

ANN N. KALI

SP64-3

STATE OF HAWAII
LAND USE COMMISSION

County Board Room
Lihue, Kauai

8:30 a.m.
October 2, 1965

STAFF REPORT

HANAPEPE, KAUAI AREA
DISTRICT BOUNDARIES

In accordance with instructions from the Commission, the staff has evaluated the Rural District in the Hanapepe area in order to determine whether or not this Rural District might be reclassified to an Urban District. On the matter of suitability of the physical characteristics of the land, the staff finds that soil conditions primarily involve the *Kawaihapa clay loam (K₂U)* Honokaa silty clay loam variety which is commonly used for highly productive forage pastures. Portions of the lands in the present Rural District are being used for cane fields and pastures, with a sprinkling of a few small gardens.

Considering the potential for the area as an Urban District, it is noted that the lands are relatively flat and presently protected from inundation by a new levee. However, the site is a triangular one with the apex abutting the Hanapepe town area. The area is confined by the Hanapepe River to the east, and by the steep bluff to the west bordering the Hanapepe Heights houselots subdivision. While it is apparent that the physical characteristics of the land would make urban development feasible, it is noted that the triangular apex adjacent to the Hanapepe town would be quite undesirable from the standpoint of traffic circulation and access from Hanapepe town to the site.

The population trend in the Hanapepe area is as follows:

<u>1960</u>	<u>1950</u>	<u>1940</u>
1,383	1,259	1,166

From the figures indicated above, it is apparent that population trends involve a very minimal upswing. The State General Plan projects that the general overall

growth in the entire Hanapepe area might remain fairly static or might possibly double, depending on State programs that might be initiated for the area. It is noted that the overall population for the Island of Kauai from 1950 to 1960 declined from 29,683 to 27,922 for a 5.9% decrease in population.

The present Land Use District Boundaries provide for approximately 770 acres within the Urban District. An approximate breakdown of this acreage is as follows:

In urban use	- 430 acres
In agricultural use	- 95 acres
Vacant and not used	- 245 acres

It is noted that approximately 340 acres of vacant or urban lands used for agriculture are available within the present Urban District for possible future expansion. Approximately 80 acres of these lands are in the area immediately north of the airstrip.

The general plan for the Hanapepe-Port Allen-Eleele areas on Kauai designates the subject lands under consideration as crop and grazing land. This is somewhat in conformance with the rural classification of the Land Use district boundaries.

On the basis of the findings indicated above, it is the staff's recommendation that the present Rural District in the Hanapepe area be maintained as such

STATE OF HAWAII
LAND USE COMMISSION

Minutes of Public Hearing and Meeting

Lihue, Kauai

1:00 P.M. - April 9, 1965

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
Gordon Soh, Associate Planner
Alberta Kai, Stenographer

The public hearing was called to order by Chairman Thompson who said an opening prayer. The procedures of the public hearing were outlined and the commissioners and staff were introduced. All interested persons and staff members who would be presenting testimonies were sworn in by the Chairman.

PETITION OF HARRY M. FLAGG AND PAUL R. MILLER (A64-76) FOR AN AMENDMENT OF THE URBAN DISTRICT BOUNDARY AT KALAHEO-KAI TO INCORPORATE APPROXIMATELY 37 ACRES FOR RESIDENTIAL USE: Described as Fourth Division, TMK 2-3-02: 30 and 31

Mr. Gordon Soh presented the background and analysis on the above petition. The staff recommended that the petition be denied on the basis that:

1. There is no evidence that the land is needed for a use other than that for which the district in which it is situated is classified;
2. The instant parcels do not substantially meet the standards for determining district boundaries adopted by the Land Use Commission.

Commissioner Nishimura corrected staff's statement that the residential lot prices in the subject area were 60¢ a sq. ft. He stated that they were 30¢ a sq. ft.

Mr. Matsuo Asari, practicing attorney, represented the petitioner. He informed the commissioners that Mr. Clinton Shiraishi was the petitioners' regular representative but due to prior commitments Mr. Shiraishi was not able to make this hearing. Mr. Asari stated that the overall impression he got from the staff report is that:

1. The land is physically unsuitable for farming;
2. The land is unsuitable for pasturing economically -- physically possible, but economically not; and
3. There is no demand for residential house lots and for that reason (in spite of the fact that it is agriculturally unsuitable) economically it should not be classified as Urban.

Mr. Asari stated that the rules of the Commission specify urban uses to be more than just residential and that the rules seem to define urban uses to be uses other than agricultural. He suggested that urban uses can be other than residential uses and that such uses could be restricted by an agricultural classification.

Mr. Asari pointed out that although the report mentions population concentration and housing development of only 12 homes built in the immediate vicinity in recent years, on an island with only 27,000 people, 12 homes are a considerable number.

Mr. Asari stated that the report's findings relative to the Commission's districting standards are not directly unfavorable except for subparagraphs a and b. He stated the other findings indicate no specific objections.

He stated that there would be no drainage problems resulting because of small lot sizes. The petitioner does not propose small contiguous lots but large lots.

In rebuttal to a statement in the report that there is no sewer line, Mr. Asari informed the Commission that there is only one sewer system on the island of Kauai, that the only system is in Eleele, that no other place has one, and that there is in the foreseeable future no indication that there will be a sewer system in the other locale. By way of rebuttal to a statement in the report that the schools are $\frac{1}{2}$ mile away, Mr. Asari noted that a statistical report from the School Department cites that out of some 7,000 public school students, about 3,000 live between $\frac{1}{2}$ a mile and 1 mile, about 2,000 live more than a mile, and about 2,000 students live within the $\frac{1}{2}$ mile area.

In response to the inference that petitioner's lands are far removed from the Kalaheo-Uka area, Mr. Asari quoted a staff report prepared for the special permit application by Stanley Ueunten a year ago (pointing to map to show Mr. Ueunten's property which adjoins the property now under petition) in which staff recommended that Mr. Ueunten's petition be approved on the basis that the Kalaheo urban district was logically one.

