

KIYOSHI & FRANCES MIZUTANI

SP(T)64-1

STATE OF HAWAII
LAND USE COMMISSION

VOTE RECORD

ITEM SP/4-1, Kijochi Kuyutani
 DATE December 18, 1969
 PLACE SP & D Hearing Room
 TIME 3:00 P.M.

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: Comm. Nishimura moved to approve the special permit on the basis that it is contiguous to an urban area & because of the time limit involved in constructing it.
 Comm. Inaba seconded.
 The motion was carried.

STATE OF HAWAII
LAND USE COMMISSION

Minutes of Meeting

LUC Hearing Room

Honolulu, Hawaii

10:30 A.M. - December 18, 1964

Commissioners

Present:

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

Staff

Present:

Raymond S. Yamashita, Executive Officer
Roy Takeyama, Legal Counsel
Richard Mar, Assistant Planner
Amy Namihira, Stenographer

Chairman Thompson called the meeting to order and gave an opening prayer. The Chairman announced that other business would be discussed before taking action on petitions for boundary changes and special permits.

PROPOSED LAND USE COMMISSION BUDGET

Item A. Personnel (Page 1)

The Executive Officer stated that this section of the budget included an added staff position of Senior Planner. There were several bases. First, the Land Use Law was unique in the nation. Therefore, there are little precedences and criteria to follow. Considerable research and analysis are required to develop such criteria for comprehensive state zoning. While the assistant planner position does contribute to present staff productivity, the qualifications of that position are inadequate to serve the higher specific need. In addition, the public's interest can better be protected in cases where the petitioner can afford considerable professional assistance, and in cases where the petitioner can afford the filing fee only. In both cases, the public's interest would be better protected by additional competent staff capacity. Further, more proper attention can be given to the Land Use Commission's concern for a more active public relations program and, incidentally, provide the Land Use Commission with a more flexible staff from an administrative viewpoint.

Commissioner Ota asked if another assistant planner might not meet the need. Commissioner Nishimura felt that the Land Use Commission needed more clerical assistance, instead.

Chairman Thompson felt that the comments were probably related to the question of whether or not the request for the proposed position would be able to get through the legislature. Commissioner Burns stated that the senior planner should have knowledge of land and public relations. Chairman Thompson stated that the duties should be set up for this position. The alternative would be to select a planner who had experience or aptitude in that direction. Another expression was that the assistant planner position is easier to obtain, and therefore that position should be requested. The assistant planner could then be trained to take the responsibilities of a senior planner.

The staff indicated that the request was based on a need for a specific level and type of performance, that there were established job series in Civil Service and that it would take years for an assistant planner to reach the required level of competence.

Commissioner Ota moved to accept Item A (Page 1) of the budget as circulated, and Commissioner Burns seconded the motion.

During discussion on the motion, Commissioner Wenkam felt that since the budget is low, the Land Use Commission should use the money on public relations and education rather than a senior planner.

Upon a call for the question, the Chairman instructed the Executive Officer to poll the Commission. The motion was carried on the following vote:

Approved: Commissioners Wung, Inaba, Ota, Burns, and Chairman Thompson.
Disapproved: Commissioners Wenkam and Nishimura.
Absent: Commissioners Mark and Ferry.

Item B. Supplies (Page 2)

The item of the \$5,000 for consultant fees was discussed by the Commission. The staff stated that this item was related to the expressed concern of the Land Use Commission that certain alleged "agricultural" subdivisions were subverting the Law by shifting prime agricultural lands into non-revenue producing residential uses, and promoting scattered developments. In order for the Land Use Commission to take further action, research and study of the problem is necessary before reasonable action can be taken. One of the principal issues related to this concern is the determination of a reasonable minimum lot for a bona fide agricultural subdivision. To resolve this concern, the services of a competent agriculturist would be most helpful.

The commission queried staff as to the feasibility of requesting assistance from, say, one of the agencies related to the University of Hawaii. Staff indicated that this was the intent. However, no inquiry has yet been made. Since reimbursement to any agency for such time may be required, or the hiring of a part time consultant would be required if any agency does not have adequate time or manpower, the estimated sum of \$5,000 is being requested.

The remaining items were briefly examined and generally found to be more standard in nature.

Commissioner Burns then moved to accept Item B (Page 2) of the budget. Commissioner Nishimura seconded the motion. There being no discussion, the Chairman directed the Executive Officer to poll the Commission. The motion was approved on the following vote:

Approved: Commissioners Wung, Inaba, Ota, Burns, Nishimura
and Chairman Thompson.

Disapproved: Commissioner Wenkam.

Absent: Commissioners Ferry and Mark.

PUBLIC RELATION PROGRAM

Chairman Thompson stated that this program discussion will be taken up at a later date since Mr. Goodfader is leaving for Washington and no one has yet been assigned to the Commission.

Commissioner Wenkam suggested that the Notice of Public Hearing be revised so that the public will be able to understand it more clearly. This is to be followed up by the Executive Officer and Legal Counsel.

SCHEDULE OF HEARINGS

Commissioner Ota suggested that the Land Use Commission should hold one meeting per month. After noting the effect of the time limitations related to the processing of petitions, the Commission agreed to meet about once a month as may be dictated by the timing required for the expeditious processing of pending petitions. The Commission decided to meet next on January 22, 1965 in Hilo.

ADOPTION OF MINUTES

The minutes of November 5, 1964 meeting held in Lihue, Kauai were adopted as corrected (see corrections on file).

PETITION BY MARYANN KAMAHELE (A(T)64-66), FOR AMENDMENT TO THE LAND USE DISTRICT BOUNDARIES FROM AGRICULTURAL TO RURAL TO SUBDIVIDE 5.52 ACRES INTO FOUR 1.220 ACRE LOTS TO BE GIVEN TO HER FOUR DAUGHTERS: Described as TMK 1-5-10: 15, Makuu, Puna, Hawaii

The Executive Officer presented a brief review and summary of the petition, and outlined the area on a map. The County had recommended approval of this petition on the following findings:

- "1. The applicant is desirous to subdivide a 4.881-acre parcel into four 1.220-acre lots. The minimum density in the County of Hawaii of agricultural zoned areas is one house per 3 acres.

- "2. Despite its appearance of "spot zoning," the land use character of rural and agricultural districts is not radically different; hence, the placement of this area into rural zone district will not be materially detrimental to adjacent land which is currently unused, undeveloped land.
- "3. Access is available through an unimproved County road; water system nor electricity is available."

Staff recommended disapproval of this petition on the following summarized bases:

1. The petitioner has not submitted adequate "proof" as required by law.
2. The approval of this petition would be contrary to the intent and purpose of the Land Use Law and as interpreted by the Standards for Determining District Boundaries. The parcel is now appropriately in the Agricultural District.

The Executive Officer stated that approval of this petition would, in addition, be similar to spot zoning.

Commissioner Ota moved to deny the petition on the basis of staff recommendations. Commissioner Wenkam seconded the motion.

The Chairman then directed the Executive Officer to poll the Commission. The motion to deny the petition was carried on the following vote:

Approved: Commissioners Inaba, Ota, Wenkam, Burns, Nishimura and
Chairman Thompson.
Disapproved: Commissioner Wung.
Absent: Commissioners Ferry and Mark.

PETITION BY JOHN G. PEDRA (A(T)64-67), FOR AMENDMENT TO THE LAND USE DISTRICT BOUNDARIES FROM AGRICULTURAL TO RURAL FOR THE PURPOSE OF SUBDIVIDING A PORTION OF PARCEL 11 INTO TWO ONE-HALF ($\frac{1}{2}$) ACRE LOTS: Described as TMK 9-5-12: Portion of 11 containing 1.00 acre, Naalehu, Kau, Hawaii

The Executive Officer presented a review and summary of the petition and outlined the area on a map. This petition is to amend the District Boundaries so that the land use classification of one (1) acre of TMK 9-5-12: 11, Third Division, is changed from Agricultural to Rural. The Hawaii Planning and Traffic Commission voted to recommend approval of the petitioner's request on the following bases:

- "1. The parcels to be created are to be given to the immediate blood relation of the parcel owner.
- "2. Said parcels are located in an area being used for the front yard of the existing structure; as such they never were used for agricultural purposes.

- "3. The land use character between rural and agricultural districts is very similar; consequently despite what may be termed "spot zoning", the rezoning will not incur detrimental effect on adjacent land, in this case used for grazing.
- "4. An existing County road provides access to the lot in question; electricity and water system are available."

Staff recommended denial of this petition on the following summarized bases:

1. There is inadequate proof that the land is "needed for a use other than that for which the district in which it is situated is classified" and that conditions and trends of development have so changed since the adoption of the present classification, that the proposed classification is reasonable.
2. Spot zoning of a one acre site would be contrary to the intent and purpose of State zoning.
3. According to the Standards for Determining District Boundaries, an Agricultural classification of the site is most appropriate.

Commissioner Wenkam felt that he would deny this petition but suggested that the Commission hold a public hearing and reclassify the whole area Rural.

Commissioner Wung moved to approve the petition. Commissioner Burns seconded the motion.

The Chairman then directed the Executive Officer to poll the Commission. The petition was denied on basis of the following vote:

Approved: Commissioners Wung, Inaba, Ota and Nishimura.
Disapproved: Commissioners Wenkam, Burns and Chairman Thompson.
Absent: Commissioners Ferry and Mark.

Referring to Commissioner Wenkam's statement, Chairman Thompson stated that the Commission has the prerogative to rezone the area as a Rural District. Commissioner Wenkam moved that the staff initiate studies to determine the feasibility of rezoning the vicinity of Pedra's lot into a Rural District. Commissioner Wung seconded the motion.

Upon instruction from the Chairman, the Executive Officer polled the Commission. The motion was carried on the basis of the following vote:

Approved: Commissioners Wung, Inaba, Ota, Wenkam, Burns, Nishimura and Chairman Thompson.
Disapproved: None.
Absent: Commissioners Ferry and Mark.

The staff was further instructed by the Commission to inform the petitioner that the Commission is considering the possibilities of redistricting the area into a Rural classification.

PETITION BY DONALD G. KENDALL (A(T)64-68), FOR AMENDMENT TO THE LAND USE DISTRICT BOUNDARIES FROM AGRICULTURAL TO URBAN OF 352 ACRES: Described as TMK 1-4-03: 19 and 20, Puna, Hawaii.

The Executive Officer presented a review of the issues and outlined the area on a map. This petition is to amend the district boundaries, from an Agricultural to an Urban District, for Hawaii TMK 1-4-03: 19 and 20 which include 352 acres. The Hawaii Planning & Traffic Commission recommended the disapproval of this petition on the basis of the following findings:

- "1. Under Act 205, the establishment of urban district is guided by those lands now in urban use and sufficient reserve for foreseeable growth; hence, the above application is for an area not now in urban use despite the thousands of lots now in existence and furthermore, the applicant did not submit sufficient evidence of the urgent need for additional lots to be used for urban purposes.
- "2. The adjacent subdivision - Hawaii Beaches and Hawaiian Parks - has no water system nor other urban utilities and there is no evidence of urban development within said subdivision.
- "3. An urban-sized lot subdivision of 352 acres without sufficient evidence of demand and without assurance of minimum urban-type improvements such as water system, electricity and County standard roadways, will incur added burden on the County Government for public services such as fire and police protection, and school bus transportation among other demands."

