

BRANDT, William and Marion

SP(T)63-2

STATE OF HAWAII
LAND USE COMMISSION

VOTE RECORD

ITEM SP(T)63-2 (Brandt)
DATE 1/17/83
PLACE LUC Hearing Room
TIME 4:00 pm.

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

COMMENTS: Motion to deny petition in its entirety
motion by Ferry
Sec by Ota

Ref. No. LUC 57

January 22, 1964

Planning and Traffic Commission
County of Maui
P. O. Box 1487
Kahului, Maui, Hawaii 96732

Attention: Mr. Robert Ohata, Planning Director

Gentlemen:

The Land Use Commission, in action taken on January 17, 1964, voted to deny the petition for special permit by William S. K. and Marion F. Brandt. The denial was based on the following:

The Land Use Commission has prepared proposed final district boundary maps which place the subject parcel in the conservation district. Approval of the petition would be a contradictory action.

The reasoning for the proposed final districting is contained in the enclosed staff report. It may be noted that the basis for denial by the Land Use Commission was not in complete accord with staff recommendations but which staff now concurs with. Minutes of the meeting will be forwarded to you as soon as it is prepared.

Very truly yours,

RAYMOND S. YAMASHITA
Executive Officer

Enclosure
cc: William S.K. Brandt and Marion F. Brandt
Myron Thompson
Roy Takeyama

92073-9997
1964-01-22
HAWAIIAN ISLANDS

LAND USE COMMISSION
STATE OF HAWAII

Minutes of Meeting

LUC Hearing Room

Honolulu, Hawaii

1:00 P. M. - January 17, 1964

Commissioners

Present:

C.E.S. Burns
James P. Ferry
Goro Inaba
Shiro Nishimura
Charles S. Ota
Myron B. Thompson
Robert G. Wenkam
Leslie E. L. Wung

Absent:

Shelley Mark

Staff

Present:

Raymond Yamashita, Executive Officer
Roy Takeyama, Legal Counsel
Gordon Soh, Planning & Economic Development
Alfred Preis, Planning Coordinator
Richard Mar, Field Officer
Amy Namihira, Stenographer

Meeting was called to order by Chairman Thompson. Mr. Yamashita introduced Miss Amy Namihira, the new Stenographer for the Land Use Commission, to the Commissioners.

ADOPTION OF MINUTES FOR 11/30/63 MEETINGS AND HEARINGS ON KAUAI AND OAHU

1. Minutes of 11/30/63 Meetings and Hearings in Lihue, Kauai

Commissioner Wung moved to accept the minutes as circulated; seconded by Commissioner Nishimura. Motion carried.

2. Minutes of 11/30/63 Hearings in Honolulu and Kailua, Oahu

Commissioner Burns moved to accept the minutes as circulated; seconded by Commissioner Inaba. Motion carried.

LUC ACTIONS ON INTERIM BOUNDARY CHANGES AND SPECIAL PERMITS

Chairman Thompson raised the following question and opened it to the floor:

When the Commission makes a decision today, tomorrow, or within the next few months, is this decision binding in terms of the final district

boundaries, or is this decision alterable when the final district boundaries are determined?

Legal counsel stated that under the Law, there is no question this Commission may do so. He stated, however, that this would become a policy matter because once this Commission makes a grant, he could not see how this Commission could go against it in the final adoption of the district boundaries.

Commissioner Burns stated that this Commission should be building the permanent boundaries as it moves along. This Commission would not want to take action that it knows later is going to be reversed. The only reason that this Commission would change its decision would be either on the same evidence, new evidence or something that is unusual.

The general opinion of the Commission was that this Commission should be consistent in its decision and that whatever decision it makes from hereon in concerning the interim boundaries and special permits, it will be included in the establishment of the proposed final district boundaries.

SPECIAL PERMITS PENDING ACTION

The staff members who would be participating in the matters before the Commission were sworn in by the Chairman.

APPLICATION OF JOSEPH CORREIA, JR. (SP(T)63-4), FOR SPECIAL PERMIT TO SUBDIVIDE APPROXIMATELY 39.28 ACRES INTO TWO LOTS IN WAIAKEA HOMESTEADS, WAIAKEA, S. HILO, HAWAII: Described as TMK 2-4-05: 39.

Mr. Gordon Soh gave a background on the area and request involved, and pointed out the location of the area on the map. The staff recommendation was for denial of the request in the interest of preserving the agricultural uses in the Waiakea Uka area and to keep the lot sizes to a standard; and on the following bases:

1. that it was common and not unusual;
2. that it would constitute spot zoning; and
3. that it shows that it is not a hardship situation which would establish a precedence.

Chairman Thompson asked what was meant by the word "common" as stated in the staff's recommendation? The Executive Officer stated that it must first consider, What a Special Permit Is? As we examine this it is commonly known as a variance. A variance procedure is set up to take care of those situations that generally cannot be foreseen or thought of at the moment. A residential use is something that is considered in any kind of districting, because it is one of the most common of all urban land uses. It does not constitute a reason or use that could

not have been considered or could not have been aware of previously, so that it is not unusual.

The point which was raised that a hardship case would be created on the family if this request were denied was answered by the legal counsel. He stated that if the Commission approved this special permit on the basis that it would work a hardship because the applicant wants to give so many square footage to his daughter is not logical; and legally it would not meet the definition of an unusual and reasonable use under the Law.

Commissioner Wung moved to accept the staff's recommendation; seconded by Commissioner Ferry. The Executive Officer polled the Commissioners. Approval: Commissioners Wung, Inaba, Ota, Burns, Nishimura, Ferry, and Chairman Thompson. Disapproval: None.

APPLICATION OF SIDNEY WEINRICH (SP(T)63-5), FOR SPECIAL PERMIT TO SUBDIVIDE 93,000 SQ. FT. LOT INTO TWO LOTS FOR LAND IN NORTH KONA, HAWAII: Described as TMK 7-6-10: 21.

Mr. Soh gave a background on the area and request involved, pointing out the location of the area on the map. The staff's recommendation was for denial on the bases that: (1) it was common rather than unusual; and (2) it would constitute spot zoning which would set a precedence for scattered development.

Commissioner Ferry moved to deny the special permit based on the staff's recommendation; Commissioner Ota seconded the motion.

Discussion: Commissioner Inaba felt that the request before this Commission was a little different from the last request. He pointed out one definite factor which differed and that was the area was located near to an already existing urban area.

Mr. Preis contended that the area would not constitute scatteration. He stated that he felt it desirable to have a Rural area between an Urban area and an open land area.

Chairman Thompson felt that this was a serious problem and recognized that there were many similar problems of this nature throughout the various counties. He felt that this problem should be taken up for discussion later and with the proper authorities.

The Executive Officer polled the Commissioners. Approval: Commissioners Ota, Burns, Ferry, and Chairman Thompson. Disapproval: Commissioners Wung, Inaba, Nishimura. Motion not carried.

Commissioner Inaba moved to approve the Special Permit application; seconded by Commissioner Wung. Approval: Commissioners Wung, Inaba, Nishimura.

Disapproval: Commissioners Ota, Burns, Ferry, and Chairman Thompson. Motion not carried because of lack of majority votes.

The following were requested of the staff:

1. Write letter to Hawaii County Planning & Traffic Commission concerning present activity in area under question.
2. Write letter to Hawaii County Planning & Traffic Commission requesting for a vote count on each special permit grant submitted to the Land Use Commission.

APPLICATION OF CLARA KIM (SP(T)63-4), FOR SPECIAL PERMIT TO SUBDIVIDE LAND CONTAINING 22,466 SQ. FT. IN AREA IN KAPAA HOMESTEADS, KAPAA, KAUAI: Described as TMK 4-4-09: 8.

The staff was requested to write to Kauai Planning & Traffic Commission advising them that the matter for special permit by Clara Kim should not have been referred to the Land Use Commission and that the petitioner also be so informed.