Mr. Asari stated that the staff earlier argued that the two Kalaheo districts are essentially a unit, that the implication is that the staff would support any kind of urbanization to join the two districts and that this report was made only a year ago. Mr. Asari stated that it is his understanding that in approving Mr. Ueunten's petition, Mr. Ueunten's property was reclassified as Urban without a request from the landowner. It was reclassified Urban by the Commission without the request of Mr. Ueunten.

He stated that if it be agreed that the lands under petition are not city-like it should also be pointed out that there are many places on Kauai that do not have schools, do not have any public facilities, and still are classified Urban in the immediate Lihue area. These areas have no sewer system, no public facilities whatsoever, and yet are classified Urban. He stated he could not reconcile the basic argument of less than a year ago that the Kalaheo Urban Districts should be physically integrated and now stating that it should not be so. The parcel under petition lies directly between the areas classified as Urban.

Mr. Asari felt that there is some justification that this parcel would perhaps not be a booming residential area with thousands of people living there. This lot was intended to be subdivided and a good deal of money spent on it. However, the Urban classification will not restrict the owner to residential use alone. Mr. Asari's understanding, from Mr. Shiraishi -- and not from the petitioner -- is that the petitioner has in mind the development of cabins in the area taking advantage of the existing small but expanding golf course. Mr. Asari asserted that agricultural use of the parcel is not possible and there is no economic value in using it for pasture.

Mr. Asari stated that the parcel is in an area where there is great demand for development. He questioned whether demand is a proper criteria relative to development. He pointed out that the Kalaheo area is not a situation where there are a 100 people looking for a house and lot and taking what is referred to them. He suggested that such a situation may possibly exist in Lihue where only a limited number of residential lots are available. He argued that the instant case is not a situation where the land is offered to known buyers. Mr. Asari stated that perhaps the problem of the demand for houselots on the outside islands can be explained.

In response to questions raised by the Commission, Mr. Asari stated that he did not agree with staff's contention that the land is not good for urban purposes. He stated that the lack of an industry is no basis for arguing that the land under petition be kept in agricultural use. He explained that he is not talking about economics in the sense of money making but rather economics relative to the best use of the land and what would be best insofar as the people are concerned.

There were no further questions raised from the Commission or the public, and no further testimonies presented. The Chairman announced that the Commission will receive additional written testimonies or protests within the next 15 days and will take action on this petition 45 to 90 days from this hearing.

The public hearing was closed on the petition by Flagg and Miller.

PETITION BY GROVE FARM COMPANY (A64-77) FOR REMOVAL FROM THE CONSERVATION DISTRICT OF 920 ACRES TO BE PLACED IN AN AGRICULTURAL DISTRICT: Described as a portion of Fourth Division TMK 3-4-01: 1

Mr. Gordon Soh presented the background and analysis on the above petition (see report on file). The staff recommended approval, stating that the agricultural use of the land might be better fostered if the land is placed in an Agricultural District. Planting the site to cane would be a more productive use, the benefits from which could be reflected in higher standards of living and a broader tax base. In the absence of any conservation need for the site, productive uses should be encouraged.

Mr. W. M. Moragne represented Grove Farm. He was very pleased with staff's recommendation. He had nothing to add except to bring the Commission up-to-date on Grove Farm's proposed plan for this area.

There were no additional testimonies or comments made and the Chairman announced that this Commission will receive additional written testimonies or protests within the next 15 days and will take action on this petition 45 to 90 days from this hearing.

The public hearing was closed.

PETITION BY TOMITA SAKAI (KAUAI SP64-4) FOR A SPECIAL PERMIT TO ADD TWO HOUSES ONTO 40.139 SQ. FT. OF PROPERTY SITUATED IN A RURAL DISTRICT IN THE HEIGHTS ABOVE KALAHEO: Described as Fourth Division TMK 2-4-05: 84

Mr. Gordon Soh presented the staff's analysis and background on the above petition (see report on file). The staff's recommendation was for denial on the bases that:

1. The proposed use is not "unusual and reasonable."
2. The proposed use would not promote the effectiveness and objectives of the law because:
 - a. It would violate the integrity of Rural District zoning.
 - b. It would confuse rather than clarify districting as a basis for real property assessments and force lands from uses for which Rural Districts were devised to protect.

Correction to staff's statement in regard to the area involved was made after questions were raised by the Commission. The area under petition contains 40,139 sq. ft. instead of 49,139 sq. ft. as stated. Mr. David Wong, Kauai Planning and Traffic Commission Planning Director, confirmed that the parcel contains 40,000 sq. ft.

Discussion relating to this petition and Ann Kali's request was held. A commission member of the Kauai Planning and Traffic Commission requested that the Land Use Commission reconsider their action made on the Ann Kali petition.

Commissioner Nishimura asked whether the application was for one or two additional homes. It was pointed out by Commissioner Ota that the applicant was seeking to construct two additional homes on his lot.

Commissioner Nishimura moved to deny the petition for a special permit for construction of two additional homes. Commissioner Ferry seconded the motion. The Executive Officer polled the commissioners as follows:

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

Disapproval: None

The motion to deny was carried.

ACTION ON PETITION BY JOSEPH R. PAO (A64-71) FOR A BOUNDARY CHANGE

The Executive Officer read into the record a letter from Joseph R. Pao dated 4/6/65 (see files) requesting that the Commission defer action on his petition until their next meeting. The Commission unanimously agreed to defer action until the Commission's next meeting.

DISCUSSION ON SENATE BILL 262

The Chairman informed the Commission that Senate Bill 262 has been passed and was now in the House Lands and Agricultural Committee. The Commission discussed the merits and demerits of the bill. It was the consensus of the Commission that it continue in opposition of this bill.

REVIEW OF THE ANN KALI'S PROPERTY

The Chairman stated that at its last meeting it was decided that a field survey of the Ann Kali property be made by the Commission to review the possibility of reclassifying a portion of the Hanapepe Rural District to Urban. He stated that this has been made this morning.

Commissioner Nishimura stated that the boundary lines should be changed from Rural to Urban. He stated that there were areas in there for possible house lot development. He pointed out that prime agricultural lands had been taken away for the Hanapepe house lot subdivision. He objected to the staff making an evaluation of the area and requested that the Commission initiate a public hearing for a boundary change in this area.

