

CARL SMITH, Donn W.

SP(T)63.9

Ref. No. LUC 202

March 24, 1964

Mr. Edgar Hamano
Planning Director
Planning & Traffic Commission
County of Hawaii
Hilo, Hawaii

Dear Mr. Hamano:

In a meeting on March 20, 1964, the Land Use Commission voted to approve the special permit application of Mr. Donn Carlsmith to subdivide and deed 38,160 square feet of Hawaii tax map key 2-7-10: 5 (10.84 acres) together with a dwelling and a roadway easement thereon, to a prospective buyer.

It is requested that notice of this approval by the Land Use Commission be served to the petitioner along with such awards and conditional awards as you may have elected to make.

Should you have further questions, please feel free to contact us.

Very truly yours,

RAYMOND S. YAMASHITA
Executive Officer

cc: Mr. Myron Thompson
Mr. Roy Takeyama
Mr. Donn Carlsmith

Ref. No. LUC 177

March 10, 1964

Mr. Donn Carlsmith
c/o Planning & Traffic Commission
County of Hawaii
Hilo, Hawaii

Dear Mr. Carlsmith:

This is to inform you that the Land Use Commission of the State of Hawaii will meet on March 20, 1964 from 2:00 p.m. to 5:00 p.m. in the Land Use Commission hearing room, 426 Queen Street, Honolulu, Hawaii.

Your application for a special permit (which action was deferred by the Commission February 28, 1964 in Honolulu), has been placed on the Commission's agenda for consideration at this meeting. Final action may be taken at this time.

Very truly yours,

RAYMOND S. YAMASHITA
Executive Officer

cc: Mr. Myron Thompson
Mr. Roy Takeyama
Hawaii Planning & Traffic Commission

Ref. No. LUM 165

March 9, 1964

Mr. Edgar Nomasu
Planning Director
Planning & Traffic Commission
County of Hawaii
Hilo, Hawaii

Dear Mr. Nomasu:

The Land Use Commission, in a meeting on February 28, 1964, voted to defer action on the request of Mr. Donn Carlsmith for a special permit. The Commission desired additional time to study and discuss standards for special permits before taking action on the Carlsmith petition. However, the Commission will take action on the petition prior to the legal deadline on March 27, 1964.

Very truly yours,

RAYMOND S. YAMASHITA
Executive Officer

REN/en

cc: Mr. Myron Thompson
Mr. Roy Takayama
Mr. Donn Carlsmith

in-suitability for agricultural use.
use of land will not be changed
not adding any new dwellings

STATE OF HAWAII
LAND USE COMMISSION

VOTE RECORD

ITEM SP(T)63-9) Calamint
DATE 3/20/64
PLACE LUC Hearing Room
TIME _____

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

COMMENTS: Motion to approve by Wung.
Sec - Allenham -
Motion carried.

STATE OF HAWAII
LAND USE COMMISSION

VOTE RECORD

ITEM SPCT/63-9 (Carlsmith)
DATE 2/28/64
PLACE LUC Hearing Room
TIME _____

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:

approved

STATE OF HAWAII
LAND USE COMMISSION

LUC Hearing Room
Honolulu, Hawaii

1:00 P. M.
February 28, 1964

STAFF REPORT

Subject: DONN W. CARLSMITH Petition (SP(T)63-9) for Special Permit to "subdivide and deed 38,160 sq. ft. together with a dwelling and a roadway easement thereon to a prospective purchaser." TMK 2-7-10:5, 10.84 acres, situated at Onomea, South Hilo, Hawaii.

Background

The Planning and Traffic Commission of the County of Hawaii has referred a report on a special permit application by Mr. Donn W. Carlsmith for the subdivision of approximately 10.84 acres into two lots; one lot measuring 38,160 sq. ft. (.88 acre), and the other measuring about 9.96 acres. The petitioner wishes to deed the proposed 38,160 sq. ft. lot, "together with a dwelling and a roadway easement thereon, to a prospective purchaser."^{1/}

The property in question (TMK 2-7-10-5) is situated on a 250 ft. cliff overlooking beautiful Onomea Bay.^{2/} It extends down to the old Hamakua coast road. Between the Hamakua coast road and Onomea Bay is another cliff or ledge which extends down to the rocky beach of Onomea Bay. All of the land between the subject property where the existing dwelling is situated down to the shoreline is in verdant forest growth.

Immediately to the north and adjacent to the property in question is another piece of land owned by the petitioner. It has an area of 2.217 acres and there are two dwellings on the premises. The staff presumes that Mr. Carlsmith

^{1/} The staff thinks that the prospective purchaser is a Mr. David Larsen who is presently residing on the property which is to be subdivided.