APPLICATION OF WILLIAM AND MARION BRANDT (SP(T)63-2), FOR SPECIAL PERMIT TO CONSTRUCT A BEACH HOME TOGETHER WITH THE NECESSARY SUBDIVISION ON A 23,900 SQ. FT. LOT IN MAKENA, MAUI: Described as TMK 2-1-07: 61.

Mr. Richard Mar gave a background on the area and request involved, and pointed out the location of the area on the map. The recommendation of the staff was for denial to subdivide the present lot into separate parcels, and approval of one beach home.

The recommendation of the staff was discussed at length and it was resolved that the State had no jurisdiction in the matter concerning the building of the beach home in the area classified by the Land Use Commission as Agriculture.

The Executive Officer stated that the Commission may override the staff's recommendation on this request instead of the staff deleting portions of its recommendation.

Commissioner Ferry moved that the petitioners' request be denied in its entirety; seconded by Commissioner Ota. The Executive Officer polled the Commissioners. Approval: Commissioners Wung, Inaba, Ota, Wenkam, Burns, Nishimura, Ferry and Chairman Thompson. Disapproval: None.

ADMINISTRATIVE MATTERS

The following reports were given or asked of staff to do:

1. Request that the staff circulate all minutes to each County, two copies each - one for the Planning and Traffic Commission office and the other for the Board of Supervisors.
2. Request that the staff schedule Commission's meetings and hearings to meet the conference on Planning Commissions and Planning Directors in August on Kauai. (No definite date has been set as yet.)
3. Request that the staff write or communicate with the Counties concerning the Land Use district boundaries proposed for July 1964 at its earliest convenience.

The Chairman suggested the following as a possible communication:

"If you are ready to make decisions regarding your own planning and would like to consult with ours, we will be willing to do it, would you?"

4. Earlier follow-ups requested of staff:
 - a. Have the staff notified all planning directors of each county concerning the criteria for selection on whether it would be a special permit or a boundary change?

Reply: No.

- b. Have the staff had an opportunity to write and mail letters to protestees as suggested on Kauai?

Reply: The staff has answered all letters being received at present, but has not written to those 500 or so that were already on file.

5. The Chairman reported that the Governor has okayed a writer for the Land Use Commission who has already been engaged and who is on the payroll of the Governor's Office. This writer is charged with the responsibility of reviewing all materials of this Commission and to consider all materials that would be useful for public information.
6. Commissioner Wenkam reported that the televised public hearing on the generalized proposed land use district boundaries is firmed up for March 7, 1964, from 8:00 a.m. to 10:00 a.m., at the KGMB TV studio. The program will be taped and rebroadcast. He stated that this is the first of its kind to occur in the United States and that the purpose of this T. V. program is to educate, explain and expose to the public what the Land Use Law is, how it functions and how it applies to a particular area.

(The Executive Officer informed the Commission that the present schedule as circulated will have to be revised to meet the new television public hearing schedule.)

Commissioner Wenkam suggested that the Chairman announce at the beginning of the program that this is only a generalized preview presentation of the major islands of the State, and that detailed hearings will be held on each island at a later time, which time and place will be announced later. He also suggested that the Chairman inform the people that this will be only a two hour show; that it will be continued after the T. V. program, and those who are not able to be heard can be heard then.

Commissioner Wenkam reported that there will be a meeting with the program director and producer of KGMB TV which is scheduled in two weeks, and at which time the Executive Officer, the Chairman and himself will be present.

The following program was outlined by Commissioner Wenkam:

- a. All islands will be included (major islands) and certain amount of time allocated. Maps will be displayed on wall. Motion picture showing particular areas on each island will be shown.
- b. All Commissioners and staff will be there and arranged sitting around a table.
- c. Commissioners are to make presentation of his own island, very briefly stated, and involving only those areas that the public would be familiar.
- d. Invite audience participation. Commissioners were encouraged to invite individuals from his own island to participate in this program and Chairman was instructed that he must be alert and able to recognize these people as participants. (Studio will hold approximately 100 persons.)
- e. Rehearsal will be held on the night of March 6, 1964, before the T. V. public hearing program.

Commissioner Wenkam was requested to write up an agenda and program for this T. V. hearing and have it circulated to everyone.

7. Commissioner Wenkam gave a brief report on what sort of things will be happening before the T. V. program.
 - a. Stories in the newspapers
 - b. T. V. programs
 - c. Radio, etc.

Commissioner Wenkam also informed the Commissioners that the public relations program on the outside islands were very poor, with the exception of Kauai. He encouraged Commission members to participate more in this area in his own county.

Meeting adjourned at 4:55 p.m.

STATE OF HAWAII
LAND USE COMMISSION

LUC Hearing Room
Honolulu, Hawaii

1:00 P.M.
January 17, 1964

STAFF REPORT

SP(T)63-2
WILLIAM AND MARION BRANDT

Temporary District Classification: AGRICULTURAL

Background

The Planning and Traffic Commission of the County of Maui has referred to the Land Use Commission their approval of a special permit for William S. K. and Marion F. Brandt to construct a beach home together with the necessary subdivision, to be situated on the makai side of Makena Beach Road.

Mr. and Mrs. Brandt's property is situated in Makena, Maui, along the makai side of the Ulupalakua-Makena Road and is approximately 1,600 feet south of Makena Landing. Except for an existing beach shelter, the property is vacant. The area of the lot is 23,900 square feet with a beach or shore frontage of 99 feet and is shown on the TMK 2nd Division as 2-1-07:61. There are three beach homes adjacent to the property. Approximately 200' down the road is an existing church owned by the Board of Hawaiian Evangelical Association. Across the road from the Brandt's property are large areas of shrub bushes and kiawe trees. The subject parcel is located in an agricultural district under the interim boundaries of the Land Use Commission. According to the Soil Conservation Service and the Land Study Bureau, the parcel in question is classified as unsuited for agricultural purposes. Access to the property is by a 15' wide dirt road known as the Ulupalakua-Makena Road. According to Mr. Norman Saito, consulting engineer for the petitioner, the area is serviced by a 1½" water line which the staff

understands, is an extension of the Kula water system.

The petitioner has plans to convey half of his property, approximately 10,000 feet, and retain the remainder of 13,500 square feet. According to the Maui Planning Commission, the frontages of the proposed sub-divided lots would be sub-standard since one lot would have a frontage of 38 feet and the other 61 feet. The intended purchaser of one of the lots will construct a beach cottage for use during the week ends and holidays. The Brandts have stated that if the permit was approved no additional county services will be requested.

On December 12, 1963, the Maui Planning Commission approved a special permit for Mr. and Mrs. William S. K. Brandt to subdivide their property into two lots for the construction of a beach home. The County approved the special permit with the stipulation that additional water service, garbage collection, and the paving of the road would not be provided by the County. It was also stated "that the applicant shall not request for these services and improvements and that these stipulations be designated in the transfer deed to the new owners."

There are two lots adjacent to the petitioner's property which are respectively owned by Mr. and Mrs. E. P. Lydgate and Mr. Abner W. DeLima. The area of these two lots are 10,704 square feet and 13,088 square feet. On November 21, 1962, Mr. DeLima submitted a special permit to the Land Use Commission for approval to subdivide his .76 acre parcel into three residential lots. The previous Commission approved the petitioner's request on March 28, 1963. Although all circumstances appear to be similar to the Brandt's petition, the major difference is that the prior approval was made on the basis of a special permit under Act 187 prior to the passage of Act 205. However, Act 187 as amended by Act 205 provided for a rural classification. The Maui Planning Commission feels that the

petitioner's property should be in a rural zone with a minimum lot density of one-half acre per lot. The approval of the special permit by the Maui Planning Commission for Mr. and Mrs. Brandt was based on the facts as existed at the present time. This meant that the zoning is agricultural and the request is for "beach home." County approval of the special permit was also based on the fact that precedent for a beach home had been made when the Abner Delima property was approved for subdivision purposes into less than one-half acre lots.