Commissioner Ferry stated that this Commission should consider whether this land is Urban in nature.

The Chairman stated that the staff will make an evaluation of this area to determine whether this area should be urbanized and to have its recommendation ready at the Commission's next meeting.

TENTATIVE SCHEDULE FOR MAY 7 and 8, 1965

The tentative schedule for May 7 and 8, 1965 Lihue, Kauai and Lahaina, Maui was approved by the Commission. The consensus of the Commission was that action on the Joe Pao petition would also be held at this meeting.

DISCUSSION ON UNUSUAL AND REASONABLE USES FOR HARDSHIP CASES

Discussion was held on whether or not the Land Use Commission should allow subdivision of family properties for the exclusive use of family members and for a given period under special permit.

The Executive Officer summarized the ensuing discussion and stated that the issues involved are:

1. to alleviate social problems
2. to alleviate family financial hardship and
3. to discriminate between lands that are usable for agriculture and lands that are not.

He stated that it would seem proper to think about where most of our people are living. The way the land use is set up almost 80% or more are living in the urban areas. The Commission is solving only about 20% of this problem. He stressed that granting of special permits should be made on facts whether it is an unusual and reasonable use.

COMMUNICATIONS

Letters from Thomas O. Wells, Chairman, Community Beautification Committee, Chamber of Commerce of Honolulu, dated April 8, 1965; and from David C. Sanford, Historic Sites Committee Chairman, Conservation Council for Hawaii, dated April 6, 1965 were read into the record (see files for letters). In essence these letters requested that the Commission review and redetermine the Conservation District lines in the Diamond Head area.

Commissioner Wenkam stated that the Commission should inquire whether there is a need to change the boundary lines and to determine where the lines are in this area.

A lengthy discussion was held on this subject. The Chairman, however, stated that the staff will make a study and a review of this area to report back to the Commission at its next meeting.

The Commission adjourned this meeting at 4:45 p.m.

Summer ~~3~~ 3 feet
if needs ~~7~~ 7 ft ok

502089

bridge short
backwater effect

destroy city bridge.

Cops. recommend tear down
County pays

1963 April

~~longer~~

about 6" to foot of levee
200 yds

123 H.A.R

44,300 lbs

STATE OF HAWAII
LAND USE COMMISSION

MINUTES OF PUBLIC HEARING AND
MEETING

Board Room, County Building
Hilo, Hawaii

1:00 P. M. - March 19, 1965

Commissioners

Present:

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

Absent:

C.E.S. Burns
Shelley M. Mark

Staff

Present:

Raymond S. Yamashita, Executive Officer
Roy Takeyama, Legal Counsel
Gordon Soh, Associate Planner
Alberta Kai, Stenographer

The public hearing was called to order by Chairman Thompson who opened the meeting with a prayer. The Commissioners and staff were introduced. The procedures of the public hearing were outlined. All persons participating or presenting testimonies during this hearing were sworn in by the Chairman.

PETITION OF MOLLY D. ZIMRING (A64-73) TO AMEND DISTRICT BOUNDARIES IN THE VICINITY OF THE JUNCTION OF KUPULAU ROAD AND AINALOA DRIVE IN HILO FROM AN AGRICULTURAL DISTRICT BOUNDARY TO AN URBAN DISTRICT BOUNDARY SO AS TO INCORPORATE 25.67 ACRES WITHIN THE HILO URBAN DISTRICT FOR DEVELOPMENT OF A 25 LOT SUBDIVISION: Described as Third Division, 2-4-36: 1 (formerly 2-4-05: 43), containing 25.67 acres.

The background and analysis on the above petition was presented by Gordon Soh (copy of report on file). The staff's recommendation was for denial on the following bases:

- (a) that the land in question is as much if not more so, surrounded by agricultural uses as urban uses;
- (b) that there are areas more suitably located and easily serviced by public agencies closer to Hilo;

- (c) that the area is not clearly identifiable with the existing developments at Camp 6;
- (d) that sufficient areas in Hilo have been districted for urban growth for the next ten years;
- (e) that the topography and drainage of the parcel is as much suitable for grazing as for urban uses;
- (f) that other low density areas contiguous to urbanized areas have already been districted;
- (g) that urbanization of petitioner's land would not be consistent with the development plan for Hilo;
- (h) that an overabundance of land with low agricultural capability has already been included in the Hilo urban district;
- (i) that the parcel in question would represent a large addition to the 92 acre Camp Urban district which is not fully developed; and that the parcel would not be the most logical extension of that district;
- (j) that the addition of the parcel would extend the area of low density urban districts near Hilo.

The County's recommendation was for approval on the basis that:

- (1) the parcel is adjacent to an existing urban zone;
- (2) the parcel will not be used for agricultural purposes, and the surrounding areas are evidenced by urban type developments;
- (3) the government road which the parcel fronts on has an existing county water system, electricity, and telephone service;
- (4) the nearby urban development is served with a public school, playground, and a gymnasium;
- (5) the parcel is not suitable for high capacity or intensive cultivation of agricultural products.

Mrs. Molly Zimring stated that back in 1920 there was a sugar operation known as the Waiakea Mill. At that time hand cultivation of sugar cane was used. From 1926 to 1930 the business of this mill dropped off because the land was not of very fine quality. At one time this land was owned by the Territory. The Territory subdivided it into homestead lots of 26.65 acres with the idea that homesteaders would become independent cane growers and sell their products to the mill. In 1931 or 1932, the mill went out of business. It was not a profitable operation in the area. The original homesteader was Mr. Haruo Maedo who sold these parcels to other homesteaders. They tried various expedients since they couldn't grow cane on it or profitably sell it. At the present time, this land which has