The testimony of Mr. Donald G. Kendall, presented at the public hearing, was recalled and reviewed.

Staff recommended disapproval of this petition on the following summarized bases:

1. The petitioner has not submitted adequate "proof" as required by law.
2. The approval of this petition would be contrary to the intent and purpose of the Land Use Law as interpreted by the Standards for Determining District Boundaries.

Commissioner Burns moved to deny the petition based on the recommendations of the staff and Commissioner Wenkam seconded the motion.

The Chairman then directed the Executive Officer to poll the Commission. The motion to deny the petition was carried on the basis of the following vote:

Approved: Commissioners Wung, Inaba, Ota, Wenkam, Burns, Nishimura, and Chairman Thompson.

Disapproved: None.

Absent: Commissioners Ferry and Mark.

APPLICATION OF KIYOSHI AND FRANCES MIZUTANI (SP64-1), FOR SPECIAL PERMIT FOR CONSTRUCTION OF A 12-UNIT TWO STORY MOTEL BUILDING IN NAWILIWILI, KAUAI: Described as TMK 3-2-03: 9 and 28, Fourth Division

Action on this petition had been deferred to this meeting. The reason for the deferral was to provide the County with an opportunity to submit any additional information. The County did not submit any additional information.

The Executive Officer presented a review of the petition and outlined the area on a map. The Kauai Planning and Traffic Commission has transmitted its unanimous approval of a special permit to Mr. & Mrs. Kiyoshi Mizutani to use TMK 3-2-03: 9 and 28, Fourth Division, with a gross area of approximately 2.06 acres, for the construction of a 12 unit two story motel building. Staff recommended denial of this petition.

Commissioner Ferry stated that Mr. Wong, Kauai Planning and Traffic Commission Director, advised him that strong measures on the part of the County would be made to preserve whatever investment any owner would make there. He also stated that he was encouraged after talking with Mr. Wong because at least Kauai County seems interested enough to give some weight to flood plain zone problems. He further stated that there are a few residences in the area and felt the Land Use Commission might have "miszoned" the area. He felt that this area might have been included in the Urban District.

Commissioner Wenkam stated that to grant the petition would not be satisfying the situation. To grant the special permit under these circumstances would be contrary to good planning and administrative procedures. He stated that planning should be of benefit to the community and not for specific reasons. He felt that if this petition was granted, it would be spot zoning. This area, under the present circumstances, as it exists today, is hardly suited for the purposes that is requested. Further, the petitioner's property is subject to flood damage. To build on this area without proper planning would be detrimental to the community itself. He stated that the water, sewage and roadway are inadequate. He felt that the Land Use Commission should deny the petition, but initiate hearings to provide for urban zoning of the area mauka of the road for a suitable distance in order to give the County room and permit them to initiate the necessary improvements for flood protection, roads and other activities.

Commissioner Nishimura stated that compared to other areas, such as Waimea, Hanalei, and Wailua River, this particular area was not flooded as bad as the other areas.

The Executive Officer stated that no evidence in justifying the change in zoning has been received. If approved, it would frustrate the intent in the development of orderly planning. He stated that the proposed use would be in conflict with the County and State General Plans. It is also in conflict with proposed County zoning. He pointed out the flood problems in the Puali and Nawiliwili Stream areas. He stated that the

mouth of streams was an important control point for flood flows and this was the area where most of the major stream improvements are made.

Commissioner Nishimura moved to approve the special permit on the basis that the area is contiguous to an urban area and because of the time element involved for constructing it. Commissioner Inaba seconded the motion.

The Chairman then instructed the Executive Officer to poll the Commission. The motion to approve was carried on the basis of the following vote:

Approved: Commissioners Wung, Inaba, Ota, Nishimura and Ferry.
Disapproved: Commissioners Wenkam, Mark and Chairman Thompson.
Absent: Commissioner Burns.

APPLICATION OF DEPARTMENT OF LAND AND NATURAL RESOURCES (SP64-12), FOR SPECIAL PERMIT FOR ALLOWING THE CONTINUATION OF THE EXISTING HALE MANU CRAFT SHOP AND TO PROVIDE IMPROVEMENT AND/OR ADDITION TO IT LOCATED IN WAIAKEA, SOUTH HILO: Described as TMK 2-4-04: portion of 41 containing approximately three acres.

The Executive Officer presented the staff report and outlined the area on a map. The Planning and Traffic Commission of the County of Hawaii transmitted its approval of a special permit to the Department of Land and Natural Resources for the purpose of allowing the continuation and to provide for the improvement and/or addition of the existing Hale Manu Craft Shop in Waiakea, South Hilo, TMK 2-4-04: portion of 41 containing approximately three acres. He pointed out the guidelines of the Regulations and the comments of the staff. Staff recommended disapproval of this petition for special permit on the basis that the use, in the specific location, would not promote the effectiveness and objectives of the Land Use Law. Basically, the existing use is a non-conforming use. The intent is to eliminate such uses as expeditiously as possible. There is nothing unique at the site which is necessary for the operations - that is, the use should then be eventually located in an appropriately zoned area. (For detail, see filed copy of staff report on this petition.)

Commissioner Nishimura stated that lauhala industry is agricultural. He asked, "Are we going to discourage people from abandoning operations such as this? It is an agricultural product. Are we going to discourage people from improving or expanding their operation?"

Commissioner Wenkam felt that this is a manufacturing and retailing operation and not an agricultural operation because the materials that they use do not come from the area that they are located and, therefore, they would be more appropriately located in a more appropriately zoned district. He also felt that this substandard operation should not be encouraged. It is a purely commercial venture.

Dr. Mark asked if the State had any industrial land near the area. He was answered in the affirmative. Dr. Mark then felt that this operation should be in that area where such land was available.

The Executive Officer stated that the lease is coming to an end. In the Lease Agreement, a minimum \$10,000 improvement must be made. However, the terms of any proposed agreement are not a basis for decision.

Mr. Mar stated that if this building was demolished, Mrs. Park would not be able to afford another operation such as this. He also stated that the 15 people who are now employed by Mrs. Park would have to apply for welfare should this operation be abandoned. The question was whether it was an unusual and reasonable use. Mr. Mar further stated that Mrs. Park plans to plant the mature lauhala trees from the nearby forests on the premises.

Commissioner Ota moved to approve the petition submitted by the Department of Land and Natural Resources on the basis that it is an agricultural use and there is reasonable regulatory restrictions provided by the Department of Land and Natural Resources. Commissioner Nishimura seconded the motion.

During the discussion, the Executive Officer questioned the legality of the basis for approving the petition. He stated that when the Land Use Commission grant a petition, the basis should be one in the Law or the Regulations.

After further discussion, Commissioner Ota withdrew his motion and Commissioner Nishimura withdrew his second to the motion.

Commissioner Wenkam then moved to deny the petition on the basis of the staff report. Commissioner Inaba seconded the motion.

The Chairman instructed the Executive Officer to poll the Commission. The motion to deny the petition was carried on the basis of the following vote:

Approved: Commissioners Inaba, Ota, Wenkam, Mark and Chairman Thompson.

Disapproved: Commissioners Wung and Nishimura.

Absent: Commissioners Burns and Ferry.

The meeting then adjourned at 5:30 p.m.

December 22, 1964

Ref. No. LUC 552

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

Dear Mr. Wong:

At a meeting held on December 18, 1964, in Honolulu, Hawaii, the Land Use Commission approved the petition for special permit, submitted by Mr. & Mrs. Kiyoshi Mizutani, to use TMK 3-2-03: 9 & 28, Fourth Division, for a motel. The motion to approve was carried with five (5) votes for the motion and four (4) against. The motion to approve was based on the following:

1. Subject property is contiguous to the Urban Land Use District and,
2. The time element for construction would make the use reasonable.

The staff report was previously sent to you. Should you have further questions, please feel free to contact this office.

Very truly yours,

RAYMOND S. YAMASHITA
Executive Officer

cc: Mr. Clinton I. Shiraishi
Mr. Myron B. Thompson
Dept. of Taxation

STATE OF HAWAII
LAND USE COMMISSION

VOTE RECORD

ITEM SP 64-1 (Mizutani)
DATE 12/18/64
PLACE LUC Hearing Room
TIME 3:25

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: *Nishimura - Move to approve on
bases - ① contiguous to urban area - time
element in construction - it would be reasonable
Sec - Inaba :-*

STATE OF HAWAII
LAND USE COMMISSION

VOTE RECORD

ITEM SP64-1 (Mizutani-Kauai)

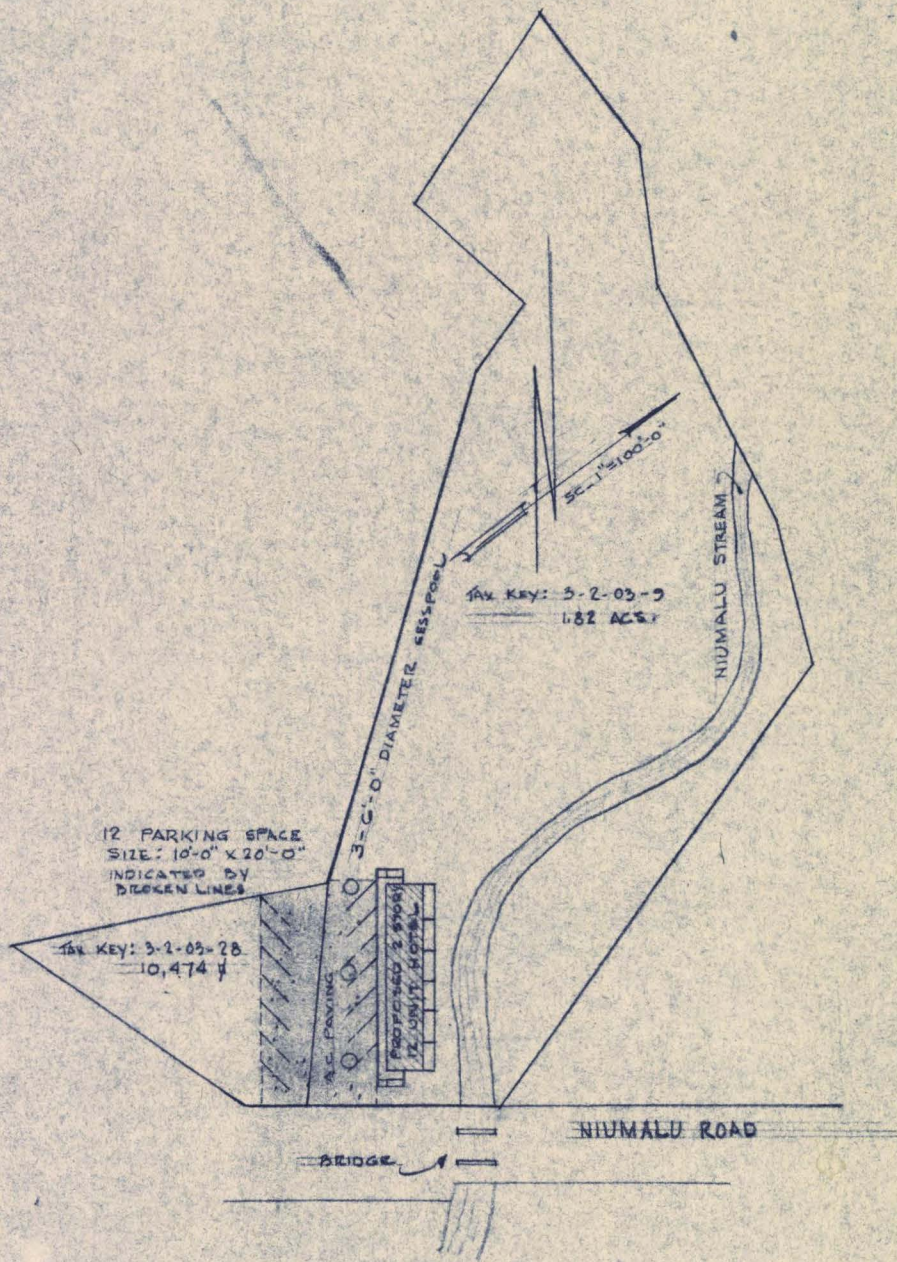
DATE 11/20/64

PLACE LUC Hearing Rm.