The State General Plan and the proposed State Shoreline Plan have designated the Makena area as a public park. The Maui General Plan has designated the area as rural. Mr. Robert O. Ohata has requested that the Land Use Commission zone the Makena area as rural in their proposed final district boundaries.

Analysis

The following points appear pertinent:

1. The parcel is now in the temporary agricultural district.
2. The State General Plan shows the area in park.
3. The consultants have recommended that this beach area be placed in the Conservation District. The previous Land Use Commission had placed the area in the Conservation District. This Land Use Commission, which considered Act 187 as amended by Act 205, also has placed this beach area in the Conservation District.
4. The County General Plan indicates this beach area in the Rural District.
5. The Maui County Planning and Traffic Commission staff report calls attention of the precedent set by the previous Land Use Commission in granting a special permit to the adjoining 0.76 acre lot to subdivide into three lots or residential purposes. Further, the report states that "all circumstances appear to be similar."

The existence of this petition and the first four points outlined above is evidence that no one, thus far, considers the present agriculture districting of the area as reasonable or just. These beliefs may be attributed to the fact that the parcel is evidently unsuited for agricultural use as the soil is Class D (Land Study Bureau classification) and unsuited for intensive agriculture, the climate is too arid, there is no water available for irrigation and the lot is too small. Much of Class D areas are generally suitable for grazing use but the aridness and small size of the plot make even this use unsuitable. The staff concurs that agricultural use of this property is unreasonable under the current circumstances. However, Act 205 does state "These districts (agricultural) may include areas which are not used for, or which are not suited to, agricultural and ancillary activities by reason of topography, soils, and other related characteristics." Although the current agricultural districting of this parcel is apparently under question, the districting is not contrary to law and, in particular applications, might indeed be desirable.

The State General Plan indicates this area as a park. The consultants, the previous Land Use Commission and the current Land Use Commission, in preparing proposed boundaries, have designated this area as a Conservation District. The park and conservation designations are compatible to each other and with Act 205 which states "Conservation districts shall include areas necessary for; preserving scenic areas: providing park lands, wilderness and beach reserves;".

In deliberations upon the proposed final boundaries and the possible alternative land use districts for this area, the Land Use Commission concluded that the general shoreline extending east from the Makena landing, and including the subject parcel, was particularly scenic and should be preserved. Much consideration was given to the fact that the future development of the Kihei area was dependent

upon the successful development of resort hotels and the fact that the State and County have invested substantially in the provision of public facilities to encourage such developments.

The success of a resort development is not established with the construction of hotels. Just as important as a place to stay is the attractiveness of the area that lures the visitor and the recreational activities that may be enjoyed. In the Kihei area, there is nothing really attractive nor anything to do except that which the shoreline offers. Kihei has only the scenic beauty of the shoreline and beach oriented activities to offer the visitor. The climate, while unique to the world, is common throughout the State. Therefore, it is concluded that the designation of this area, in which the subject parcel is also included as Conservation, is in the best interest of the public welfare. Such designation is necessary to protect those characteristics of the area upon which the future development of the area depends; and, to protect such investments already made and proposed to be made by the County and the State to promote such development. Further, the preservation of this scenic area is deemed necessary not only in the interest of development but necessary for the health, welfare and enjoyment of this and coming generations of local people.

This discussion is not irrelevant to the issue at hand, since the proposed final land use district must be justified before compatibility with the petitioned use should be determined.

The bases of the proposed final designation of this area as Conservation indicate that the petitioned use, and particularly the proposed subdivision, are incompatible. The proposed subdivision demonstrates the nature of precedence which was set by the prior approval of the adjoining DeLima petition for

subdivision. The continued subdivision of this area into small houselots would be entirely contrary to the bases of the proposed Conservation designation.

The staff feels that approval of the prior DeLima petition was not the most appropriate decision. Because of this view, the prior decision does not constitute justifiable nor reasonable grounds to grant approval of the instant petition on the grounds of precedent.

The staff also feels obliged, as part of its responsibility to the Land Use Commission, to comment upon the County Planning Director's staff report on the instant petition. In the preliminary field work on the proposed final district boundaries, both the County and Land Use Commission staffs felt that a rural designation would be appropriate for the subject area and such recommendation was made to the Land Use Commission. However, the discussion presented above led to the Conservation designation with which staff now concurs. This point is mentioned because the matter is discussed in the County's staff report and the fact that "a rural classification has not come into effect" is part of the basis for County approval. Also, since the lot is less than one acre, a rural designation would not have normally permitted subdivision.

Further, County staff report states that "the approval of a special permit shall be made with strict and stringent stipulations stating that the County will not be requested to furnish any service for increase of water mains, improvement to the roadway, garbage collection, or school transportation. It is also recommended that whatever deed or transfer document will contain these specific stipulations so that subsequent owners would be bound by the same stipulations. Should this statement influence the Land Use Commission, the staff raises the question whether such restrictions would be legally valid in the instant case when no such

restrictions were apparently imposed against the adjoining lot in a similar circumstance.

Recommendation

On the bases of the Analysis above, Staff recommends denial of the petition to subdivide the present lot into two separate parcels. However, the subdivision of the general beach frontage has been in existence for a long period of time, presumably for such use as being petitioned for, and sold for such use. The denial for such use would render the parcel valueless to the owner as there appears to be no other reasonable use - and would appear to be a "taking without compensation". Further, there appears to be no bases in the Land Use legislation upon which to deny the petition for the use. Therefore, staff recommends approval of the use (of one beach home) but denial of the requested subdivision; and further recommends that the County consider the interim regulations of the Department of Land and Natural Resources in regards to residential use of beach frontages should the County attach restrictions.

These recommendations are made in cognizance of the fact that the existing temporary district is agricultural and the proposed final district is Conservation.

Ref. No. LUC 13

January 7, 1964

Mr. and Mrs. William S. K. Brandt
Waikoa, Kula, Maui, Hawaii

Dear Mr. and Mrs. Brandt:

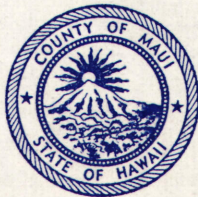
The Land Use Commission of the State of Hawaii will hold a meeting on the Island of Oahu on January 17, 1964 in the Land Use Commission hearing room, 426 Queen Street, Honolulu, Hawaii, at 1:00 p.m.

As prescribed by SECTION 98H-6 of Act 205/63, your application for Special Permit has been placed on the agenda for consideration by the Commission at this meeting. Final action may be taken at that time.

Very truly yours,

R. YAMASHITA
Executive Officer

JOSEPH S. MEDEIROS, JR., Chairman
KAZUO KAGE, Vice-Chairman
WILLARD ELLER, Member
WILLIAM HONG, Member
YOSHIKAZU MATSUI, Member
MASAO NAGASAKO, Member
ROBERT UEOKA, Member



KOICHI HAMADA, Ex-Officio
HIDEO HAYASHI, Ex-Officio
JEAN R. LANE, Ex-Officio
MASAO SONE, Ex-Officio
ROBERT O. OHATA, Planning Director
MRS. EVA M. DUPONTE, Secretary

PLANNING AND TRAFFIC COMMISSION
COUNTY OF MAUI

P. O. BOX 1487
KAHULUI, MAUI, HAWAII 96732

December 12, 1963

RECEIVED
DEC 16 1963

State of Hawaii
LAND USE COMMISSION

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

Gentlemen:

Re: Special Permit No. 2, from William S. K.
and Marion F. Brandt, Makena, Maui, Hawaii

The Maui Planning and Traffic Commission, at its meeting of December 11, 1963, voted to approve a special permit to Mr. and Mrs. William S. K. Brandt to construct a beach home, together with the necessary subdivision, to be situated on the makai side of Makena Beach Road, approximately 1,600 feet south of Makena Landing, with the following stipulations:

- (1) That additional water service will not be furnished by the County of Maui;
- (2) That the school bus transportation will not be provided for the new occupants;
- (3) That other services and improvements such as garbage collection and paving of the road would not be approved;
- (4) That the applicant shall not request for these services and improvements and that these stipulations be designated in the transfer deed to the new owners.