been in three ownerships is vacant. The area is very poor for grazing and for cattle in general. The nearest cattle raiser is Jack Russell. Mr. Russell leases 130 acres from the State near Camp 10 and can not earn a complete living from cattle raising. Around 1956, a Mr. Shipplay decided to try growing macadamia nuts. He spent \$20,000 on this agricultural venture. In 1959 which was his best year, he gave up and lost \$18,000. In 1962 this parcel (pointing to map) was subdivided and presently has 8 homes. The subdivision was completed less than two years ago. The 8 homes have been built in the last year and a half, and have added almost \$100,000 in taxable assessment and improvements to broaden the base of Hawaii County. This indicates the use to which this property can be suitably put to in this area, with no cost to the county. The staff has used this table in the staff report to show how slow development in Hilo is. By comparison with Oahu this may be slow, but by comparison with growth in Hilo this is very fast. There is only one parcel from Ainaloa to Kamani in agricultural use and quite successful. This is owned by a Mr. Yagi. However, this land which we owned for 6 years had been in part-time agricultural use. It has been used for anthurium raising, and a holding pen for cattle. At the present time it is useful for nothing. There is a paved road from Ainaola to Haihai Road for which the county spent \$1,000 in 1963. It is a 650 to 700 foot paved road. The first proposed 8 lots have paved roads. In addition there is an eight inch water line and all utilities are in. The land is suitable for nothing else and if it is taken out of its present classification, there is no loss. It is already subdivided into three 50,000 sq. ft. lots, or 1.1 acre lots. Our proposal is to put in small roadside lots which we propose to sell for \$2500 or less. These (pointing to map) being less valuable will probably be about \$2200 and these on the paved road about \$2500. The present zoning of this parcel is 1-A which permits 50,000 sq. ft. minimum lots, and roadside lots of 7,500 sq. ft. minimum.

Four things have happened since 1961 which have changed the mind of the County on this parcel. (1) $3\frac{1}{2}$ miles from this property, \$1 $\frac{1}{2}$ million has been spent to put in a very modern shopping center; (2) 3 miles from this property some \$6 million has been invested in the Holy Cross Church, the Holy Apostle Church, the ILWU building, the Army Reserve Building, a proposed YMCA building and the Univeristy of Hawaii Hilo Campus additions consisting of a library and a dormitory, etc. (3) 1 $\frac{3}{4}$ miles away (mileage by speedometer of car) the Kawanawakoa School complex and playground exists since 1962 and early 1963. It consists of the elementary-intermediate schools, large playground and the proposed high school. (4) All the subdivisions listed in the staff report on page 3 except the two 10 acre ones were not in or were not subdivided. The only subdivisions were the two 10 acre ones subdivided into big parcels. However, there were roadside lots which were subdivided directly across of Kapago. There was some delay about putting in the water line so there wasn't any building done on it. From 1962-64 the rest of these subdivisions went in. By comparison the number of houses (15 homes) in that space of time may be slow by Oahu standards but by Hilo standards that is amazing. The reason for

the development, which we consider very fast, is not because it is more desirable than any other place but rather because of its economics. There is one little factor left out of this 10 year urban expansion reserve in Hilo (1,190 acres) which is to fulfill all of our needs and that is 75% of our family population earn less than \$7,000 a year, and that land is 40-50¢ per sq. ft. with the minimum lot price at \$5,000. So 75% of our families are priced out of the market. There is only one place in the past year or two where people can buy at 25¢ a sq. ft., and that is in this area and these subdivisions of 15,000 sq. ft. lots priced at \$2,750 per lot. It is economical. Many of these lots are not built on because many of these lots were paid in cash - \$500 down and \$32.50 per month. These 15 homes in the past two years have added \$200,000 in taxes to broaden the county tax base and have done the county a great deal of good.

The past two years the county has put in a paved road and an eight inch water line. This water line which was completed in December 1962 is 2,250 ft. long and capable of serving 100 connections at a minimum. It costs \$15,000 to put this in. On the east side, there are 18 water connections. On the west side, there are 2, or a total of 20. Utilization of this water line is only 1/5th of its capacity. This same illustration of the water line can be applied to the road, school, recreational facilities, electricity, telephone which are there and available for this urban area. These are being used only on one side of the street. There is a 30 foot road all in this section, and no 15 foot soap box as down here. There is an access by Haihai and Ainaola. All of these services are there and available and useful for only one side of the road. We propose to bring in 25 more new users. The annual income from these 20 users is estimated to be \$720. With 25 more new users this will bring the utilization of these services to $\frac{1}{2}$ its capacity and raise the annual income to \$1620. If the cost were shared and the income doubled it would be no cost to the county since everything is presently there. It is true this is an isolated development, but it is there. The services are being paid for and it is being under used. Wouldn't it be a benefit to our county to get additional users? This is why the county has given its five reasons for approving this. In 1961 the county felt one way. At the present time as a result of what has happened since 1961, the master plan for 1965 has been changed. So if the Land Use Commission makes it a policy to go along with the master plan of the local governmental body then the recommendation contained in the staff report is in error because it recommends going along with the master plan as it existed in 1961.

In summary Mrs. Zimring stated that this parcel of land has never produced anything agriculturally. It is idle and vacant land. It could be producing improvements (taxable improvements) to broaden our tax rates at no cost to the county. The services are all there. It could help advertise the cost improvements already in and bring in some more income and broaden the tax base. It is eminently suitable for small lots. It is one of the few parcels of cheap land available. There is a need for lots priced at \$2500 or less. There isn't a one to be seen anywhere in this County now. About 75% of the people cannot buy lots. This area is in a wrong classification; there is a need for it. It is suitable for small house lots. There would be no cost to the county. In fact there would be a savings to the county,

and the demand for these houselots exists presently.

