be filed with the Land Use Commission, 426 Queen Street, Honolulu, Hawaii, before the date of the public hearing, or submitted in person at the time of public hearings, or up to fifteen (15) days following the public hearings.

LAND USE COMMISSION  
 E. C. BRYAN, Chairman  
 R. J. DARNELL, Executive Officer

(S.B. Feb. 12, 1963)