The votes were as follows: 7 ayes; none dissenting; none absent.

Land Use Commission - 2
Spec. Per. #2, W.S.K.Brandt

12/12/63

Pursuant to Section 98H-6, Revised Laws of Hawaii 1963 as amended, further approval of your Commission is required. Accordingly, we hereby transmit this decision of the Maui Planning and Traffic Commission together with: (1) Staff Report; (2) Transcript of the public hearing; (3) Affidavit of Publication; (4) Application.

Your early action is requested.

Very truly yours,



ROBERT O. OHATA
Planning Director

Encls.

cc Maui Realty Co., Ltd.
cc Mr. Charles Ota

MAUI PLANNING AND TRAFFIC COMMISSION
PUBLIC HEARING
SPECIAL USE PERMIT - ACT 205, S.L.H. 1963
Tuesday, November 26, 1963

RECEIVED

DEC 16 1963

APPLICATION NO. 2
(William S. K. and Marion F. Brandt)

State of Hawaii
LAND USE COMMISSION

The public hearing on the following request for SPECIAL USE PERMIT under provisions of SECTION 98H-6, REVISED LAWS OF HAWAII 1963, was opened by Vice-Chairman Kazuo Kage, in the absence of the regular chairman, Joseph S. Medeiros, at 1:37 p.m. on Tuesday, November 26, 1963, in the Board of Supervisors Chambers, Wailuku, Maui, Hawaii:

MAKENA, MAKAWAO DISTRICT, MAUI

Construction of beach home for weekends and holidays, together with two-lot subdivision therefor, to be situated on the west side (makai side) of Makena Beach Road and approximately 1,600 feet south of Makena Landing, Tax Map Key 2-01-07:61.

Applicant: William S. K. and Marion F. Brandt

Area: Approximately .50 acre

Members of the Maui Planning and Traffic Commission present did not constitute a quorum. (See record of attendance.)

The Director read the "Notice of Public Hearing", a copy of which is hereto annexed and made a part hereof with "Affidavit of Publication" published in the Maui News, a newspaper published and circulated in the County of Maui, being the County in which said Commission is located, on November 6, 1963, as required by Section 98H-6 of Act 205, S.L.H. 1963.

The Secretary read the Special Use Permit Application dated October 15, 1963, attached hereto and made a part hereof, signed by William S. K. Brandt and Marion F. Brandt.

From proposed subdivision maps of the parcel submitted by Mr. Brandt, the Director explained that this parcel is on the south side of the Abner De Lima parcel, which application for special use permit to subdivide to weekend beach home use was granted by the Land Use Commission on March 28, 1963. The Director informed commissioners that since action on this application could not be taken earlier than 15 days after the public hearing, the required staff report was not prepared but will be distributed at the next Planning Commission meeting scheduled for December 10, 1963. However, as requested by Representative Elmer Cravalho at a recent Planning Commission meeting, he contacted the Soil Conservation Service regarding soil classification of this particular parcel of land and was told that it is classified as "non-productive."

There were no letters of approval as of 12:45 p.m. this date.

There were no letters of protest as of 12:45 p.m. this date.

The Vice-Chairman then opened the public hearing for testimony.

Speaking for the granting of the Special Use Permit were:

MR. DOUGLAS SODETANI, Assistant Manager, Maui Realty Company, Ltd., Wailuku, Maui, representing the applicants William K. and Marion F. Brandt, and interested purchaser of one lot should special use permit be granted, Mrs. Maud Milne of Kula, Maui: "As the application states, this present lot is too large for applicant to use. Furthermore, since said parcel is not now being used for agriculture nor has it ever been used for agriculture, the best use I can think of is a weekend beach home. One of the applicants, Mrs. Maud Milne, has asked Mr. Albert E. Ives, Honolulu

11/26/63

Architect, to prepare a very beautiful beach home so that it will not be a tumble-down shack whereby it would create a menace or a nuisance in that particular area. It is my opinion that such a plan by Mr. Ives will make the esthetic value of the surrounding area much better.

"Mrs. Milne has also gone around and gotten the signatures from surrounding property owners so that there would not be any encumbrances to the property. It should not be a detriment to surrounding property owners. The applicants realize they would not be demanding any services or improvements from the State nor the County of Maui. Therefore, should the Commission in their wisdom grant approval of the special use permit it would be certainly a great help to the surrounding area and the County of Maui. My information is brief as most of it is submitted in the application. Thank you for letting me appear before you. If there are any questions I will be happy to answer."

The Vice-Chairman asked Mr. Sodetani to clarify his statement with regard to mention of Mrs. Maud Milne as one of the applicants when no mention is made of Mrs. Milne in the application. Mr. Sodetani replied that Mrs. Milne has negotiated to purchase the second lot contingent upon Land Use Commission approval of special use permit.

DIRECTOR OHATA: "I see both Mrs. Milne and Mr. Brandt. Are they going to make any statements?"

MR. SODETANI: "No, I don't believe so."

DIRECTOR OHATA: "The law provides under special permit that the request must be unusual and reasonable. I can see where the request is reasonable, but in the area of unusual what would you think?"

MR. SODETANI: "It is unusual in this respect. That the surrounding area is in beach homes. Not many people are there at the present time. This, perhaps, makes it unusual in that that property cannot be used for anything else. To let property idle is a sin and a crime. You are depriving someone of the use."

CHIEF JEAN LANE: "If this permit is granted will Mr. Brandt be able to sell or lease adjoining property?"

DIRECTOR OHATA: "Yes. Both properties will be for weekend purposes."

No one else spoke for the granting of the special use permit.

No one spoke against the granting of the special use permit.

The Vice-Chairman informed the applicants that the matter would be taken under advisement with action to be taken at the next regular meeting of December 10, 1963, since Section 98H-6 of Act 205, S.L.H. 1963, provides that "The planning commission...shall act on such petition not earlier than 15 days after the public hearing."

The Vice-Chairman closed the public hearing at 2:00 p.m.

Eva M. Duponte
EVA M. DUPONTE
Planning Reporter

11/26/63

RECORD OF ATTENDANCE:

Present: Mr. Kazuo Kage, Vice-Chairman, presiding
Mr. Willard Eller, Member
Mr. William Hong, Member
Mr. Koichi Hamada, ex-officio
Mr. Jean R. Lane, ex-officio

Absent: Mr. Joseph S. Medeiros, Chairman
Mr. Yoshikazu Matsui, Member
Mr. Masao Nagasako, Member
Mr. Robert Ueoka, Member
Mr. Hideo Hayashi, ex-officio
Mr. Masao Sone, ex-officio

In Attendance:

Mr. Robert O. Ohata, Planning Director
Mr. Robert Johnson, Honolulu Advertiser
Mr. Charles Young, Honolulu Star-Bulletin
Mr. Bill Takiguchi, Maui News
Mr. William S. K. Brandt
Mrs. Maud Milne
Mr. Douglas Sodegami

INSTRUCTIONS:

- 1. To be filed in triplicate.
- 2. Use black ink or typewriter with black ribbon.
- 3. Use additional sheets if necessary.