Mrs. Zimring rebutted staff arguments point by point:

- (a) There is only one land in agricultural use. The rest is vacant or in subdivision. The area would be classified as 40% idle, 10% in agriculture, and 50% in subdivision or urban use.
- (b) Although there are areas more desirable and closer to Hilo, they are priced out of the classification where people can afford to buy. If in the reserve areas (which are to provide for 10 years) there had been provided different economic classes of houselots, there would be no need to go farther out. However, this is the only area where land is cheap and where the market can buy.
- (c) The roads, water lines and utilities are shared. The boundary is up to the 30 foot road. The school, recreation and mail deliveries are shared. The facilities are used by Camp 6 which is the east side of the street. With a street as a boundary, wouldn't it be logical to include both sides of that street in the urban district? What other area is there more identifiable? This is the access to the area and Ainaloa. Perhaps it could be set across the street for it to be more clearly identifiable.
- (d) They are all of a single economic class. The further the City of Hilo moves Punaward, the more expensive the intervening land gets. So the medium lot price is now \$5,000. A year from now it will be \$6,000; two years \$7,000. The same people who has excess to it now will have excess to it then (25% of the population).
- (e) It is true that the topography and drainage, both being very good, are just as suitable for grazing as for houselots. The only problem is it can't be used for grazing because the quality of the land is too low and the size of the parcel too small. So that this quality in topography and drainage, which makes it as good for grazing as houselots, does not necessarily make it usable for that. It will remain idle and vacant if it can't be used for houselots because no other use has been thought of.
- (f) This is true. There are other areas contiguous to urban areas, but is this reason for denying this one. Where are the other areas? They must be on the outskirts. Specifically this parcel is in an area where the facilities are there and being under used, which the per capital cost in government to this county can be reduced and the taxable base can be increased, if this parcel was included.

- (g) This should have gone further to state, "Would not be consistent with the development plan of Hilo of 1961, but would be consistent with the development plan of 1965?" Hilo may move slower but this is no reason for moving the clock backwards.
- (i) Perhaps it would. "Our object is to get urbanization for the lots which we have illustrated." It was our understanding that we had to include the whole parcel. If this is in error we would amend our request that the boundary be amended for roadside lots which we feel there is a need. All of the area in Camp 6 which are accessible have been fully developed. Those areas not fully developed include a great big egg farm and land owned by these people, that is in an Urban district, which they are waiting to get higher prices before putting it on the market.
- (j) It will extend the area of low density urban districts near Hilo and recommend that it does so because there is a very real need and use for this urbanized land. This is an isolated urban area with wasted available service. So it would be most logical and money saving to add this area even though it is far from Hilo. However it is not as far from Hilo as it was in 1961. The City is creeping over to meet it. It now has school, churches, and shopping much more available. At that time it had a two-inch water line; now it has an eight-inch water line. It has partly paved road and more desirable now than at that time.

In closing Mrs. Zimring requested to change her statement made in her application to read: "There are a 100 lots zoned urban up to Ainaola Street and presently 56 have houses built on them." She stated that originally it stated: "There are a 100 lots zoned urban up to Ainaola Street and presently have houses built on them."

Mrs. Zimring, upon advice that she could petition for just a portion of her land to be changed, amended her petition for urbanizing roadside lots without limiting it to 7,500 sq. ft., which would range from 7,500 sq. ft. to 15,000 sq. ft. She stated that the Planning Commission doesn't have to grant them these small lots. They could grant them 15,000 sq. ft. minimum roadside lots. She informed the Commission that these smaller lots would sell from \$2200 to \$2500; the 15,000 sq. ft. lots (which demand is not too great) would sell at 22¢ a sq. ft. or \$3,000 a lot.

Commissioner Ferry asked the Acting County Planning Director whether there is such a zone established that would permit 7,500 sq. ft. lots in the area. Mr. Suefuji stated that if it is to be put in an urban zone the existing ordinance would allow 7,500. He added, however, that at a recent meeting the Board passed an amendment which would set forth one acre as a minimum in this area. This amendment is to become effective in one week. Mr. Suefuji stated that the present zone for this area is residential-agriculture. As far as the master plan is concerned, at the present time it is in Agriculture. The

Planning Commission has been apprised that if they are recommending that this area be put to urban use than the Commission is morally obligating itself to an amendment that is of necessity.

Commissioner Ferry stated, "Am I to understand that the Planning Commission of Hawaii is willing to change its zone in the present master plan and include this area in Urban." This would mean the one acre limitation would not hold. Commissioner Ferry asked the staff whether it was aware of the subdivision contemplated by the petitioner to the size of lots. Mr. Soh replied that the staff's primary interest in this petition was not so much the minimum lot size standard since it felt this was completely in the county's kuleana. Commissioner Ferry stated that he felt staff was not aware of this because staff's conclusion for denying this petition on the basis of (j) would not hold. This would not extend the area of low density urban districts near Hilo but rather high density. Mr. Soh replied that at that time we were talking of the entire parcel. Commissioner Ferry replied in the affirmative, stating that this is why he could see that staff was not of the knowledge of the 7,500 sq. ft. lot plan.

The remainder of the discussion centered around the county's zoning ordinances covering this area which were explained by the Acting County **Planning** Director.

There were no other testimony or questions relating to this petition. The Chairman announced that the Commission will receive additional written testimonies, protests, etc. within the next 15 days and will take action on this petition 45 to 90 days from this hearing.

The public hearing on the petition by Molly Zimring was closed.

PETITION BY W.H. SHIPMAN, LTD. (A64-75) TO AMEND THE AGRICULTURAL DISTRICT BOUNDARIES IN THE VICINITY OF KEAAU SO AS TO INCORPORATE 17.67 ACRES WITHIN THE KEAAU URBAN DISTRICT FOR DEVELOPMENT OF VARIOUS URBAN USES: Described as Third Division, TMK 1-6-03: portion of 8.

The background and analysis of the above petition was presented by Gordon Soh (see report on file). Staff recommended that the inclusion of petitioner's lands in an Urban District is reasonable. There is clearly the need for redevelopment in the area. The lands under petition are characterized by city-like concentrations; are close to the basic public and commercial services; do include **plantation** camps no longer ancillary to agriculture; are of moderate size; are urbanized but may be excessive to needs; are topographically suitable for urbanization; are contiguous to an Urban district; are proposed for urban use by the county general plan; are not particularly suitable for agricultural uses; do adjoin existing urban developments; do constitute a minor portion of the total urban area; will not contribute to scattered urban development if redistricted but will contribute to a lowering of population density. Staff added that resettlement of old time residents in recent subdivisions has already led to some

sprawl. Further sprawl can only weaken population concentration. In districting the urban areas in Keaau redevelopment ought to be encouraged rather than the continuation of sprawl. The proposed redevelopment of the areas close to the historic center of urban concentration according to a firm plan should be particularly encouraged. On these bases, staff recommended that the petitioner's request be approved.