TIME ~~2:00 pm~~
3:00

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: Burns - to refer matter to county for additional information
Inaba - 2nd



PROPOSED SITE PLAN

SCALE: 1" = 100'-0"

PROPOSED 12 UNIT 2 STORY HOTEL BUILDING FOR
 MR & MRS. KIYOSHI MIZUTANI AT NIUMALU, KAUAI, HAWAII SEPT. 17, 1964

RECEIVED

NOV 12 1964

State of Hawaii
LAND USE COMMISSION

Ref. No. LUC 528

November 24, 1964

Kauai Planning and
Traffic Commission
P. O. Box 111
Lihue, Kauai

Attention: Mr. David F. Wong, Planning Director

Gentlemen:

At a meeting held in Honolulu on November 20, 1964, the Land Use Commission deliberated upon the petition for special permit by Kiyoshi and Frances Mizutani. The Land Use Commission deferred action on this petition because there appears to be no "Findings of fact and reasons therein in support of the county agency's ruling in approving said petition". (See paragraph 2.27, Sub-Part E, Part II, State Land Use District Regulations.)

It may be that the "Findings of fact and reasons....." are part of the records that have been transmitted but, if so, it is not clear. The Land Use Commission has, therefore, instructed its staff to request clarification or any comments on this matter from your agency.

The Land Use Commission's next meeting is scheduled for the morning of December 18, 1964. At this meeting, the Commission will be obliged to take action on this petition in accordance with the legislative time limits. Any clarification which your Commission may offer prior to the next Land Use Commission meeting will be sincerely appreciated.

The Land Use Commission staff report on this petition was presented at the deliberations and is enclosed for your information. As indicated in the report, the zoning and flood issues were of some concern.

Thank you for your courtesies in this and other matters.

Very truly yours,

RAYMOND S. YAMASHITA
Executive Officer

Enclosure

cc: Mr. Clinton I. Shirsishi
Mr. Myron B. Thompson

STATE OF HAWAII
LAND USE COMMISSION

Minutes of Meeting

DP&ED Hearing Room

Honolulu, Hawaii

1:30 P. M. - November 20, 1964

Commissioners

Present:

Myron B. Thompson, Chairman
C.E.S. Burns, Jr., Vice Chairman
Charles S. Ota
Goro Inaba
Shiro Nishimura
Jim P. Ferry
Robert G. Wenkam
Leslie E. L. Wung

Absent:

Shelley M. Mark

Staff

Present:

Raymond S. Yamashita, Executive Officer
Roy Y. Takeyama, Legal Counsel
Richard E. Mar, Assistant Planner
Amy Y. Namihira, Stenographer

Chairman Thompson called the meeting to order followed by a short prayer. The members of the staff who would be giving testimonies were sworn in at this time.

PETITION FOR SPECIAL PERMIT, SP64-3, BY DEPARTMENT OF LAND AND NATURAL RESOURCES

Mr. Richard Mar presented a summary of the background of the staff report and outlined the area on a map. The Zoning Board of Appeals of the City and County of Honolulu transmitted its approval of the special permit application by Department of Land and Natural Resources "based on the fact that the use sought is a reasonable use within an Agricultural District, and would promote the effectiveness and objectives of Chapter 98H, RLH, 1955, as amended."

then sends it to the Land Use Commission, the Land Use Commission is in effect acting on the condition. He also stated that the Land Use Commission cannot impose its own conditions on the special permit.

Commissioner Ferry asked what was the difference if Maui County imposed those conditions; what will the effect be. Legal Counsel stated that it was unenforceable. Commissioner Ferry said the Land Use Commission will either vote for or against the special permit as it now stands.

Legal Counsel stated that for the records, this illegality appears as far as the Land Use Commission is concerned.

Chairman Thompson asked, supposing they run out of their lease and a commercial venture wants to come in, does the special permit still apply? He was answered in the affirmative.

Commissioner Ferry posed a question to the Legal Counsel - "When we grant a special permit, do we also grant a specified tenure?" Legal Counsel replied in the negative.

It was agreed by the Land Use Commission that the word YMCA will be left out from the staff report.

Commissioner Inaba moved to approve the special permit based on the staff report. Commissioner Wenkam seconded the motion.

The Executive Officer polled the Commissioners as follows:

Approved: Commissioners Wung, Inaba, Wenkam, Burns, Nishimura,
Ferry, and Chairman Thompson.

Disapproved: None.

The motion was carried unanimously.

PETITION FOR SPECIAL PERMIT, SP64-1, BY MR. & MRS. KIYOSHI MIZUTANI

The Executive Officer presented the background of the staff report and outlined the area on a map. The Kauai Planning and Traffic Commission

unanimously approved a special permit to Mr. & Mrs. Kiyoshi Mizutani to use TMK 3-2-03: 9 and 28, with a gross area of approximately 2.06 acres, for the construction of a 12 unit, 2 story motel building.

Commissioner Wenkam asked why is this an application for a special permit rather than a boundary change. The Executive Officer stated that legally, the Land Use Commission cannot force the petitioner to come in for either a boundary change or a special permit. If the land is in the Agricultural District, the petitioner may come in for a special permit.

Commissioner Nishimura asked why the Kauai Planning and Traffic Commission haven't asked for a boundary change. Mr. Mar stated that in the minutes, the Kauai Planning Director requested that the Land Use Commission designate this area as Urban in their (Land Use Commission) deliberations of the final district boundaries, but that the Land Use Commission did not designate it as such. It is, therefore, assumed that the Kauai Planning and Traffic Commission applied for a special permit instead of a boundary change.

The Executive Officer read part of the Kauai Planning and Traffic Commission Director's report and then continued with the discussion and recommendation of the staff report. Staff recommended denial of this petition on the bases that (1) there is a lack of evidence that the legislative prerequisites for approval have been met, and (2) further investigation and analysis indicate that the proposed use, in this particular case, does not meet the legislative prerequisites.

Commissioner Nishimura stated that only this area was in fee simple and felt that it would be good for the proposed development. He also felt that this should have been a boundary change.

Commissioner Ferry felt that there is a need for this type of operation. The State plans to sell some property shortly for this type of commercial hotel operations.

Commissioner Burns asked if there were any effort made to tie this motel arrangement into the marina. The Executive Officer replied in the affirmative. Commissioner Ferry stated that the Department of Taxation is doubtful of this and that there is some question as to the expense of developing the marina.

Commissioner Ota questioned the recommendations of the staff report. The Executive Officer felt that because the County did not transmit sufficient materials, on that basis, it did not meet the prerequisites of the Law. Commissioner Ota felt that the staff should have gone a step further and acquired the necessary information. The Executive Officer stated that the staff made that effort but did not succeed in getting the information. Commissioner Ota's concern was whether or not the Land Use Commission could take a stand on this matter should the petitioner contest this case in court.

Commissioner Ferry stated that it may be premature at this time to grant a special permit because of the lack of amenities in the area. Commissioner Wenkam concurred with Commissioner Ferry and also stated that the flood control problem should also be considered.

Commissioner Nishimura asked if flood control problems were part of the Land Use Commission jurisdiction to zone a certain area. If this be the case, can the Land Use Commission deny the petitioner the zoning even if it's contiguous to an Urban area. Commissioner Ferry stated that the Department of Land and Natural Resources is preparing studies on the flood plain areas with the aid of the counties.

The Executive Officer stated that flooding is a problem but not to use it as a basis for denying the special permit.

Chairman Thompson asked the Commission whether they were prepared to act on this special permit at this time, or should the Land Use Commission ask the County for additional information?

The Executive Officer stated that the way the special permit procedure is set up in the Law, the basic responsibility for providing all the facts, conclusions of the Law, etc. is with the County. He further stated that the staff has gone into this matter and tried to get the unanswered information.

Commissioner Burns stated that if the Land Use Commission had the information, they would have more strength should they decide to turn down the application.

Commissioner Ferry stated that the site is going to be close to a proposed boat harbor. If the boat harbor were a reality, maybe there is good justification for such a venture, but, as it now stands, it would be difficult to grant it at this time.

The Executive Officer stated that this proposed boat harbor is number 13 on the third division of the Department of Transportation.

Commissioner Wung stated that the State and County Plan propose the area for industrial. Why is it a flood plain for a motel but not a flood plain for an industrial area? Commissioner Ferry stated that a flood plain doesn't stay a flood plain all the time.

Commissioner Burns moved to defer action and refer this matter for additional information to be furnished by the County. Commissioner Inaba seconded the motion.

The Executive Officer polled the Commissioners as follows:

Approved: Commissioners Wung, Inaba, Ota, Wenkam, Burns, Nishimura,
Ferry, and Chairman Thompson.

Disapproved: None.

The motion to defer this matter was carried unanimously.

STATE OF HAWAII
LAND USE COMMISSION

1:30 P. M. to 4:00 P. M.
November 20, 1964

Hearing Room
Honolulu, Hawaii

STAFF REPORT

Subject: Petition for Special Permit, SP64-1, by Mr. & Mrs. Kiyoshi Mizutani

Background

The Kauai Planning and Traffic Commission has transmitted its unanimous approval of a special permit to Mr. & Mrs. Kiyoshi Mizutani to use TMK 3-2-03: 9 and 28, Fourth Division, with a gross area of approximately 2.06 acres, for the construction of a 12 unit two story motel building. The parcels are located along the mauka side of Niumalu Road and near Niumalu Park at Nawiliwili, Kauai.

The Urban-Agricultural District Boundary follows Niumalu Road. The waterfront areas below Niumalu Road are classified Urban while the areas above, including the subject parcels, are classified Agricultural. The subject parcels front on Niumalu Road and may be considered contiguous for all practical purposes.

Parcel 28 contains an area of 10,474 sq. ft. and is presently used as a residential lot with two single family dwellings on the lot. Parcel 9 has a total gross area of 1.82 acres and currently appears unused. Puali Stream runs through parcel 9 and drains a watershed of some 1300 acres which extends beyond and includes the town of Puhi. The alignment of the stream thru parcel 9 appears to have been relocated on the parcel and is now parallel and closer to the eastern boundary.