MAUI PLANNING & TRAFFIC COMMISSION
 P.O. BOX 1487, KAHULUI, HAWAII

APPLICATION FOR SPECIAL PERMIT
 Special Permit is hereby requested:

DO NOT WRITE IN THIS SPACE

Appl. & fee received	<u>10/15/1963</u>
Notice published	<u>11/6/63</u>
Public hearing	<u>11/26/63</u>
Recommendation to LUC	<u>12/11/63</u>
Action by State LUC	_____
County & Appl. notified	_____

- A. Description of Property: (1) Tax Map Key No. 2-01-7-61 (K-2B)
 (2) Lot Area 0.50 acres (3) Location Makena, District of Makawao, County of Maui, State of Hawaii
- B. Ownership: (1) Owner's name William S. K. Brandt and Marion F. Brandt
 (2) Lessee's name none (3) Unexpired term _____ years
- C. Request: (1) State request briefly and exactly: approval to subdivide present lot into two separate parcels of not less than 10,000 square feet each; and that the use of the parcel be strictly for beach home, used during weekends and holidays.

(2) Reasons justifying granting of request: present lot is too large for applicant to use. Said parcel is not now being used for agriculture, nor has it ever being used for agricultural or farm purpose at any tim in the past. It is now a waste land and has no other possible, other than a beach home. Applicant will not demand any services or improvements from any governmental agencies nor from the County of Maui. By the improvements of the said lot it would increase the assessed valuation of the lot and its surrounding area, bringing additional income to the County of Maui, without the county providing any additional service

- D. Applicant: (1) Name William S. K. Brandt and Marion F. Brandt (~~Brandt~~)
 (2) Address Waiekoa, Kula, Maui, Hawaii (3) Telephone 783 683
 (4) Signature W^m S. K. Brandt Marion F. Brandt

E. Planning Commission action: _____ Date _____ Vote: _____
 ayes noes

Reasons: _____

F. State Land Use Commission's action: _____ Date: _____

G. Copies to: State LUC _____ Supervisors _____ Applicant _____ Owner & Lessee _____

December 5, 1963

RECEIVED

DEC 16 1963

TO: Maui Planning and Traffic Commission

FROM: Planning Director Robert O. Ohata

SUBJECT: Staff Report on Special Use Permit Application No. 2,
from William S. K. and Marion R. Brandt.

State of Hawaii
LAND USE COMMISSION

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The petitioner would like to convey half of his property, approximately 10,000 feet, and retain the remainder of 13,500 square feet. The frontages of the lot would be sub-standard in that one lot would have 38 foot frontage and the other 61 foot frontage. The intended purchaser of the lot will construct a beach home solely for use during weekends and holidays. Accordingly, no request for additional services will be made to the County.

The request is made under an unusual precedent. The lot adjacent to this, owned by Mr. Abner DeLima, requesting subdivision of a similar small lot was approved by the State Land Use Commission with recommendation from the local Planning Commission. All circumstances appear to be similar. The one difference is that the prior approval was made on the basis of special permit under Act 187 when no provision for rural zone was provided. Subsequently, Act 187 was amended by Act 205 providing for a rural zone. The Commission and the staff feels that this is a desirable rural zone and recommendation as such was made to the State Land Use Commission. This is not final and the present classification of agriculture still prevails.

The staff feels that it would be presumptuous on our part to assume that rural zone will be added. Rather, we should consider the facts as they exist at the present time. This means that the zoning is agriculture, and that the request is for two beach homes on a half acre lot. The Director feels that in spite of the circumstances surrounding this particular case, recommendation of approval of the special permit is hereby given on the basis that precedent for beach home has been made and that a rural classification has not come into effect. The approval of a special permit shall be made with strict and stringent stipulations stating that the County will not be requested to furnish any service for increase of water mains, improvement to the roadway, garbage collection, or school transportation. It is also recommended that whatever deed or transfer document will contain these specific stipulations so that subsequent owners would be bound by the same stipulations.

Robert O. Ohata

ROBERT O. OHATA
Planning Director

December 5, 1963

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ROBERT O. OHATA
Planning Director

December 5,

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DEC 16 1963

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Robert O. Ohata

ROBERT O. OHATA
Planning Director

AFFIDAVIT OF PUBLICATION

RECEIVED

DEC 16 1963

State of Hawaii
LAND USE COMMISSION

STATE OF HAWAII, }
County of Maui. } ss.

..... Rose Hill being duly sworn
deposes and says, that he is Adv. Traffic Clerk of the
Maui Publishing Co., Ltd., publishers of the MAUI NEWS, a newspaper
published in Wailuku, County of Maui, State of Hawaii; that the or-
dered publication as to NOTICE OF PUBLIC HEARING

..... SPECIAL USE PERMIT

of which the annexed is a true and corrected printed notice, was
published 1 times in the MAUI NEWS, aforesaid, commencing
on the 6th day of November, 1963, and ending
on the 6th day of November, 1963, (both days
inclusive), to-wit: on
November 6, 1963.....

and that affiant is not a party to or in any way interested in the above
entitled matter.

Rose Hill

Subscribed and sworn to before me this
6th day of Nov. A. D. 1963.....

[Signature]
Notary Public, Second Judicial
Circuit, State of Hawaii.
My Commission expires April 25, 1966

NOTICE OF PUBLIC HEARING
SPECIAL USE PERMIT

NOTICE IS HEREBY GIVEN of a public hearing to be held
by the County of Maui Planning and Traffic Commission in the
Chambers of the Board of Supervisors at the County Building
in Wailuku, on Tuesday, November 26, 1963, at 1:30 p.m. or
soon thereafter as those interested may be heard to consider
the following request for SPECIAL USE PERMIT under pro-
visions of SECTION 98H-6, REVISED LAWS OF HAWAII 1955,
1961 SUPPLEMENT, as amended by Act 205, Session Laws of
Hawaii 1963:

MAKENA, MAKAWAO DISTRICT, MAUI
Construction of beach home for weekends and holidays,
together with two lot subdivision therefor, to be situ-
ated on the west side (makai side) of Makena beach
road and approximately 1600 feet south of Makena
Landing, Tax Map Key 2-01-07:61.

Applicant: William S. K. and Marion R. Brandt
Area: Approximately .50 acre

Sketch showing the general location is on file in the office of
the County of Maui Planning and Traffic Commission at Naska,
Kahului, Maui, Hawaii, and is open to the public for inspection
during office hours.

All protests against the SPECIAL USE PERMIT should be
filed in writing to said Commission, P. O. Box 1487, Kahului,
Maui, Hawaii before the date of the public hearing or presented
in person at the time of the public hearing.

MAUI PLANNING AND TRAFFIC COMMISSION
JOSEPH MEDEIROS, JR., Chairman
By Robert O. Ohata
County Planning Director

(MN: November 6, 1963)

December 5,

RECEIVED

DEC 16 1955

State of Hawaii
LAND USE COMMISSION

TO: Maui Planning and Traffic Commission

FROM: Planning Director Robert O. Ohata

SUBJECT: Staff Report on Special Use Permit Application No. 2,
from William S. K. and Marion R. Brandt.

This special use permit request is under provision of the State Land Use Law for the approval of a beach home together with necessary subdivision. The parcel in question is situated on the makai side of the Makena Beach Road, approximately 1,600 feet south of Makena Landing. The lot is presently vacant and is 23,900 square feet in area with a frontage of 99 feet. The land is considered non-productive by the Federal Soil Conservation Service who were consulted.

The petitioner would like to convey half of his property, approximately 10,000 feet, and retain the remainder of 13,500 square feet. The frontages of the lot would be sub-standard in that one lot would have 38 foot frontage and the other 61 foot frontage. The intended purchaser of the lot will construct a beach home solely for use during weekends and holidays. Accordingly, no request for additional services will be made to the County.