The Hawaii Planning Commission confirmed that the land is now in urban use; adjoins the existing Keaau urban district, is proposed for urban use by the county master plan; is close to the civic center development; and is fully serviced by various public and commercial facilities. The County also suggests the importance of the developed Keaau as the hub district-wide development.

Mr. Richard Devine, representing the petitioner, was sworn in. He was very happy with the recommendation of the staff and had nothing further to add to the staff's report.

In response to Commissioner Ota's questions concerning their proposed development, Mr. Devine stated that these areas which were leased for agricultural pursuits are no longer being used as such, but rather for urban use. The other areas are mostly in cane, and at present petitioner wishes to have it remain as such. Ownership in this area is not limited to Mr. Shipman. Mr. Shipman has opened up his lands in these areas for houseslots and has sold them to individuals. In his proposed development he intends to sell residential areas in fee simple to those individuals who are interested in buying. The business and commercial areas he intends to lease. Mr. Devine agreed with Commissioner Wenkam that the urban boundary in this area should join with the new Volcano Road.

There were no further testimonies or comments presented. The Chairman announced that the Commission will receive additional testimonies, protests, comments within the next 15 days and will take action 45 to 90 days from this hearing.

The public hearing was closed.

ACTION TO BE TAKEN

PETITION OF W.H. SHIPMAN, LTD. (A64-69) FOR AMENDMENT TO THE LAND USE DISTRICT BOUNDARIES FROM AN AGRICULTURAL TO AN URBAN DISTRICT FOR VARIOUS URBAN USES FOR LAND SITUATED BETWEEN THE NEW AND OLD VOLCANO HIGHWAY IN KEAAU, PUNA, HAWAII: Described as TMK 1-6-03: 64 containing 6.897 acres.

Since the public hearing held on the above petition in Hilo, on January 22, 1965, the petitioner's counsel has submitted a rebuttal to the staff's recommendation. A written summary was prepared to bring the Commission up to date on all the facts relating to this petition since the public hearing. This presentation was given by Gordon Soh (see summary on file).

The staff reported that the petitioner has provided strong and persuasive arguments in favor of its request and because of this has reversed its earlier recommendation on the following bases:

- (1) The county has jurisdiction of uses in Urban districts.
(Mr. Soh added that since the preparation of this memorandum staff has been advised that the use proposed by Mr. Blomberg is more nearly that of a hardware store than a lumber yard. Mr. Soh stated that this distinction is important since a hardware store is more nearly commercial than a lumber yard.)
- (2) The area is not suitable for agriculture.
- (3) The area is contiguous not on one but two sides of an urban district.
- (4) Volcano Road is a convenient boundary to be used in establishing the district lines.
- (5) The area in question has as much potential for growth as any other area in Keaau. It lies at the junction of two important routes and is near being a 100% corner as any other area in Keaau.
- (6) The area is easily served with public facilities. It is bordered on two sides by the newest roads in Keaau.

Commissioner Inaba moved to accept the staff's recommendation for approval to grant the urban change. Commissioner Nishimura second the motion. The Executive Officer polled the Commissioners as follows:

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

Disapproval: None.

The motion for approval was carried.

PETITION OF W.H. SHIPMAN, LTD. (SP65-13) FOR A SPECIAL PERMIT FOR THE PURPOSE OF ALLOWING URBAN DEVELOPMENTS OF THAT PORTIONS OF PROPERTY NOW USED FOR INTENSIVE RESIDENTIAL USE LOCATED IN AN AGRICULTURAL DISTRICT IN THE COUNTY OF HAWAII

Chairman Thompson asked, "Is this petition for a special permit for urban development and not of a specific nature?" He was answered by the Executive Officer in the affirmative. Chairman Thompson stated, "Is this avenue appropriate for a variance? A variance must be tied in with a specific use." Mr. Twigg-Smith, representing the petitioner, was informed by the Chairman that this procedure was improper because the request was for a broad urban use and not for a specific use. He suggested the avenue of a boundary change instead.

The Executive Officer stated that in essence the staff report (see report on file) goes into some detail as to the appropriate bases upon which a special permit may be initiated or considered. The conclusion is that none of the basic requirements is present in this issue. Further that the law clearly provides a procedure to petition for amendment of the district boundaries when the issue concerned is for an unspecified urban development. These are the two conclusions drawn after studying this petition and upon this basis staff would recommend denial of this petition.

Commissioner Ota suggested that the staff together with the Hawaii Planning Commission and petitioner meet on this problem and take a look at this whole urban area again, and perhaps come up with some kind of comprehensive report covering this area.

The Executive Officer stated that there is nothing in the document or correspondence relating to this. However this presents an opportunity to discuss it to reach a much easier solution, or discover some course of procedure to initiate.

Chairman Thompson stated that in terms of the petition at hand and as presented, there is but one course to take and that is to deny the petition.

Commissioner Wung moved to deny this petition on the basis that this was an inappropriate procedure for a special permit. Commissioner Ferry seconded the motion. The Executive Officer polled the commissioners as follows:

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

Disapproval: None

The motion to deny was carried.

PETITION BY ANN KALI (SP64-3) FOR A SPECIAL PERMIT TO ADD A HOUSE ON PROPERTY SITUATED IN HANAPEPE CONTAINING 30,361 SQ. FT.: Described as Fourth Division, TMK 1-9-3: 28

Mr. Gordon Soh presented the background and analysis on this petition (see report on file). Staff recommended denial of this petition on the bases that:

- (1) The proposed use is not unusual and reasonable in accordance to statutory requirements.
- (2) The proposed use will not promote the effectiveness and objectives of the Law as it would weaken the integrity of state zoning because there is no valid basis for granting the special permit.

- (3) It would tend to weaken rather than strengthen the complementary assessment basis and force adjacent lands into uses not in the best public interest.

While approval of this or similar issues would not appear to be grave or consequential issues for the moment or even in the near future, staff feels it can become grave and consequential in the long run.

Commissioner Nishimura pointed out that the federal government spent \$1,000,000 in this area for a flood control. The original intent was to evacuate everyone from the area, however, they decided to urbanize the area and built this flood wall. He stated that this area is contiguous to the urban town close by. He pointed out the swinging bridge in the area connects this area with that of the urban area. He corrected staff's statement that there was an unimproved road there. He stated that the road is paved. He stated that most of the agricultural activity in the area is in vacant pasture.