The petitioner owns the two parcels in question as tenants in the entirety and they plan to construct a 12 unit, two story building complete with separate toilet facilities. Three cesspools, 6' in diameter, will serve as a sewer system for the contemplated motel. Parking spaces for 12 automobiles will be provided. Except

for about 6 parking spaces which will be on parcel 28, the remaining 6 parking spaces plus the motel operations will be constructed on parcel 9 and will be adjacent to Puali Stream.

Except for the banks of the stream, the site of the proposed motel is relatively flat. The site lies only a few feet above the water surface but is in the process of being built up.

According to the Land Study Bureau's Soil Classification map, the subject property is class D which is unsuited for intensive agriculture.¹ Rainfall at the Molumalu gauge near the petitioner's land indicates a median range of 55.8" per year. The maximum is 74.7" while the minimum is 31.5".²

The State General Plan shows the petitioner's property and the area mauka of Niumalu Road as a developed park. An extension of the existing industrial area occupies the area makai of Niumalu Road and up to the eastern edge of Puali Stream. A small boat harbor is indicated on the makai side of Niumalu Road and on the west side of Puali Stream. The existing park is incorporated as part of the developed park occupying the general area mauka of Niumalu Road.

Under the 1965 CIP budget, the proposed small boat harbor is number 13 in priority in the State Harbors Division and a total of \$800,000 have been planned for the project. Approximately \$685,000 will be requested in 1966 while the remaining amount is to be requested in 1967.³ The small boat harbor will be formed by an L-shaped groin enclosing a protected water area against the existing park. (See Map)

¹ Land Study Bureau, Generalized Classification of Land by Suitability for Intensive Agriculture.

² Hawaii Water Authority, Rainfall of the Hawaiian Islands, p. 360.

³ State Department of Transportation, Harbors Division, 1965 CIP Budget (Preliminary).

The County's General Plan, of the particular area, is virtually similar to the State General Plan. The only difference is that the County plan shows a bigger extension of the existing industrial uses into the area mauka of Niunalu Road and including the subject parcels. The County's proposed zoning map shows the areas above Niunalu and Hulemalu Roads as unzoned. The peninsula area between Huleia and Puali Streams, including the existing park, are shown as RS-10 or residential with 10,000 sq. ft. lots. The peninsula area between Puali Stream and the main harbor area, lying below Niunalu Road, are shown as IG or Industrial-General.

Field investigation of the subject property shows approximately 24 houses in the general vicinity of the subject parcels. A 3" or 4" County water line services the area. The line is apparently satisfactory for current uses but would require adjustments to adequately serve more intensive uses. Niunalu Road provides access but is a narrow paved road in poor condition. Electricity and telephone lines are present. Lands to the north of the subject parcels include a swamp which seeks drainage via the Puali Stream. Other lands that are not used for residential purposes are either vacant or in pasture.

The letter transmitting the County approval of this petition did not state the basis upon which the approval was granted. The enclosures, however, included the Planning Director's report with a recommendation for approval and the minutes of the public hearing. Copies of these documents are attached.

Discussion

Act 205 places two restrictions upon the granting of a special permit.

1. "The county planning commission....may permit certain unusual and reasonable uses...." (emphasis added)

2. "The (County) planning commission....may, under such protective restrictions as may be deemed necessary, permit such desired use, but only when such use would promote the effectiveness and objectives of this chapter." (emphasis added)

Further, the Land Use Regulations, Paragraph 2.27, states that:

- (a) "A copy of the decision of the County Planning Commission, together with its findings, shall be transmitted. ..." and,
- (b) "The Planning Director shall transmit a written copy of said decision to the Commission together with, but not limited to, the following records:Findings of fact and reasons therein in support of the county agency's ruling in approving said petition."

Although paragraph 2.24 of the Land Use Regulations establish guidelines for determining an "unusual and reasonable use", the transmitted documents do not give any indication that the proposed use is "unusual and reasonable" as is required by law. Further, the documents do not indicate that the proposed use "would promote the effectiveness and objectives" of Act 205. The County has not submitted "findings of fact and reasons therein in support of the county agency's ruling in approving said petition."

The Planning Director's report does state

"The proposed use will encourage and appropriate use of land presently for the general welfare of the area and would not adversely affect the surrounding property nor would it substantially alter or change the essential character of the land and its present use."

However, there is no substantiation to this statement.

In reviewing the issue, staff finds that the proposed use is in conflict with both the County and State General Plan. Further, the proposed County zoning map which is a tool to implement their General Plan, conflicts with the County General Plan. A residential zone is indicated where a developed park is shown on the General Plan. The residential zone includes the existing park, a portion of which will necessarily be a part of the proposed marina. While a developed park is entirely compatible with the proposed marina, there is some question whether or not at least a part of the proposed residential zone will be compatible. Further, a motel facility is not generally considered to be a compatible use to particularly heavy industrial uses. The compatibility of the proposed use to the proposed residential zoning would also be questionable.

The Planning Director's report states "The County General Plan designates this particular area for future expansion of industrial uses because of its proximity to Nawiliwili Harbor terminal facilities." From a planning viewpoint, the County and State General Plan land use designations of the area would appear appropriate and, zoning should then be done in such a manner as to accomplish the intent of the General Plans. However, deviations from the guidelines set by the General Plan can be normally anticipated--as apparently seems to be the case, here.

It is not the intent, here, to indicate what the appropriate land uses and patterns for the area should be. The intent is to show that there is some conflict in the planned use of the area and, with such planned uses and the proposed motel use.

In addition, the economic basis of the motel use is apparently related to the development of the proposed marina--the date or the actual construction of which is still not certain. Since the general plans already indicate certain proposed

land uses, the granting of this special permit, for a use which would normally require a specific type of zoning, would be tantamount to spot zoning and create problems in developing logical future land use patterns.

There is also evidence of a drainage problem at the site. The following is a partial extract taken from the General Flood Control Plan for Hawaii, prepared by the Department of ^(L+NR) Planning and Economic Development, January 1963:

Physical Background. Encompassing the Lihue, Nawiliwili, and Niumalu areas, this sub-watershed of roughly 6.9 square miles consists of two major streams and their tributaries--the Nawiliwili and Puali--which discharge into Nawiliwili Bay. Nawiliwili Stream, larger of the two, flows through Lihue and Nawiliwili, Puali Stream through Nawiliwili and Niumalu.

....The Puali Stream flood plain, smaller than the Nawiliwili, broadens considerably in the Nawiliwili Bay coastal region which is exposed to damage from heavy seas and tsunamis.

Flood Problem. Within the past 60 years, the Lihue, Nawiliwili, and Niumalu areas have suffered primarily from floods and hurricanes, and also from high seas and tsunamis.

Recommended Measures.

1. Flood plain zoning: Establish encroachment zones along the Nawiliwili and Puali Steams and in potential tsunami inundation zones in the bay area as delineated on page M-4.

2. Warning and evacuation: Maintain surveillance during tsunami, small craft, and surf warnings. Evacuate when instructed by the responsible agency.

3. Works of improvement: Realign, widen, and improve the lower reaches of both streams as required.

4. Flood fighting unit: Organize a Lihue and Nawiliwili area unit.

5. Other measures: Provide shore and river bank protection facilities as required.

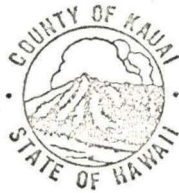
A substantial portion of the lower reach of Puali Stream is in parcel 9 which is narrow and runs parallel to the stream. The "Recommended Measures" 1, 3 and 5 above raise additional serious question that the proposed use would promote the effectiveness and objectives of the Law; i.e., "to preserve, protect and encourage the development of the lands in the State for those uses to which they are best suited for the public welfare. ...".

Recommendation

Staff recommends the denial of this petition on the following bases:

1. There is a lack of evidence that the legislative prerequisites for approval have been met.
2. Further investigation and analysis indicate that the proposed use, in this particular case, does not meet the legislative prerequisites.

CALVIN L. K. CHING
COUNTY ENGINEER



KENNETH K. KAWANE
DEPT. FISCAL OFFICER

OFFICE OF THE
DEPARTMENT OF PUBLIC WORKS

COUNTY OF KAUAI
LIHUE, KAUAI, HAWAII

July 17, 1961

RECEIVED
HAWAII WATER
AUTHORITY

1961 JUL 17 AM 9:45

Mr. Robert T. Chuck
Manager-Engineer
Division of Water & Land Development
Dept. of Land & Natural Resources
State of Hawaii
Honolulu 9, Hawaii

Dear Mr. Chuck:

With reference to your letter of July 12, 1961, we are sending you a copy of our letter to the District Engineer, Corps of Engineers, dated Aug. 9, 1960 in which are listed the rivers that we have requested flood-plain information for.

As you probable know studies have already been made on the first three rivers on the list. Further studies are being made to extend the flood walls of the Waimea River down to the ocean. We are now in the right-of-way acquisition stages for the Flood Walls on the East Bank of the Hanapepe River. The Wailua River Project has been shelved temporarily due to the protest of certain landowners along the river bank.

I do not believe that any studies have been made on the rest of the rivers on the list. Our revised list in order of priority should be as follows:


1. Hanalei River ✓
2. Anahola River ✓
3. Kapaa (Kealia) River ✓
4. Niunalu River ✓
5. Wainiha River ✓
6. Kalihiwai River ✓

Puoli Stream

The only major river in this group is the Hanalei River which is subject to floods about twice a year. Our main highway runs along this river and during flood stage part of this highway is under six to eight feet water making it impassable for hours at times. The Hanalei Valley is devoted mainly to pasture land, taro farms and some truck farming. Truck farmers suffer the most during floods. Property damage is small due to the sparse population of this area.

The other river basins are likewise sparsely populated and floods are more of a nuisance than damaging.

Yours very truly,


CALVIN L. K. CHING
County Engineer

CLKC:m

DEPARTMENT OF PUBLIC WORKS
COUNTY OF HAWAII
OFFICE, KAUAI, HAWAII

July 17, 1960

District Engineer
U. S. Army Engineer District
Honolulu
Bldg. 96 Ft. Armstrong
Honolulu 13, Hawaii

Attention: John R. Clifton, Colonel
Corps of Engineers

Gentlemen:

Reference is hereby made to your letter of August 5, 1960, regarding Section 206 of the Flood Control Act of 1960, approved July 14, 1960 (Public Law 645, 865h. Congress).

We request that surveys and studies of the following areas be made: 1. Areas of plain areas to gether with frequent floods and flood damage potential, flood basins, and areas that would be inundated, 2. Wainiha River, 3. Wainiha River, 4. Wainiha River, 5. Wainiha River, 6. Wainiha River, 7. Wainiha River, 8. Wainiha River, 9. Wainiha River, 10. Wainiha River.

I do hereby certify that the following studies have been made on the west of the river on the list in order of priority should be as follows:

- 5. Anahola River
- 6. Kapaa (Kealia) River
- 7. Niunalu River ~~_____~~ Puuli Stream
- 8. Wainiha River ~~_____~~
- 9. Kalihiwai River ~~_____~~
- 5. Wainiha River ✓
- 6. Kalihiwai River ✓

Very truly yours,

The only major river in this group is the Hanalei River which is subject to floods about twice a year. Our main highway along this river and during flood stage part of this highway is under 10 feet water making it impossible for hours at times. The Hanalei is devoted mainly to pasture, here farms and some truck farming. Truck farmers suffer the most during floods. Property damage is small due to the sparse population of this area.