The request is made under an unusual precedent. The lot adjacent to this, owned by Mr. Abner DeLima, requesting subdivision of a similar small lot was approved by the State Land Use Commission with recommendation from the local Planning Commission. All circumstances appear to be similar. The one difference is that the prior approval was made on the basis of special permit under Act 187 when no provision for rural zone was provided. Subsequently, Act 187 was amended by Act 205 providing for a rural zone. The Commission and the staff feels that this is a desirable rural zone and recommendation as such was made to the State Land Use Commission. This is not final and the present classification of agriculture still prevails.

The staff feels that it would be presumptuous on our part to assume that rural zone will be added. Rather, we should consider the facts as they exist at the present time. This means that the zoning is agriculture, and that the request is for two beach homes on a half acre lot. The Director feels that in spite of the circumstances surrounding this particular case, recommendation of approval of the special permit is hereby given on the basis that precedent for beach home has been made and that a rural classification has not come into effect. The approval of a special permit shall be made with strict and stringent stipulations stating that the County will not be requested to furnish any service for increase of water mains, improvement to the roadway, garbage collection, or school transportation. It is also recommended that whatever deed or transfer document will contain these specific stipulations so that subsequent owners would be bound by the same stipulations.

Robert O. Ohata

ROBERT O. OHATA
Planning Director

December 5, RECEIVED

DEC 13 1963

State of Hawaii
LAND USE COMMISSION

TO: Maui Planning and Traffic Commission
FROM: Planning Director Robert O. Ohata
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Robert O. Ohata

ROBERT O. OHATA
Planning Director

December 5,

RECEIVED

DEC 7 1967

State of Hawaii
LAND USE COMMISSION

TO: Maui Planning and Traffic Commission

FROM: Planning Director Robert O. Chata

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Robert O. Chata
ROBERT O. CHATA
Planning Director

December 5,

RECEIVED

DEC 13 1965

State of Hawaii
LAND USE COMMISSION

TO: Maui Planning and Traffic Commission

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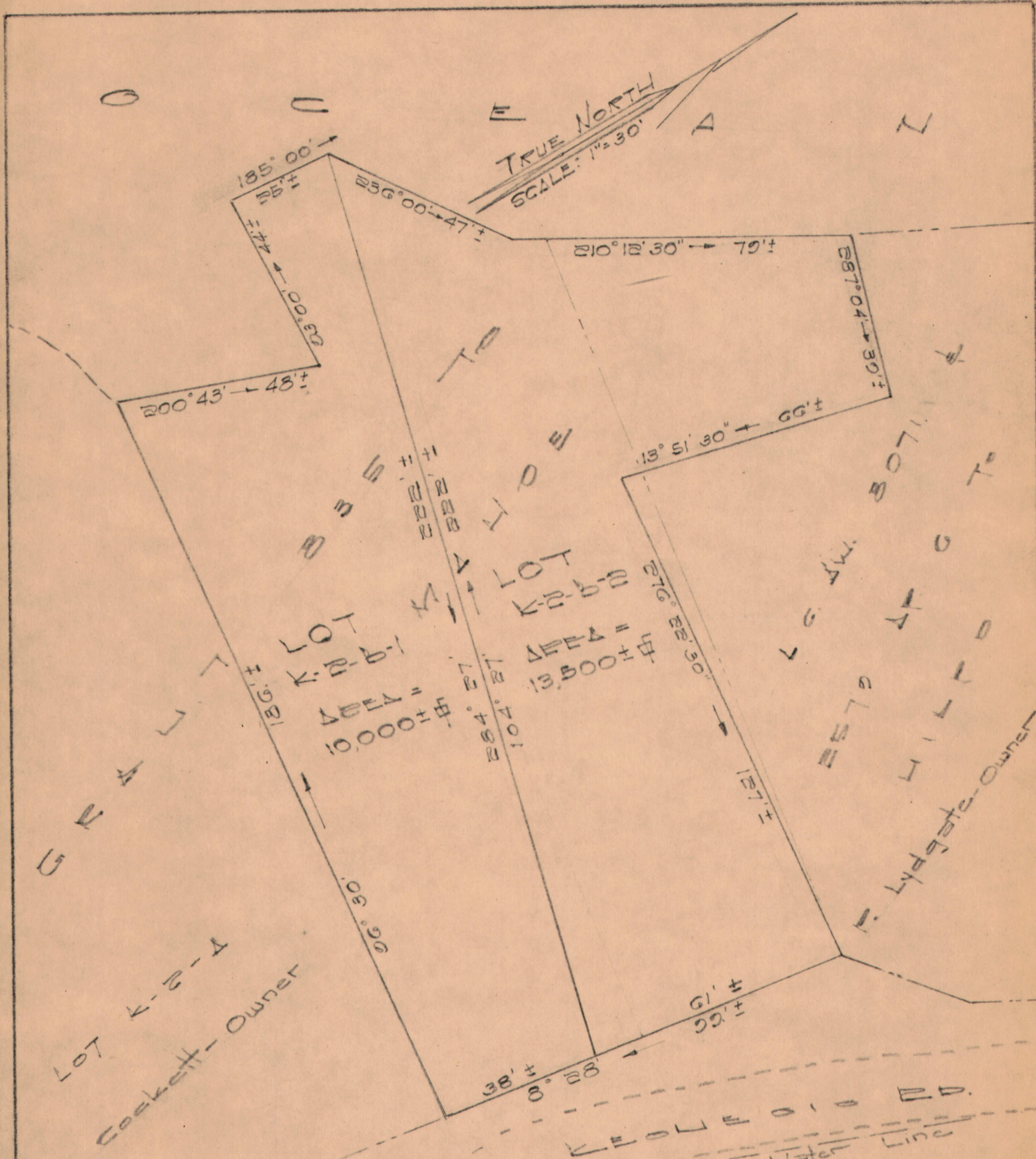
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Robert O. Chata

ROBERT O. CHATA
Planning Director



LOT K-2-A
G. Coakett - Owner

LOT K-2-B-1
AREA = 10,000 ± sq ft

LOT K-2-B-2
AREA = 13,500 ± sq ft

L.G. & W. 3071
L. G. & W. 3071 - Owner

MAKELL
PRELIMINARY MAP
BRANDT SUBD.