^{2/} U.S.G.S., Topographic Map of the Island of Hawaii, 1:125000, 1944.

lives in the larger dwelling while the smaller residence is used as a guest house. To the south of the petitioner's property is a large gulch through which the Onomea stream flows into the emerald green waters of Onomea Bay. The surrounding lands are owned by Onomea Sugar Company. Standing from the subject property, one can see hundreds of acres of sugar cane fields.

The property in question has a large single family house with a two car garage on the premise. Nearby is a green house used by the residents for horticultural activities. Both of the petitioner's lots are situated on a promontory location which commands a spectacular view of Onomea Bay and the Pacific Ocean. Since a portion of the petitioner's property is used for residential purposes, the remaining portion of approximately 9.96 acres is used for grazing. Field investigation showed a few heads of cattle grazing on the property. The 9.96 acres is fenced in to prevent the cattle from wandering off into the adjacent sugar cane fields. Approximately 3/4 mile away from the Carlsmith property is the Onomea plantation camp. There are about 47 houses located in the camp. This camp has been in existence for over 40 years and is serviced by power and water lines.^{1/} Access to the camp is by a paved road which originates at a junction along the new Hamakua coast highway. This is the paved road that leads to and ends at the Carlsmith properties.

The Land Study Bureau has classified a portion of the Carlsmith property as unsuited for intensive agriculture.^{2/}

^{1/} Oral interview with a person working in a ginger processing shed at Onomea camp.

^{2/} A general soil classification survey conducted by Land Study Bureau in 1959. The portion of the subject property that is classified as unfit for intensive agriculture is the area between the old Hamakua coast road and the area where the existing dwelling is situated. The staff presumes that the grazing area can be used for cane lands because of its relative flatness.

The surrounding lands have been classified as moderately suited for intensive agriculture (Class B lands). Rainfall in the general vicinity is below 150" a year.^{1/} The slope of land is approximately 7%.^{2/} Traveling distance from the general vicinity of the petitioner's property to the urban area of Hilo is approximately seven miles. According to an official of the Hawaii County Planning Department, Mr. Carlsmith's properties are serviced by a 1½" water line from the Onomea Sugar Company's water system. In addition to domestic water, electric power lines extend up to the petitioner's properties.

The Belt-Collins Plan for the Hilo Metropolitan Area recommends that the subject parcel and the surrounding lands remain in "essential agriculture."^{3/} However, the State General Plan shows a portion of Onomea as residential surrounded by open land and forest reserve and plantation type agriculture.^{4/} Staff review of these plans substantiates these observations.

On January 20, 1964, the Hawaii Planning and Traffic Commission granted the petitioner's request for a special permit on the basis of the following findings:

- "1. A structure, a single-family residential unit has existed on said lot for over 60 years; consequently, the use thereof has not and will not be agriculture in nature as such there is (sic) exceptional circumstances involved in the subject property which generally do not apply to the surrounding agricultural land.
2. Said lot as well as the adjacent lot, 2.217 acres, are owned by the applicant and contains two houses built also about 60 years ago, and are provided with water, electricity, telephone and paved access; consequently, despite its isolated location it is a reasonable use.
3. No request is being made to create additional house lots nor to change the zoning of surrounding land; as such the request, if granted, will not be materially detrimental or injurious to improvement or property rights related to property in the surrounding area."

1/ State Planning Office, The General Plan of the State of Hawaii, 1961.

2/ U.S.G.S., Topographic Map of the Island of Hawaii, 1:125000, 1944.

3/ Belt, Collins & Associates, Ltd. A Plan for the Metropolitan Area of Hilo, 1961.

4/ Op. Cit., pg. 79.

The County's grant to the petitioner would be subject to the following conditions:

- "1. Said parcel shall not be further resubdivided until such time that the surrounding area is developed substantially with urban uses.
2. Said parcel and the dwelling unit thereon shall be kept neat and attractive with plants, hedges, shrubberies and adequate maintenance in order to blend with the surrounding agricultural area."

Analysis and Recommendation

Petitions for special permits are based upon "certain unusual and reasonable uses within agricultural and rural districts other than those for which the district is classified." (Emphasis added). As stated on the communication received from the County the purpose of the request is to "Subdivide and deed 38,160 sq. ft., together with a dwelling and a roadway easement thereon, to a prospective purchaser." It appears to staff, after some deliberation, that the statement is most susceptible to an interpretation as a request to approve a subdivision for sale purposes rather than as a request for an unusual and reasonable "use". This does not appear to be the intent of the petition because the petition for special permit is a procedure **related** to land use. Therefore, staff assumes that the petition is a request for residential use of a portion of a 10.84 acre parcel which is now primarily in agricultural or grazing use. (The particular portion, 36,160 sq. ft., is now occupied by a residence but the entire parcel may be considered primarily agricultural as over 10 acres are in grazing use.)