Kunji Omori
County Engineer

The other river basins are likewise sparsely populated and floods are more of a nuisance than damaging.

Yours very truly,
[Signature]
Charles L. R. Quinn
County Engineer

P. O. BOX 111



LIHUE, KAUAI, HAWAII

November 10, 1964

TELEPHONE 2781

RECEIVED

NOV 12 1964

State of Hawaii
LAND USE COMMISSION

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

Gentlemen: Subject: Application for Special Permit
File No. SP64-1
Kiyoshi Mizutani & wf. Frances

At the regular meeting of the Planning and Traffic Commission held on November 5, 1964, the Commission approved subject application for special permit.

In accordance with provisions under Section 98H-6 of Act 205, we herewith transmit for your consideration the foregoing application, transcript of proceedings attached.

Respectfully,

PLANNING AND TRAFFIC COMMISSION

David F. Wong
David F. Wong
Planning Director

attach.

RECEIVED

HAWAII PLANNING AND TRAFFIC COMMISSION
HONOLULU, HAWAII

NOV 12 1964

State of Hawaii
LAND USE COMMISSION
September 23, 1964

TO: Planning Commissioners
RE: Special Permit Application No. SP64-1

Submitted herewith is a report with reference to Special Permit Application No. SP64-1 as provided for in the State Land Use District Regulations, in effect as of August 23, 1964.

The applicant and owners of the property are Kiyoshi Mizutani and Frances Mizutani.

The property is situated along the mauka side of Niwala Road, diagonally opposite the County Niwala Park at Niwala, Hailiuli, being tax parcels 28 and 9 as shown on tax map 3-2-03, containing a total gross area of about 3.06 acres.

Parcel 28, containing an area of 10,474 square feet is presently used for residential purposes, while parcel 9, containing an area of 1.82 acres is presently used for pasturing, which is adjacent to the Niwala Stream.

The County General Plan designates this particular area for future expansion of industrial use because of its proximity to Hailiuli Harbor terminal facilities.

The parcels of land involved are located within the boundaries of an agricultural district established by the State Land Use Commission as of August 23, 1964.

Although our County General Plan projects future expansion of industrial use for this area, it will be some time before any appreciable expansion of industrial activities will occur in this particular area.

A small boat harbor is anticipated fronting Niwala Park at the West end between the coral-filled area owned by the State of Hawaii and the Niwala beach.

The proposed use will encourage an appropriate use of land presently for the general welfare of the area and would not adversely affect the surrounding property nor would it substantially alter or change the essential character of the land and its present use.

In the light of the conditions as mentioned above, it is recommended that approval be granted with reference to Special Permit Application No. SP64-1, permitting the use of portions of tax parcels 28 and 9 for a transitory motel use as shown on submitted plans.

David F. Wong
David F. Wong
Planning Director

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XERO COPY

XERO COPY

RECEIVED

NOV 12 1964

KAUAI PLANNING AND TRAFFIC COMMISSION
PUBLIC HEARING
APPLICATION FOR SPECIAL PERMIT - FILE NO. SP64-1

State of Hawaii
LAND USE COMMISSION

A public hearing on the above Application for Special Permit was called to order by Mr. Masashi Kageyama, Chairman, on Thursday, October 1, 1964, at 1:40 p.m. in the County Board Room at Lihue, Kauai. Others present were Commissioners Asakura, Hashisaka, Ibara and Yama.

Planning Director David F. Wong presented background information relative to the petition; read the letter of application (copy attached) from Clinton I. Shiraishi in behalf of the applicants; pointed out existing and future land uses of the area and other details.

Mr. Tatsuo Asari, attorney at law, stated in effect that: he was speaking in behalf of the applicants in the absence and at the request of Mr. Clinton Shiraishi who could not be present to represent his clients; that he would like to urge the Commission to accept the application and request of the Mizutanis; that he would like to point out that there is a proposed small boat harbor directly opposite the area in question; that he felt the motel operations could be a compatible and similar use for the contemplated boat harbor; that this is located more or less in a fringe area, industrial developments have not spread out this far as yet and have been confined mainly to the opposite end of the harbor; (that the property in question adjoins an urban district, which is indicative of the fact that it is a developed area; that it isn't raw area some place in the middle of nowhere.

Mr. Wong then presented his report dated September 23, 1964, copy attached hereto, recommending approval of the petition. He also stated that he had recommended to the Land Use Commission that the area under consideration, including the many kuleanas in the back, be put into the urban district; that the Land Use Commission did not go along with the suggestion and used the road as a boundary separating the districts; that he felt the area should be in urban classification.

The Chair explained that under provisions of the Land Use Act a minimum of 15 days must be allowed before any action can be taken by the Commission on the petition; therefore, the matter was taken under advisement and the hearing closed at 2:00 p.m.

DECISION OF COMMISSION: At the regular meeting of the Commission held on November 5, 1964, the foregoing Application for Special Permit as submitted by Kiyoshi and Frances Mizutani was approved by the following vote:

- AYES: Asakura, Hashisaka, Ibara, Yama, Kageyama - 5
- NOES: None - 0
- ABSENT, NOT VOTING: Nakamoto - 1

Respectfully submitted,

Thomas T. Yamasaki
Thomas T. Yamasaki, Secretary

**INDIVIDUAL CAPITAL PROJECT REQUEST 1965-71
SIX YEAR CAPITAL IMPROVEMENTS PROGRAM**

Department of Transportation
Harbors Division

Project Title: Nawiliwili Small Boat Harbor

Division Priority No.: General 13

DOT 1-006
(PRO 2/64)
XERO COPY

1. Project Location: Nawiliwili Bay, Kauai
2. Project Description: Construction of a small boat harbor to be located at the mouth of the Niunalu Stream. This harbor will have ultimate capacity of 130 boats.
- Stage 1 - Dredging, rock dyke, paving, launching ramps and some utilities (FY 1965-66).
- Stage 2 - Additional moorings and shore facilities (FY 1967-68).

4. Construction Period: Stage 1 - 10 Mos.
Stage 2 - 8 Mos.

5. Status of Plans and Site:
- | | | |
|--|----------|----------|
| | Yes | No |
| Land Available | <u>X</u> | _____ |
| Preliminary Plans Completed | <u>X</u> | _____ |
| Detail Plans Completed
(As of 12/31/64) | _____ | <u>X</u> |

6. Status of Utilities for Project:
(I - Insufficient S - Sufficient)

- (a) Water S (c) Power S
(b) Sewers I (d) Roads S

3. Effect on Operating Budget of Agency: (Indicate Decrease - "D")	Total	Salaries	Other Exp.	Mtnc.
	5,000	2,000	1,500	1,500

(All entries shown to nearest thousand dollars except where shown in Prior Approp. or Auth.)

7. Estimated Cost:	PRIOR APPROP. OR AUTH.		ESTIMATE OF TOTAL COST	ESTIMATED EXP. AS OF 6/30/65	TOTAL FOR 6 YEARS	EXPENDITURE SCHEDULE BY FISCAL YEAR						FUTURE (Not in 6 Yr. Total)
	Act	Amount				1965-66	1966-67	1967-68	1968-69	1969-70	1970-71	
A. Plans	30/62	3,000c	35	5	30	20		10				
B. Land	201/63	2,000b										
C. Construction			765		765	665		100				
TOTAL		5,000	800	5	795	685		110				

8. Means of Financing:	PRIOR APPROP. OR AUTH.		PRO-RATA COST	PRO-RATA EXPEND.	TOTAL 6 YR. APPROP.	APPROPRIATION OR AUTHORIZATION REQUEST BY FISCAL YEAR						FUTURE
	Act	Amount				1965-66	1966-67	1967-68	1968-69	1969-70	1970-71	
A. Gen. Cash or Bond	30/62	3	600	5	595	485		110				
B. Special Fund	201/63	2										
STATE TOTAL		5	600	5	595	485		110				
C. Poss. Fed. Aid			200		200	200						
TOTAL		5	800	5	795	685		110				

9. Justification: The few catwalks presently at Nawiliwili are inadequate to serve berthing needs of boat owners living in vicinity of Lihue and along the east coast of Kauai. Although Nawiliwili Harbor can provide refuge during stormy weather, there are no facilities to berth crafts seeking refuge there. This project will provide berthing and servicing facilities for both sport and commercial

small crafts. It will promote boating activities along eastern Kauai, minimize storm damage toll on small crafts, and generate some business for Kauai. This project is under consideration by USED for federal participation under authority of Sec. 107, P.L. 645, 86th Congress. If successful, the maximum of \$200,000 federal funds can be expended on this project.

XERO COPY

XERO COPY

XERO COPY

Ref. No. LUC 525

November 12, 1964

Mr. Clinton I. Shiraishi
Attorney & Counselor at Law
P. O. Box 1146
Lihue, Kauai, Hawaii

Dear Mr. Shiraishi:

The Land Use Commission of the State of Hawaii will hold a meeting in Honolulu, Oahu on November 20, 1964 at the Department of Planning and Economic Development Hearing Room at approximately 1:30 p.m.

As prescribed by SECTION 98H-4 of Act 205/63, your application for Special Permit on behalf of Mr. and Mrs. Kiyoshi Mizutani has been tentatively placed on the agenda for consideration by the Commission at this meeting, and final action may be taken at that time. We received your petition from the County today, and staff may not be able to prepare an adequate analysis for the Land Use Commission in time for this meeting. Should it not be possible for the staff to adequately analyze this petition by that time, your petition may be placed on the agenda of the next meeting, which should be in December.

Please be advised that this notice is simply to inform you as to the status of your petition before the Land Use Commission. It is not necessary for you to be at this meeting. Should it be convenient for you to attend, of course, you may do so at your own discretion.

Very truly yours,

RAYMOND S. YAMASHITA
Executive Officer

cc: Mr. & Mrs. Kiyoshi Mizutani
Planning & Traffic Commission, County of Kauai



LIHUE, KAUAI, HAWAII

RECEIVED

NOV 12 1964

State of Hawaii
LAND USE COMMISSION

November 10, 1964

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

Gentlemen: Subject: Application for Special Permit
File No. SP64-1
Kiyoshi Mizutani & wf. Frances

At the regular meeting of the Planning and Traffic Commission held on November 5, 1964, the Commission approved subject application for special permit.

In accordance with provisions under Section 98H-6 of Act 205, we herewith transmit for your consideration the foregoing application, transcript of proceedings attached.

Respectfully,

PLANNING AND TRAFFIC COMMISSION

David F. Wong
Planning Director

attach.

COUNTY OF KAUAI
PLANNING AND TRAFFIC COMMISSION
Lihue, Kauai, Hawaii

This space for official use

Date Application and Fee
received by KP&TC _____

RECEIVED

NOV 12 1964

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-4, for the following-described purpose:

County of Hawaii
LAND USE COMMISSION

Description of property: Land at Nawiliwili, Kauai, Fourth Taxation Division Tax Key Numbers 3-2-03-9, area 1.82 acres, and 3-2-03-28, area 10,474 square feet.