Mr. Soh confirmed that the reason the area is in low density use is that it used to be inundated. However, the character of development has been changed.

Commissioner Nishimura pointed out that this is a remnant kuleana of 30,000 sq. ft. This family faces this problem of not being able to subdivide this land because of a family will which prohibits this.

Commissioner Wenkam was of the opinion that granting family land to children is neither unusual or reasonable, and in this case it is not being subdivided. He pointed out that this is a special permit which has the tendency to increase the density and lead to a change in the type of use of the land. He argued that this particular use is of a family nature and of a change which assumes the sincerity of the people requesting the permit. The permit is for a family use which is something that should be given serious consideration and one which is not establishing a precedent or is an issue of much consequence.

The Executive Officer stated that granting a variance on the basis of hardship is possible. However, the only kind of hardship which the Commission should consider is the difficulty in implementing the use prescribed. In this particular case the land can and is used for the use permitted in this area. There is no hardship. Petitioner wants to go beyond the zoning regulation and this is not subject for a special permit.

Commissioner Ferry added that if it is to accommodate a larger family, it is always permissible to add on to the house.

Commissioner Ferry moved to deny the request. Commissioner Ota second the motion. The Executive Officer polled the Commissioners as follows:

Approval: Commissioners Wung, Inaba, Ota, Ferry and Chairman Thompson.

Disapproval: Commissioners Wenkam and Nishimura.

The motion for denial was carried.

Chairman Thompson stated that the Commission will review this property to see whether this area should be considered for an Urban district. Commissioner Nishimura requested that the staff, upon all field investigations, meet with each respective island commissioners on these trips.

The meeting adjourned at 5:00 p.m.

March 24, 1965

Ref. No. LUC 596

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

Attention: Mr. David F. Wong, Planning Director

Gentlemen:

At its meeting on March 19, 1965, the Land Use Commission voted to deny the grant of a special permit to Ann N. Kali to construct an additional home on the 30,361 sq. ft. parcel described by Fourth Division, TMK 1-9-03: 28.

Enclosed for your information is a copy of the Commission's staff report, which formed the basis for the Commission's action.

Sincerely,

RAYMOND S. YAMASHITA
Executive Officer

GS/ak
Enclosure

cc: Ann N. Kali
Chairman M. Thompson

STATE OF HAWAII
LAND USE COMMISSION

VOTE RECORD

ITEM SP64-3 - Ann N. Kali

DATE 3-19-65

PLACE County Bldg, Hilo, Hawaii

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:

Ferry - for denial
Ota - Sec

Thompson review.

STATE OF HAWAII
LAND USE COMMISSION

Board of Supervisors' Board Room
Hilo, Hawaii

3:00 P.M.
March 19, 1965

STAFF REPORT

KAUAI SP64-3 - ANN N. KALI

District Classification: RURAL

BACKGROUND

The County of Kauai Planning and Traffic Commission has referred an application for special permit by Ann N. Kali to add a house onto her property. The property is situated at Hanapepe, contains 30,361 square feet, and is identified by Fourth Division, TMK 1-9-03: 28.

There is presently a house on the property located about the middle of the lot. The rear of the yard is in lawn and contains a small shed for animals. The front half of the lot is vacant and overgrown with grass.

Back of the lot is an earthwork, perhaps eight feet high and as much as a hundred feet wide. This is a flood control levee lining the west bank of the Hanapepe River. Mauka of Alahula Road the levee veers to the west to Awawa Road.

Awawa Road is the principal access to the upper reaches of Hanapepe Valley. It is a 20' improved road. Access to the applicant's property is by the narrow unimproved Aki Road which branches from Awawa Road.

Power and telephone services are available, and a 4" hydrant is located near the applicant's property. The main to the hydrant crosses the

Hanapepe River from the town of Hanapepe.

The fire station is located in the town of Hanapepe and is serviced by about eight firemen. Police stations are located in Lihue and Waimea.

Eleele School is located on the bluffs east of the valley. To reach the school a footbridge crossing the river can be used. The footbridge also accommodates pedestrians wishing to do business in commercial sections of Hanapepe.

In 1960 an irrigation ditch to serve the general area was constructed. Median annual rainfall is between 25 and 30 inches.

The general area is relatively flat. Prior to the construction of the levee in recent years, flood waters from the Hanapepe River would inundate portions of the area. These areas today are dry but remain vacant.

Soils in the area are primarily of the Honokaa silty clay loam variety which is commonly used for highly productive forage pastures. Cane, pasture and a few small gardens can be found in the general area.

Agricultural uses are mixed with residential uses. Large areas, however, are merely vacant. The area is generally a low density development. Former flooding problems, irregular land ownership patterns, limited access, development of low cost housing by the State at Hanapepe Heights and development of housing by the plantation at Eleele have all served to retard development of the area. The density of development does appear to be noticeably higher along available roadways as far mauka as Aki Road.

Kawaihewa
clay loam
K24
Pg 592
Soil Survey

The present classification of the area is Rural. It is an area of mixed uses, and the general density of development is low. On a lot by lot basis, however, densities vary rather widely. Homes in the area range from small to large. Housing conditions range from good to poor.

The portion of the Rural District bounded by Aki Road, Awawa Road and the levee as far ~~ma~~ka as the applicant's lot contains 39 homes. This portion contains approximately 20 acres. The overall density is about one (1) home per half acre. About half of the twenty acres is vacant. This acreage is generally found near the levee but otherwise the vacant acreage does not follow a consolidated pattern.

The applicant's property contains 30,361 square feet. The attorney for the applicant advises that "The applicant is the mother of three (3) children but wishes to divide the property and provide homes for only two (2) of them namely Kenneth Kali and Robert Kali, Jr. At the present time the applicant lives in the presently existing single family dwelling house on the said property together with her son Robert and his wife and child. She is desirous of construction on a portion of the said land another single family dwelling to be occupied by her son Kenneth, his wife and child. She will continue in the presently existing dwelling with her son and his family."