On the above assumption, the staff has considered whether or not the requested residential use is "unusual and reasonable" and finds that the use is not unusual. Approval would, in fact, constitute spot zoning for an urban use, or intensification of residential use in an agricultural district, which has no basis in the land use legislation. Should this petition be approved, there

would be little justification for denying similar future petitions and effective control over scattered developments would be lost.

Staff has considered the fact that there is an existing residence on the subject parcel which might indicate that approval would not actually change the land use in the area at all. Should the future owner of the parcel feel the same as the present owner, than this would be true. However, the attitude of the future owner cannot be determined. Approval of this subdivision would create another lot of record upon which a residence could be constructed. Although not apparently likely at the moment, the subdivision process of this subdivision can be repeated over a period of time until eventually the whole area can become urban.

The County has stated that the "said parcel shall not be further resubdivided until such time that the surrounding area ^{developed} is/substantially with urban uses." Your staff raises the question as to whether or not the prohibition of further resubdivision can be imposed upon the landowner in this case. While prohibition of resubdivision may be valid for other reasons, your staff does not interpret it as "protective restriction" within the purview of Act 205.

Further, petitioner may seek a lesser degree of relief, than now sought, by considering present and currently proposed County ordinances concerned with subdivision within agricultural areas.

On the above bases, staff recommends disapproval of this petition.

Ref. No. LUC 109

February 11, 1964

**Mr. Donn Carlomith
c/o Planning & Traffic Commission
County of Hawaii
Hilo, Hawaii**

Dear Mr. Carlomith:

The Land Use Commission of the State of Hawaii will hold a meeting on the Island of Oahu on February 28, 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,

**DAVIDSON S. YAMASHITA
Executive Officer**

**cc: Mr. Myron Thompson
Mr. Roy Takeyama
Hawaii Planning & Traffic Commission**

COUNTY OF HAWAII
PLANNING AND TRAFFIC COMMISSION

RECEIVED

FEB 11 1964

State of Hawaii
LAND USE COMMISSION SPECIAL PERMIT

Applicant Donn W. Carlsmith
Date of Public Hearing December 16, 1963
Date of Decision January 20, 1964
Meeting Place HRA Conference Room
Date Decision and Findings Forwarded
to LUC February 7, 1964

The Planning and Traffic Commission of the County of Hawaii pursuant to consideration required by the provisions of Act 205, SLH 1963, hereby transmits the decision and findings of the above special permit request to use the following described property:

Portion of Grant 5511 to E. G. Malterre and a portion of L. C. Aw. 7713, R. P. 4475, L. P. 8117, Apana 20 to V. Kamamalu, Onomea, South Hilo, Hawaii. Tax Map Key: 2-7-10-5.

for the following purpose(s);

Subdivide and deed 38,160 square feet, together with a dwelling and a roadway easement thereon, to a prospective purchaser.

The Commission decided to:

Grant the approval of special permit.

on the basis of the following findings:

1. A structure, a single-family residential unit has existed on said lot for over 60 years; consequently, the use thereof has not and will not be agriculture in nature as such there is exceptional circumstances involved in the subject property which generally do not apply to the surrounding agricultural land.
2. Said lot as well as the adjacent lot, 2.217 acre, are owned by the applicant and contains two houses built also about 60 years ago, and are provided with water, electricity, telephone and paved access; consequently, despite its isolated location it is a reasonable use.
3. No request is being made to create additional house lots nor to change the zoning of surrounding land; as such the request, if granted, will not be materially detrimental or injurious to improvement or property rights related to property in the surrounding area.

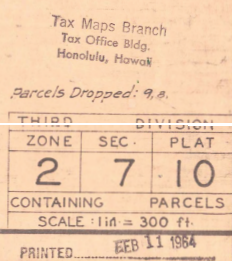
subject to the following conditions:

1. Said parcel shall not be further resubdivided until such time that the surrounding area is developed substantially with urban uses.
2. Said parcel and the dwelling unit thereon shall be kept neat and attractive with plants, hedges, shrubberies and adequate maintenance in order to blend with the surrounding agricultural area.