Petitioner's interest in subject property: Owners as tenants by the entirety.

Petitioner's reason(s) for requesting special permit: Desire to use said parcels for a motel.

KIYOSHI MIZUTANI and
FRANCES MIZUTANI

Signature(s) By _____

Thurston J. Sherrards

Their Attorney

Address: _____

Box 1146, Lihue, Kauai

Telephone: _____

23-361

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) _____

Thomas J. Yamamoto

For (agency) _____

COUNTY OF KAUAI
PLANNING & TRAFFIC COMMISSION
LIHUE, KAUAI, HAWAII



RECEIVED

NOV 12 1964

State of Hawaii
LAND USE COMMISSION

CLINTON IKUZO SHIRAISHI
ATTORNEY AND COUNSELOR AT LAW
P. O. Box 1146
Lihue, Kauai, Hawaii

August 17, 1964

C
O
P
Y

Planning and Traffic Commission
County of Kauai
Lihue, Kauai

Gentlemen:

I enclose herewith Application for Special Permit on behalf of Kiyoshi Mizutani and Frances Mizutani, husband and wife, of Nawiliwili, Kauai, Hawaii, with reference to real property located at Nawiliwili aforesaid, being Fourth Taxation Division Tax Key Numbers 3-2-03-9 and 28. My check for \$25.00 is also enclosed herewith to cover the cost of filing.

We are informed that said parcels of land have been classified as agricultural. It is requested that the classification be changed to enable my clients to utilize a portion of their land as a motel. Your favorable consideration will be appreciated.

Yours very truly,

/s/ C. I. SHIRAISHI

Clinton I. Shiraishi

CIS:fb

- 0 -

RECEIVED

NOV 12 1964

State of Hawaii
LAND USE COMMISSION

NOTICE OF PUBLIC HEARING

SPECIAL PERMIT, LAND USE - COUNTY OF KAUAI

NOTICE IS HEREBY GIVEN of a public hearing to be held by the County of Kauai Planning and Traffic Commission in the County Building at Lihue on Thursday, October 1, 1964, at 1:30 p.m., or as soon thereafter as those interested may be heard to consider an application for special permit within the County of Kauai as provided for in Section 96H-6, Act 205, Session Laws of Hawaii 1963.

Docket Number
and Applicant

Tax Map Key

Permission Requested

SF64-1
Kiyoshi Mizutani &
wf. Frances

3-2-03:96/28

Use of parcels as a
motel.

Map showing the area under consideration for special permit is on file in the office of the Kauai Planning and Traffic Commission and open to the public for inspection during office hours.

All written protests or comments regarding the above application should be filed in writing to said Commission before the date of the public hearing or submitted in person at the time of the public hearing, or up to fifteen (15) days following this public hearing.

(Sept. 23, 1964)

KAUAI PLANNING AND TRAFFIC COMMISSION
Masashi Kagayama, Chairman
By David F. Wong, Planning Director

RECEIVED

KAUAI PLANNING AND TRAFFIC COMMISSION
LIHUE, KAUAI, HAWAII

NOV 12 1964

State of Hawaii
LAND USE COMMISSION
September 23, 1964

TO: Planning Commissioners
RE: Special Permit Application No. SP64-1

Submitted herewith is a report with reference to Special Permit Application No. SP64-1 as provided for in the State Land Use District Regulations, in effect as of August 23, 1964.

The applicant and owners of the property are Kiyoshi Mizutani and Frances Mizutani.

The property is situated along the mauka side of Niunalu Road, diagonally opposite the County Niunalu Park at Niunalu, Nawiliwili, being tax parcels 28 and 9 as shown on tax map 3-2-03, containing a total gross area of about 2.06 acres.

Parcel 28, containing an area of 10,474 square feet is presently used for residential purposes, while parcel 9, containing an area of 1.82 acres is presently used for pasturing, which is adjacent to the Niunalu Stream.

The County General Plan designates this particular area for future expansion of industrial uses because of its proximity to Nawiliwili Harbor terminal facilities.

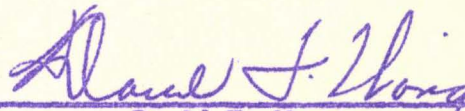
The parcels of land involved are located within the boundaries of an agricultural district established by the State Land Use Commission as of August 23, 1964.

Although our County General Plan projects future expansion of industrial use for this area, it will be some time before any appreciable expansion of industrial activities will occur in this particular area.

A small boat harbor is anticipated fronting Niunalu Park at the West end between the coral-filled area owned by the State of Hawaii and the Niunalu beach.

The proposed use will encourage an appropriate use of land presently for the general welfare of the area and would not adversely affect the surrounding property nor would it substantially alter or change the essential character of the land and its present use.

In the light of the conditions as mentioned above, it is recommended that approval be granted with reference to Special Permit Application No. SP64-1, permitting the use of portions of tax parcels 28 and 9 for a transitory motel use as shown on submitted plans.



David F. Wong
Planning Director

RECEIVED

NOV 12 1964

KAUAI PLANNING AND TRAFFIC COMMISSION
PUBLIC HEARING
APPLICATION FOR SPECIAL PERMIT - FILE NO. SP64-1

State of Hawaii
LAND USE COMMISSION

A public hearing on the above Application for Special Permit was called to order by Mr. Masashi Kageyama, Chairman, on Thursday, October 1, 1964, at 1:40 p.m. in the County Board Room at Lihue, Kauai. Others present were Commissioners Asakura, Hashisaka, Ibara and Yama.

Planning Director David F. Wong presented background information relative to the petition; read the letter of application (copy attached) from Clinton I. Shiraishi in behalf of the applicants; pointed out existing and future land uses of the area and other details.

Mr. Tatsuo Asari, attorney at law, stated in effect that: he was speaking in behalf of the applicants in the absence and at the request of Mr. Clinton Shiraishi who could not be present to represent his clients; that he would like to urge the Commission to accept the application and request of the Mizutanis; that he would like to point out that there is a proposed small boat harbor directly opposite the area in question; that he felt the motel operations could be a compatible and similar use for the contemplated boat harbor; that this is located more or less in a fringe area, industrial developments have not spread out this far as yet and have been confined mainly to the opposite end of the harbor; (that the property in question adjoins an urban district, which is indicative of the fact that it is a developed area; that it isn't raw area some place in the middle of nowhere.

Mr. Wong then presented his report dated September 23, 1964, copy attached hereto, recommending approval of the petition. He also stated that he had recommended to the Land Use Commission that the area under consideration, including the many kuleanas in the back, be put into the urban district; that the Land Use Commission did not go along with the suggestion and used the road as a boundary separating the districts; that he felt the area should be in urban classification.

The Chair explained that under provisions of the Land Use Act a minimum of 15 days must be allowed before any action can be taken by the Commission on the petition; therefore, the matter was taken under advisement and the hearing closed at 2:00 p.m.

DECISION OF COMMISSION: At the regular meeting of the Commission held on November 5, 1964, the foregoing Application for Special Permit as submitted by Kiyoshi and Frances Mizutani was approved by the following vote:

AYES: Asakura, Hashisaka, Ibara, Yama, Kageyama - 5
NOES: None - 0
ABSENT, NOT VOTING: Nakamoto - 1

Respectfully submitted,

Thomas T. Yamasaki
Thomas T. Yamasaki, Secretary

CORRECTED
JUL 20 1948
MAP 5

PLAT 01

PLAT 03

HULEIA

STREAM

SEC.

Kaleipua Kanoa Tr. Estate
Bishop Trust Co. - Trustee
32.360 acs.

(Honolulu Credit & Finance Ltd.)
Emlu P. Lovell
L.C. Av. 3344

0.25 ac. - Enoka Lovell Jr.
& wf. Beatrice P. Ye
L.C. Av. 33122
7 Val d m

1-G
(7.063 acs.)

Territory of Hawaii
Niumalu (County of Hawaii)
Exec. Ord. 788

1-P
(2.50 acs.)
idle

1-K
(2.08 ac.)

Accretion to
L.C. Av. 3620-2
(0.22 ac.)
Harvey A. Nutton - 7e
Malcolm G. Nutton - 7e
Alexander G. Nutton - 7e
Curt

1-D
Gross 15.92 acs.
Less Easements D-D & E-E .04
Net 15.88 acs.

1-F
(1.39 ac.)
Easement D
(7057 #)

Portion of Easement C 30' Wide
(0.70 ac.)

HARBOR

BERTHING & MOORING AREAS

NAWILIWILI

REVERTED DYKE

RAMP

DISPOSAL AREA

True North
1" = 100'

SUBJECT TO CHANGE

TAXATION MAPS BUREAU		
TERRITORY OF HAWAII		
TAX MAP		
FOURTH	DIVISION	
ZONE	SEC.	PLAT
3	2	02
CONTAINING 7 PARCELS		
SCALE: 1 in. = 100 ft.		

PRINTED

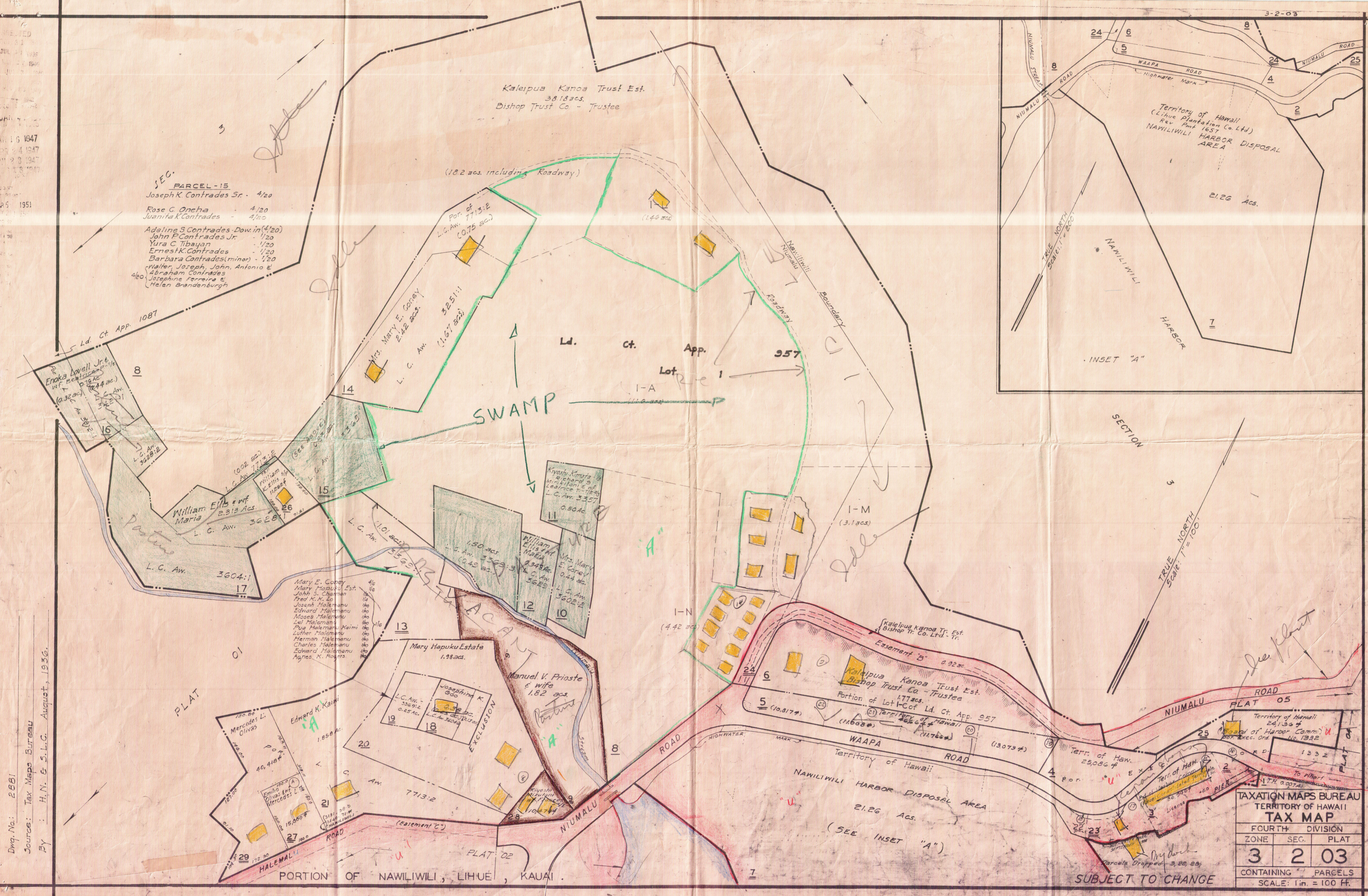
PORTION OF NIUMALU, LIHUE, KAUAI.