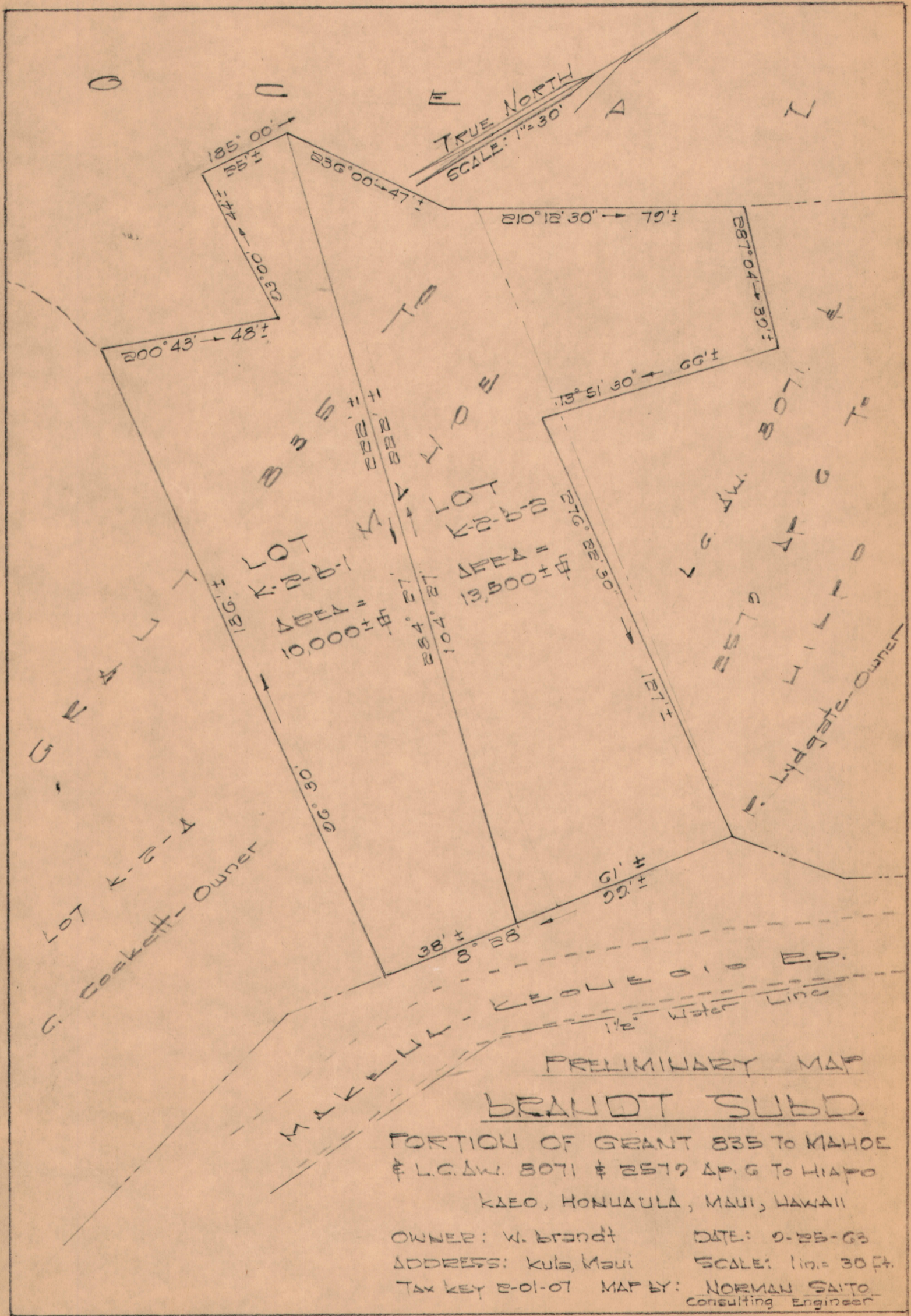
PORTION OF GRANT 835 TO MAHOE
& L.G. & W. 3071 & 2579 A.P.G TO HIAPU
KAE0, HONUAULA, MAUI, HAWAII

OWNER: W. Brandt
ADDRESS: Kula, Maui
TAX KEY B-01-07
DATE: 9-25-63
SCALE: 1 in. = 30 ft.
MAP BY: NORMAN SAITO
Consulting Engineer

RECEIVED

DEC 16 1963

State of Hawaii
LAND USE COMMISSION



TRUE NORTH
SCALE: 1" = 30'

185° 00' →
35' ±
100.00 ±

236° 00' → 47' ±

210° 12' 30" → 79' ±

287° 04' → 30' ±

200° 43' → 48' ±

113° 51' 30" → 66' ±

MAHOLE

LOT K-2-B-1
AREA = 10,000 ± sq ft

LOT K-2-B-2
AREA = 13,500 ± sq ft

L.G. & W. 8071

W. BRANDT
OWNER

LOT K-2-A
G. Coakett - Owner

38' ±
8' 28"

61' ±
29' ±

KEOLE OLE RD.
1/2" Water Line

PRELIMINARY MAP
BRANDT SUBD.

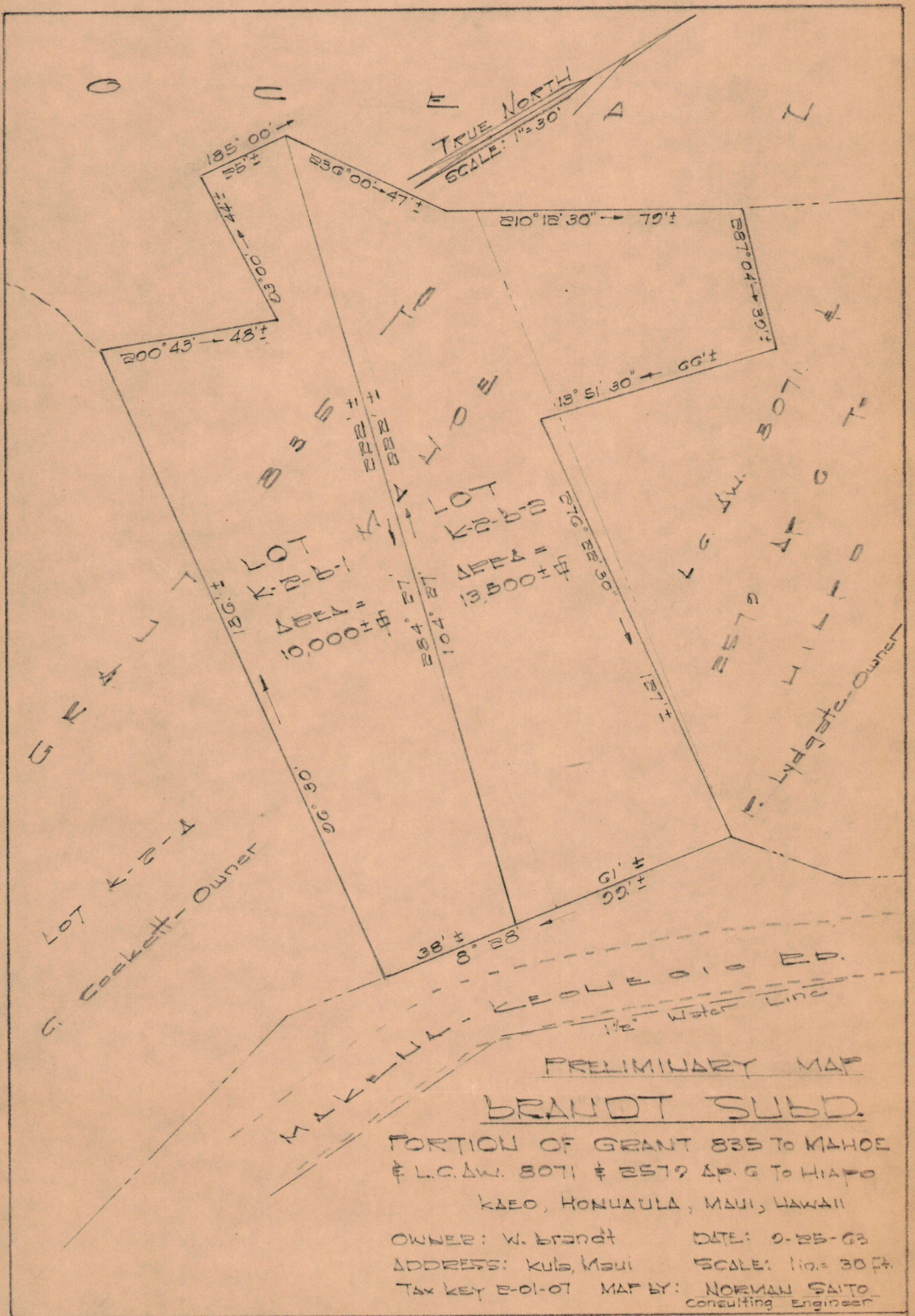
PORTION OF GRANT 835 TO MAHOLE
& L.G. & W. 8071 & 2579 A.P.G TO HIAPU
KAEU, HONUAULA, MAUI, HAWAII

OWNER: W. Brandt DATE: 9-25-63
ADDRESS: Kula, Maui SCALE: 1" = 30 ft.
TAX KEY B-01-07 MAP BY: NORMAN SAITO
Consulting Engineer