1 1/2" luo
David
Laven

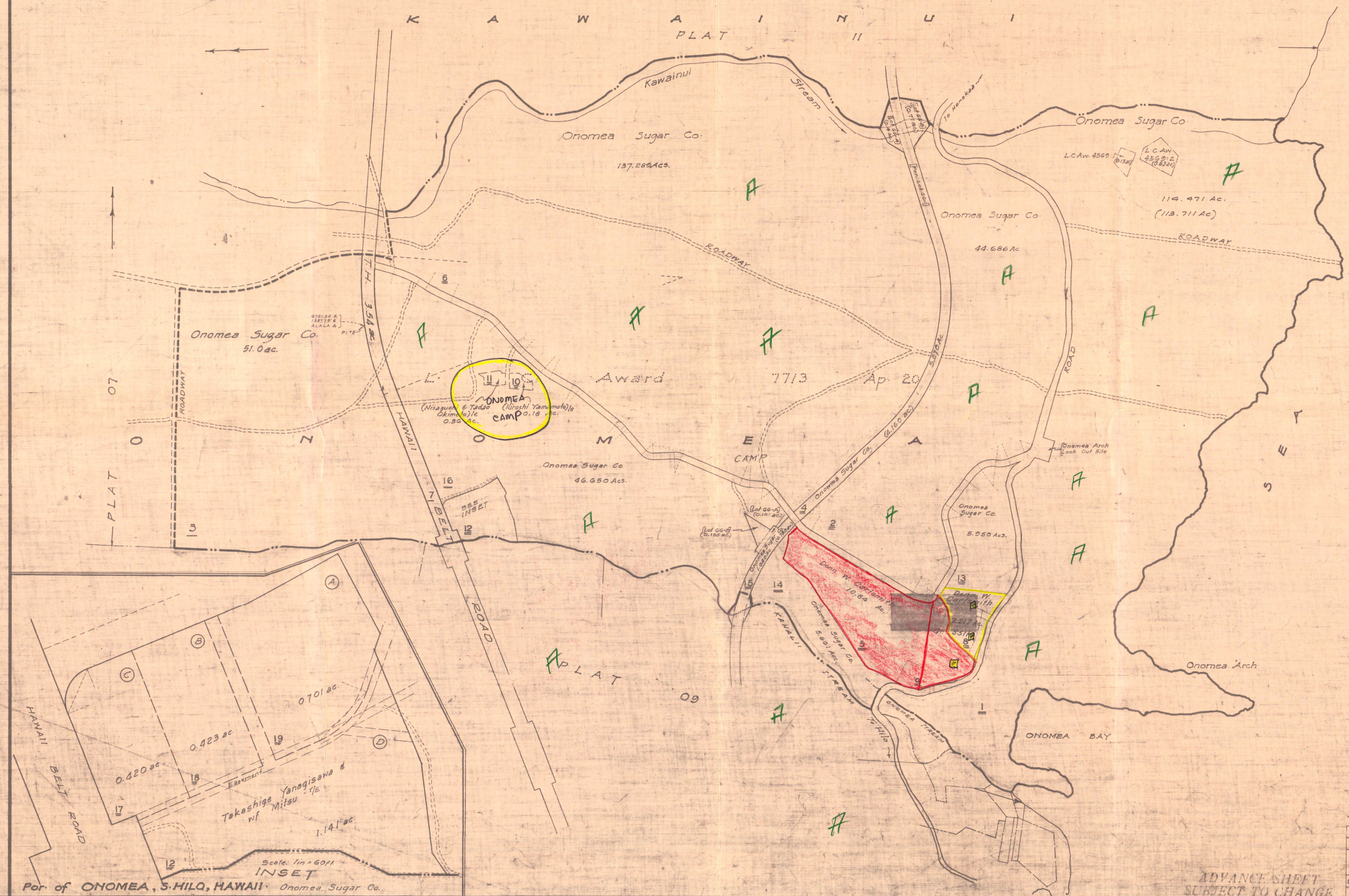
(Signed)

Roger A. Hamana
Director, Planning and Traffic Commission



ADVANCE SHEET
SUBJECT TO CHANGE

APR 20 1945
 AUG 19 1945
 JUN 28 1945
 JUL 5 1946
 FEB 1 1947
 SEP 20 1947
 APR 14 1948
 FEB 20 1950
 JAN 16 1954
 SEP 13 1959
 OCT 2 1964



True North
1" = 300'

Tax Maps Branch
Tax Office Bldg.
Honolulu, Hawaii

parcels Dropped: 9, 8.

THIRD		DIVISION	
ZONE	SEC.	PLAT	
2	7	10	
CONTAINING		PARCELS	
SCALE: 1 in. = 300 ft.			

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