Dwg. No.: 2890
Source: Tax Maps Bureau
BY: H.N. & J.L.C. August, 1936.

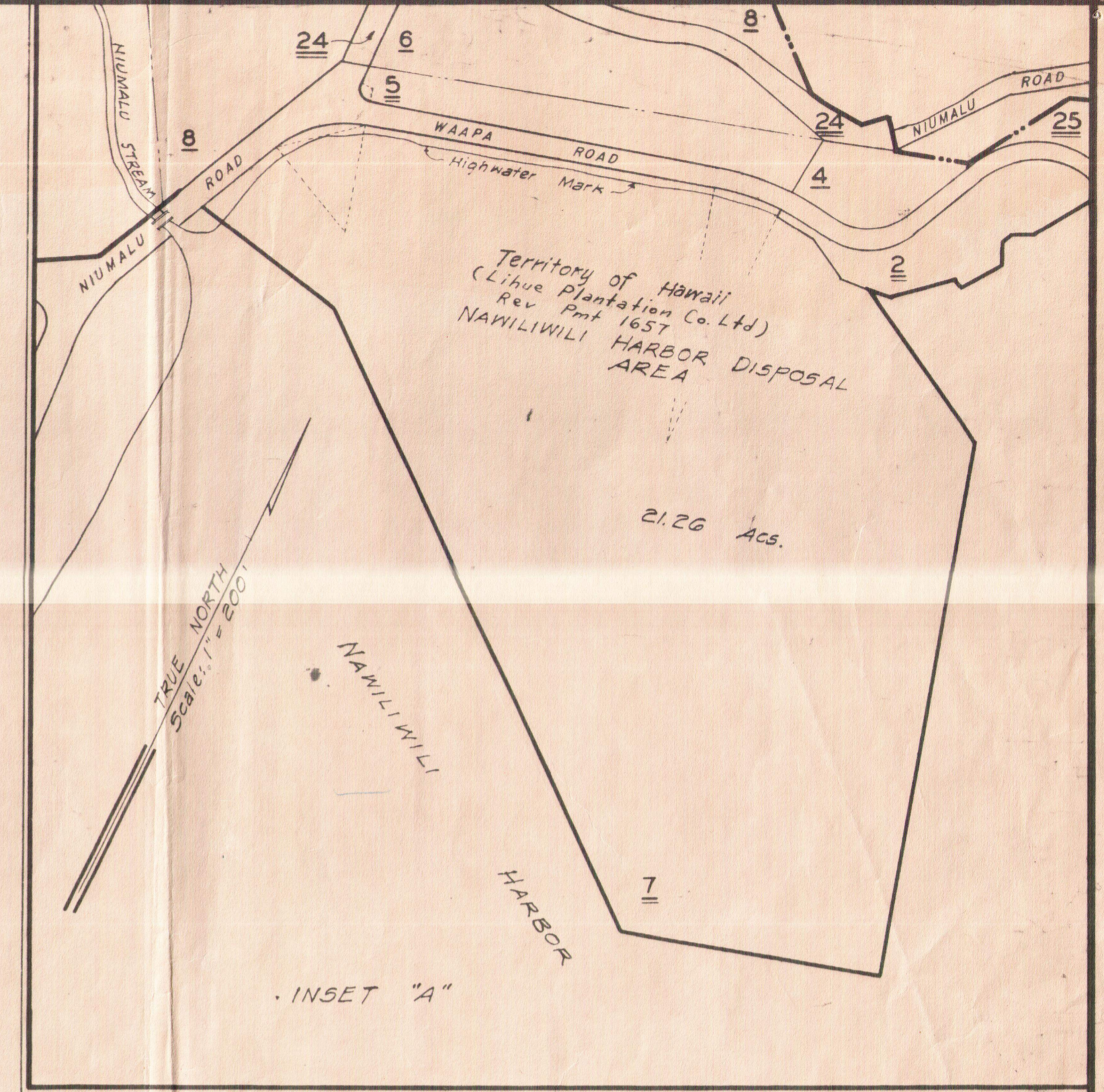
RECORDED
JAN 16 1947
JAN 24 1947
JAN 23 1947
JAN 10 1947

MAR 5 1951

Dwg. No. 2881
Source: Tax Maps Bureau
By: H.N. & S.L.C. August, 1936.



SEC. 1
PARCEL - 15
Joseph K. Contrades Sr. - 4/20
Rose C. Oneha - 4/20
Juanita K. Contrades - 4/20
Adaline S. Contrades - Dow. in (4/20)
John P. Contrades Jr. - 1/20
Yura C. Tibayan - 1/20
Ernest K. Contrades - 1/20
Barbara Contrades (minor) - 1/20
Walter, Joseph, John, Antonio & Abraham Contrades - 4/20
Josephine Ferreira & Helen Brandenburgh