RECEIVED

DEC 16 1963

State of Hawaii
LAND USE COMMISSION



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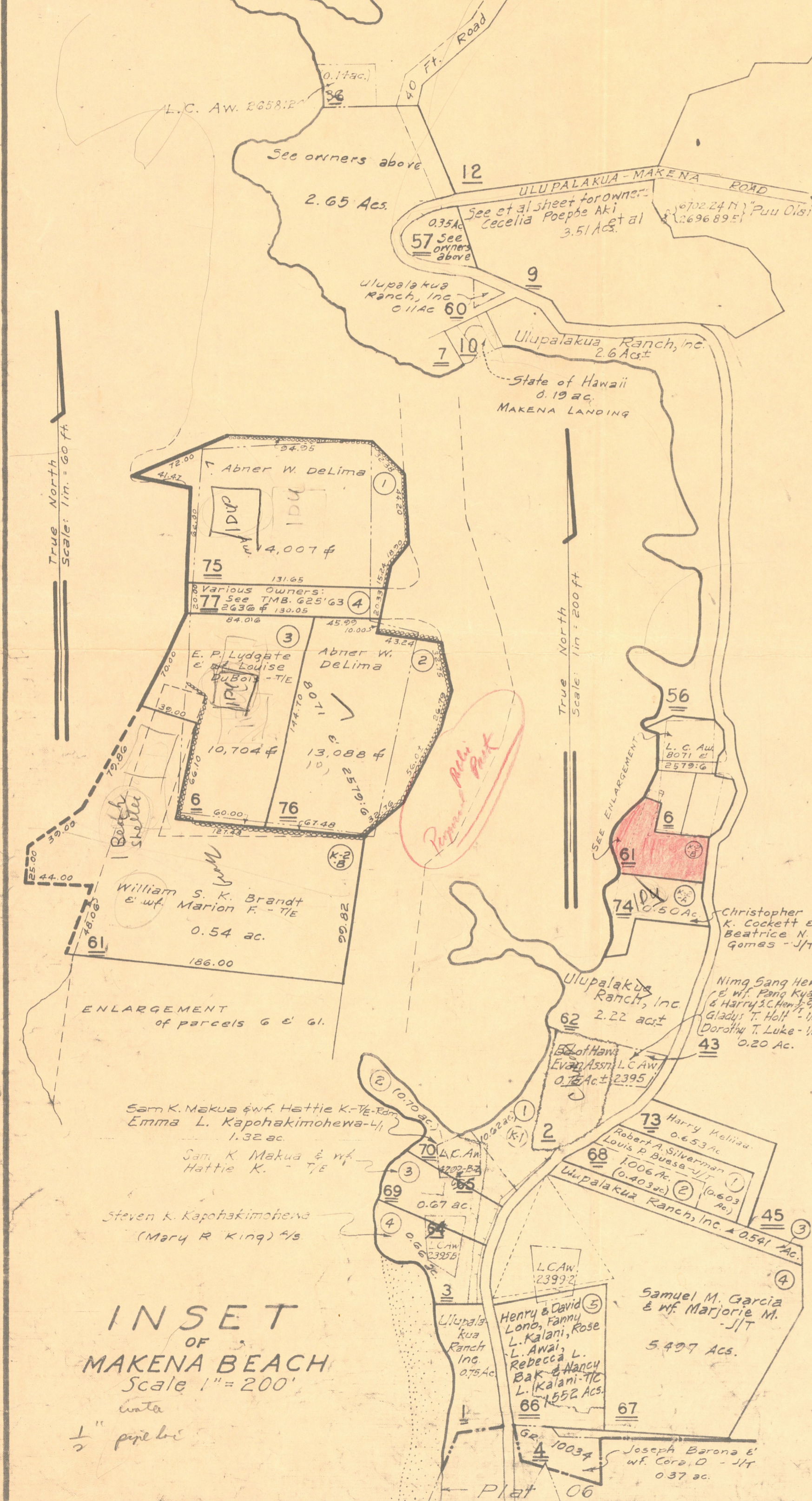
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State of Hawaii
LAND USE COMMISSION

Owners of Parcels 7 & 57
 Kamaka Kuhaulua 30/594
 Josephine K. Mahele 30/594
 Kauwekane 30/594
 John Aweloa 15/594
 Haehae Kukahiko 41
 Yvonne H. Malina Trust 144/594
 Lily Malina - Tr Jrdm
 Harry Aweloa 15/594
 Koali A. Poepoe 15/594
 William H. Aweloa, Jr., Dec'd 15/594
 Wallie Aipelena 5/594
 Helen Peters 5/594
 Malia Nakoia Est 15/594
 Helen K. Plunkett - 144/594
 Rebecca Keala - 90/594
 John M. Kukahiko 30/594
 William Aipelena - 5/594



INSET OF MAKENA BEACH
 Scale 1" = 200'
 1/2" pipe



ALL IN A

UNLOCATED IN KEAUAHOU

Par.	L.C.A.W.	Apna	Area	Owner
20	4155	142	4.13 acs	Wm Allen & Kuleka Kahalahiwa
21	5262	2	16.64 "	DROPPED INTO PAR. 13
22	5331	2	7.43 "	" " " 13
23	5429	1	15.50 "	DROPPED INTO PAR. 13
24	"	2	10.05 "	" " " 13
25	"	3	10.13 "	" " " 13
26	5402B	1	0.60 "	" " " 13
27	5455	1	0.14 "	Ulu Palakua Ranch, Inc.
28	"	5	10.37 "	" " " 13
29	2529	1	3.53 acs	" " " 13

UNLOCATED IN PAPAANUI

Par.	L.C.A.W.	Apna	Area	Owner
2505		10.11 acs		Ulu Palakua Ranch, Inc.
2506		10.08 acs		DROPPED INTO PAR. 13

UNLOCATED IN KAE O

Par.	L.C.A.W.	Apna	Area	Owner
2401		10.67 acs		Ulu Palakua Ranch, Inc.
2581		10.24 acs		DROPPED INTO PAR. 13
2676		10.32 acs		DROPPED INTO PAR. 13
2928B		7.53 acs		DROPPED INTO PAR. 13

UNLOCATED IN KALIHU

Par.	L.C.A.W.	Apna	Area	Owner
2525		10.03 acs		DROPPED INTO PAR. 13
2569		10.39 "		" " " 13
2614		10.31 "		" " " 13

UNLOCATED IN WAIPA O

Par.	L.C.A.W.	Apna	Area	Owner
2380		10.26 acs		DROPPED INTO PAR. 13
2403		10.11 "		" " " 13
2430		10.17 "		" " " 13
2611		10.25 "		" " " 13
2662		10.09 acs		DROPPED INTO PAR. 13
2665		10.12 acs		Ulu Palakua Ranch, Inc.
2693		10.05 acs		DROPPED INTO PAR. 13
2905		10.10 "		" " " 13

UNLOCATED IN WAHIKULI

Par.	L.C.A.W.	Apna	Area	Owner
2466		10.08 acs		DROPPED INTO PAR. 13
2551		10.14 acs		" " " 13

▲ 'Puu Oia'i'
 Charles M. Kamaka
 Abraham K. Kamaka
 Rachel N. K. Uu
 Annie E. K. Morita
 John K. Kamaka, Jr.
 Joseph K. Kamaka
 Thelma K. Chung
 Lucy K. Cooper
 William K. Kamaka
 Henrietta K. Kamaka
 Ronald K. Kamaka
 Ulu Palakua Ranch, Inc. (Und.)

Tax Maps Branch
 Tax Office Bldg.
 Honolulu, Hawaii

49, 54, 55, 56
 22, 30, 31, 32, 33, 34, 35, 39, 40, 42
 Dropped Par. 8-11-27-28-38-41-44-
 64, 65, 76-77-50-53, 26, 36, 48, 51

SECOND	DIVISION
ZONE	PLAT
2	107
CONTAINING PARCELS	
SCALE: 1 in = 1000 ft.	

ADVANCE SHEET
 SUBJECT TO CHANGE

Dwg No. 2011
 By: D.S.C. - J.S. - May 4, 1934
 Source: Tax Maps Bureau