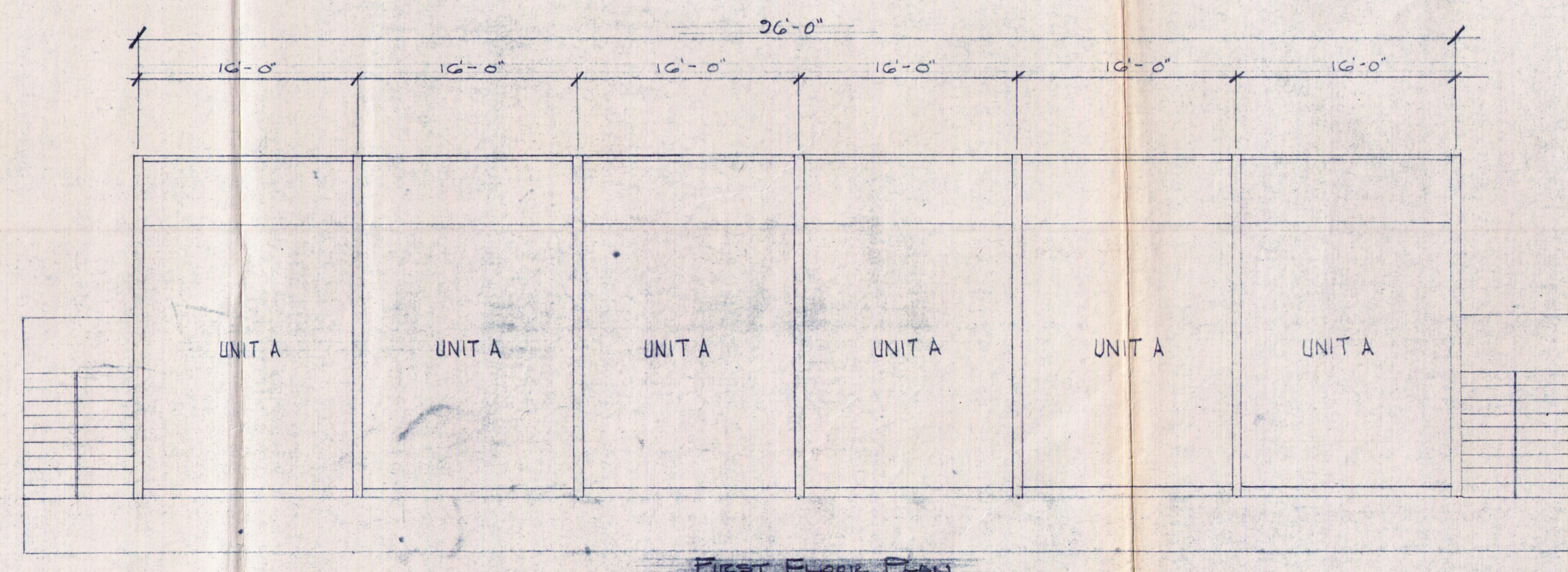
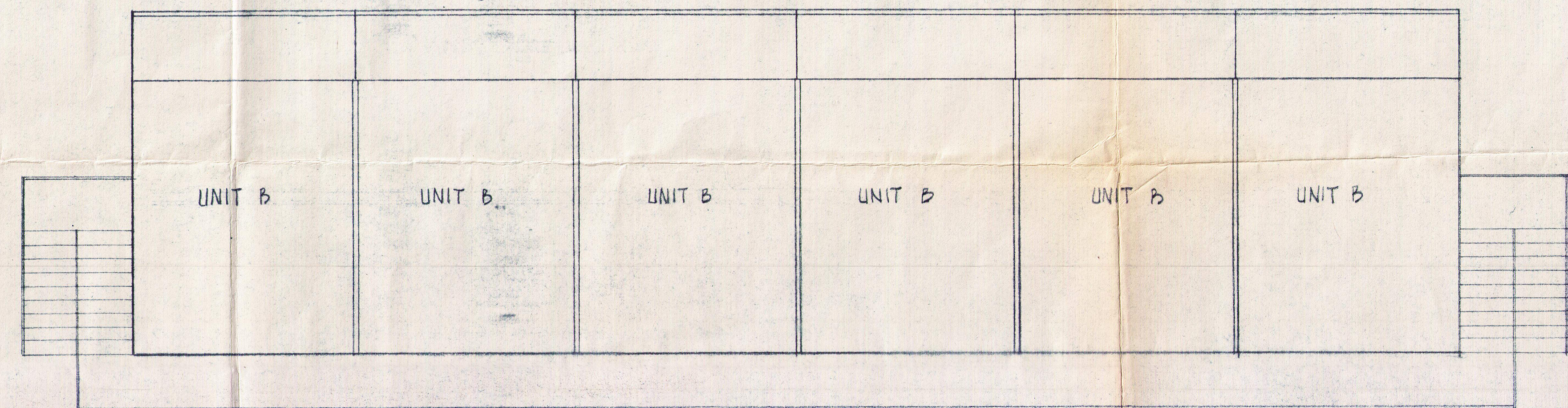
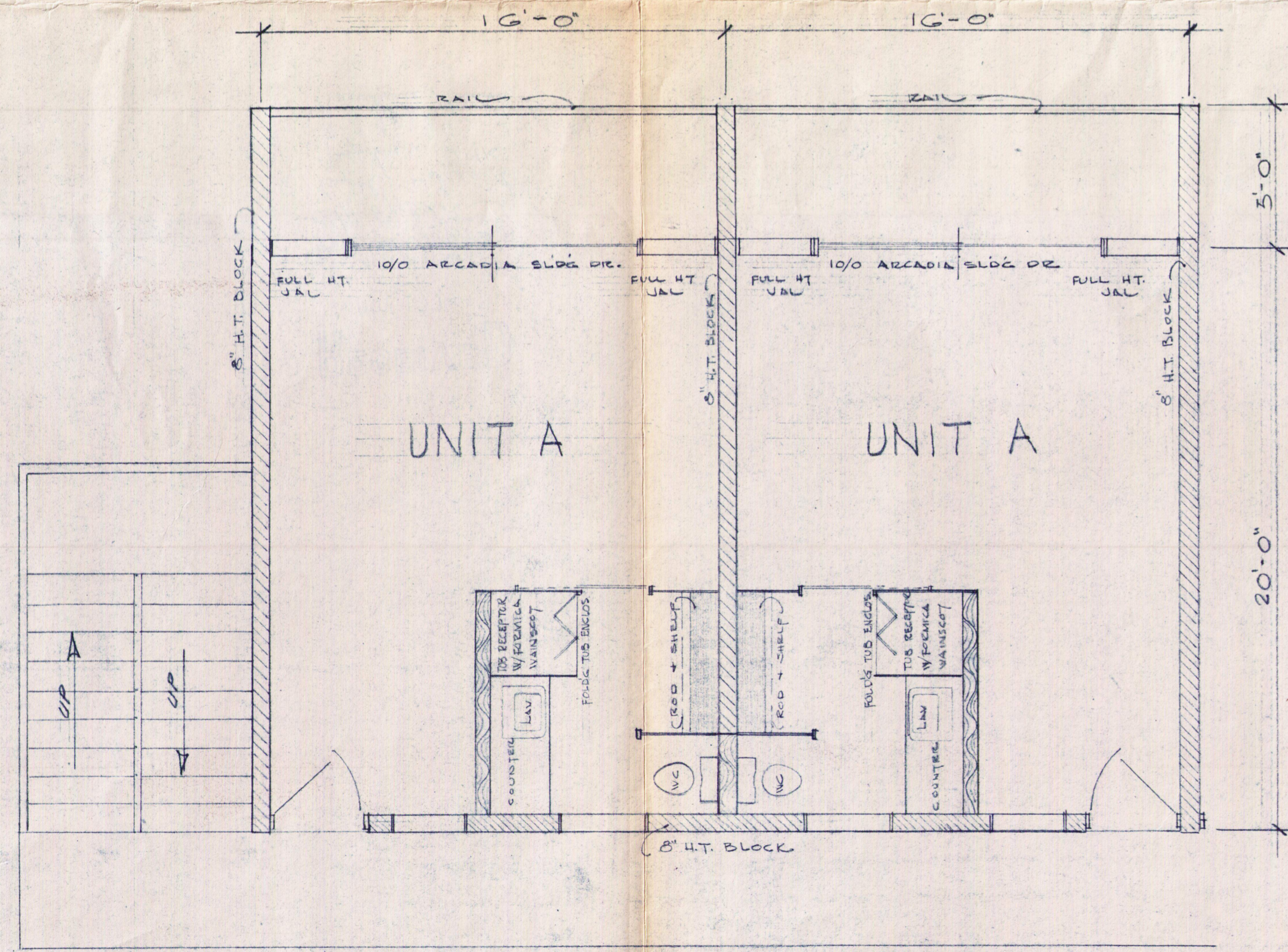
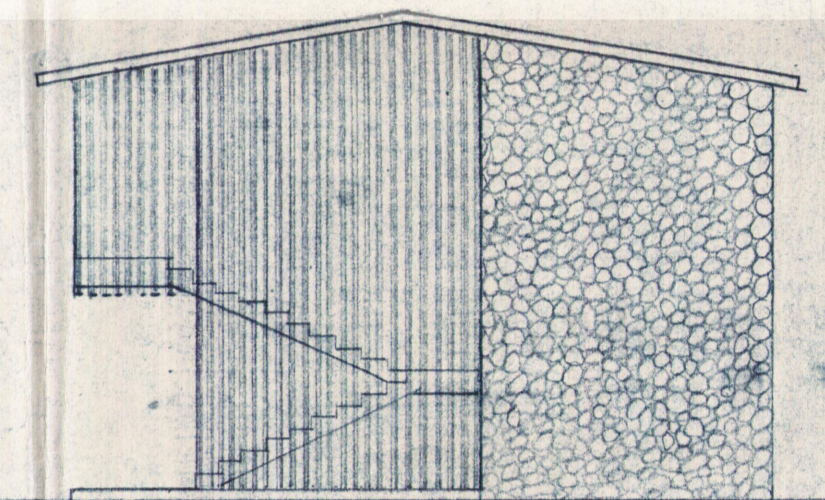
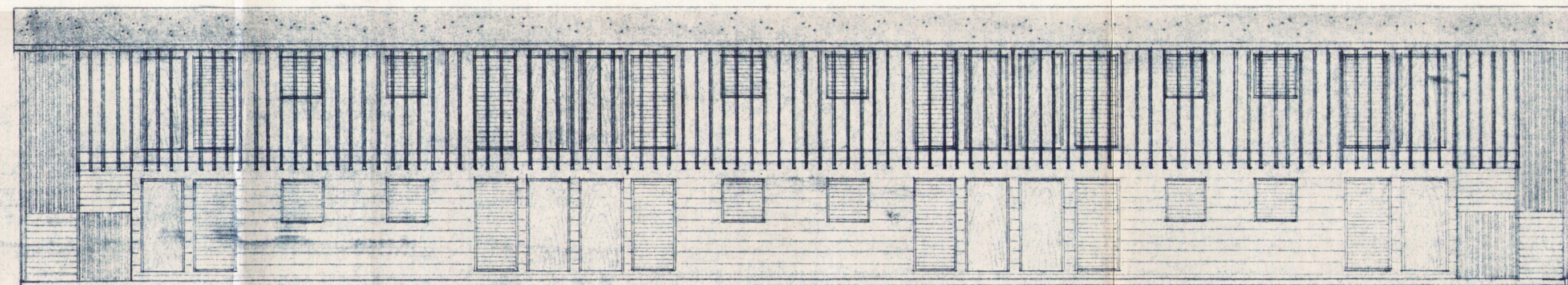
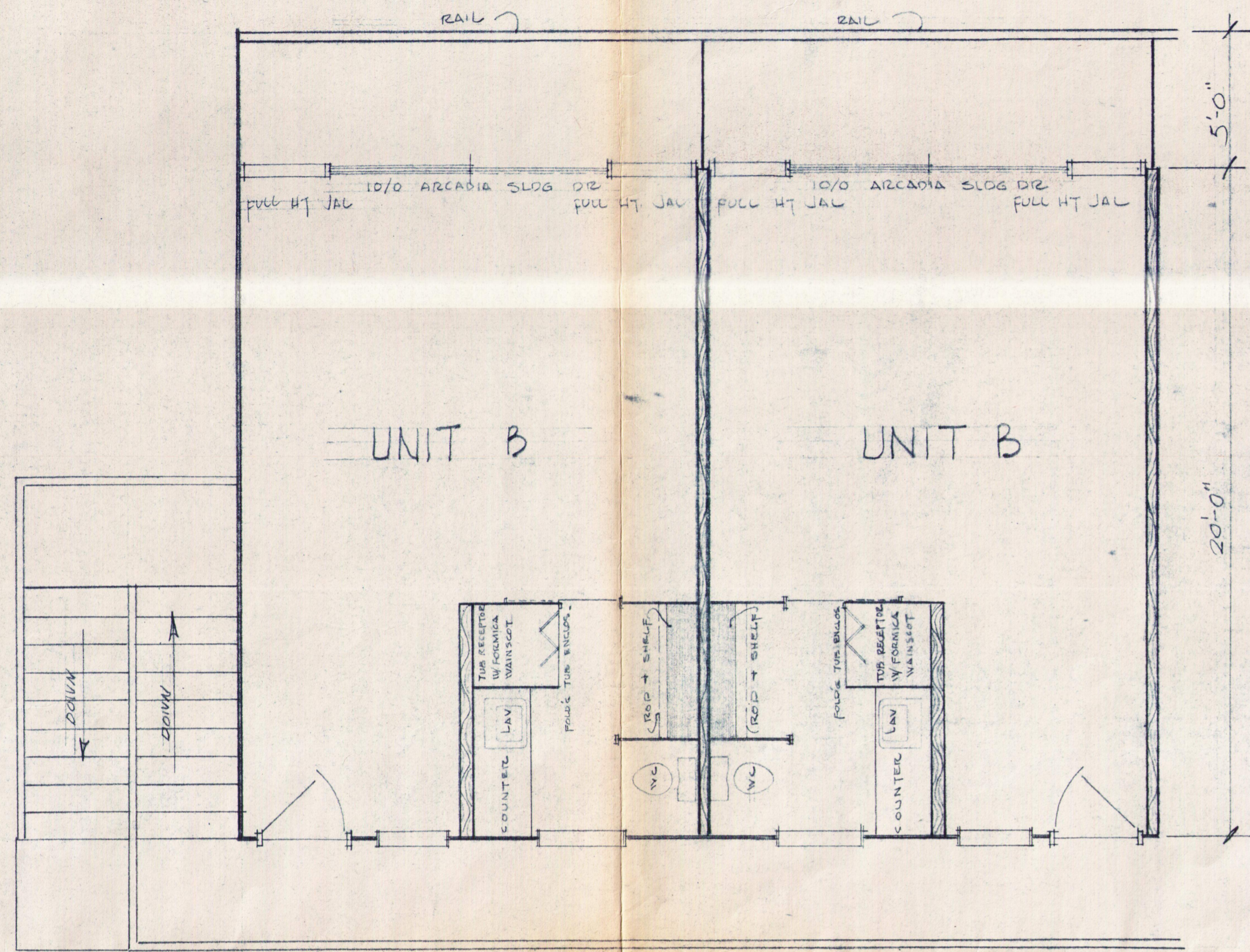
INSET "A"

TAXATION MAPS BUREAU
Territory of Hawaii
TAX MAP
FOURTH DIVISION

ZONE	SEC.	PLAT
3	2	03

CONTAINING PARCELS
SCALE: 1 in. = 100 FT.
PRINTED

SUBJECT TO CHANGE



PROPOSED 12 UNITS 2 STORY BUILDING FOR
 MR. + MRS. KIYOSHI MIZUTANI
 HAWAII, LAHUE, KAUAI, HAWAII
 SEPTEMBER 11, 1964