The applicant's attorney further advises that "Although the applicant would like to subdivide the said land so that the fee title in each half of the said land could be conveyed to her sons respectively, she is given to understand that such permission will not be granted under the laws, rules and regulations now in effect."

The record of the County hearing shows that up to the date of public hearing on January 7, 1965, no letters of protest were received. The record contains testimony by the applicant's attorney:

- (1) That subject lot has been in the Kali family as a kuleana for many years.
- (2) That the lot was originally a much larger parcel:
 - (a) That the State, at the time of construction of the flood wall, took away approximately one-fourth of the original lot.
 - (b) That the remainder was subdivided between two branches of the Kali family, one receiving 0.343 acres, another 0.697 acres.

The County Planning Director recommended approval of the application, noting:

- (1) "that the sought for relief does not involve subdivision of land or maintaining the use of land but rather to seek a form of administrative relief (variance) from the literal import and strict application of the State Land Use Regulations through a special permit procedure.
- (2) "There will be no increased population density to affect government facilities, nor any substantial change in the character of the neighborhood, nor will it be detrimental to the adjoining properties,
- (3) "because the need outweighs the harmful effect it will have in the rural district, the staff considers the petitioner's request as being reasonable."

ANALYSIS

Section 98H-5(c), RLH 1955 provides:

"Unless authorized by special permit issued pursuant to the provisions of this chapter, only the following uses shall be permitted within rural districts:

- "(1) Low density residential uses;
- (2) Agricultural uses; and
- (3) Public, quasi-public and public utility facilities."

It further provides:

"In addition, the minimum lot size for any low density residential use shall be one-half acre and there shall be but one dwelling house per one-half acre."

Rural districts are areas of mixed land uses and as such are contrary to basic zoning principles. They are not easily if at all defined in planning terms. Section 98H-5(c) appears to surmount this problem by precisely defining uses intended for Rural Districts. The rule is a legislative one, and not one devised by the Land Use Commission.

Authorization to depart from legislative prescription is permitted only "by special permit issued pursuant to the provisions of this chapter." Permits may be made for certain "unusual and reasonable uses within an agricultural or rural district other than those for which the district is classified."

The more technical or legal grounds for granting of variances, exceptions and special uses are well established in judicial history, statutes and ordinances. Briefly, the following are such guidelines:

1. Unnecessary hardship or difficulty is a basis for granting approval.
2. A special use within a zoned district may be established where the location of the use will substantially serve the public convenience and where it will not substantially and permanently injure the appropriate use of neighboring property.
3. There must, as a rule, be exceptional or special circumstances to warrant a variance or exception from zoning restrictions.

4. Where a zoning restriction is reasonable and no ground for a variance exists as to particular property when the restriction becomes effective, there must be a change of conditions to warrant a variance as to such property.
5. It is not grounds for a special use when one seeks to use land in violation of zoning restrictions.
6. Neither a pre-existing nonconforming use nor a nonconforming use established by a variance grant can constitute a basis for granting a new variance.

Items 1 and 5 appear most related to the instant petition. While both petitioner's attorney and the Planning Director's comments do not directly state hardship or difficulty as grounds for approval, the description of the circumstances lead to that concern. [Hardship or difficulty is grounds for approval ".....where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the ordinance, so that the spirit of the ordinance will be observed, public safety and welfare secured and substantial justice done."] To delve deeper, [".....practical difficulties or unnecessary hardships are essential to the grant of a variance...mere hardship alone is not sufficient to justify granting a variance....In any event, a variance may be permitted only in cases of practical necessity, where the reasons for it are substantial, serious and compelling.....It is fundamental that the difficulties or hardships must be unique to justify a variance...No one factor determines the question of what is practical difficulty or unnecessary hardship, but all relevant factors, when taken together, must indicate that the plight of the premises in question is unique in that they cannot be put reasonably to a conforming use because of the limitation imposed upon them by reason of their classification in a specific zone; when this appears, the further question has to be determined, whether desirable relief may be granted without substantially derogating

from the intent and purpose of the zoning law....Moreover, the difficulty or hardship that grounds a zoning variance must come from the zoning ordinance or restrictions, and not from deeds, contracts or plat restrictions."1/

In the instant case, the difficulty or hardship is not of the nature that would support approval. The nature of the hardship in this case is more similar to that type that stems "from deeds, contracts or plat restrictions," and thus not grounds for a zoning variance. Further, the granting of the desired relief would substantially derogate the intent and purpose of the zoning law as there would be no bases for then denying other landowners in the same and other rural districts, similar relief. In any event, the result would be the use of land in violation of zoning restrictions. On this basis the decision to grant a special permit would be adverse in accordance to Item 5 - "It is not grounds for a special use when one seek to use land in violation of zoning restrictions."

Guidelines for determining an "unusual and reasonable use" are also contained in the Land Use Commission's Rule 2.24. A discussion of the application in terms of the guidelines follows:

- (a) Such use shall not be contrary to the objectives sought to be accomplished by the Land Use Law and Regulations.

Comment: The lack of uniqueness in this issue, or clear bases for approval, would make it difficult to deny other landowners similar relief from alleged hardship or difficulty. The granting of the instant petition, and other possible similar petitions, would tend to weaken the integrity of State zoning, lend uncertainty to future use of land, raise land values and destroy the bases for equitable land assessment.

- (b) That the desired use would not adversely affect surrounding property.

Comment: Similar comment to (a) above. Further encourages residential use, resulting rise in taxes and ultimate destruction of agricultural uses and rural environment.

1/ The Law of Municipal Corporation, Vol. 8; McQuillin, Eugene. Callaghan & Company 1957.

- (c) Such use would not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage and school improvements, and police and fire protection.

Comment: The approval of this petition alone would of course not unreasonably burden public agencies. However, the possible setting of an undesirable trend would cause concern.

- (d) Unusual conditions, trends and needs have arisen since the district boundaries and regulations were established.

Comment: Since the district boundaries were established in August 1964, unusual conditions, trends and needs of a general nature have not arisen.

- (e) That the land upon which the proposed use is sought is unsuited for the uses permitted within the District.

Comment: Residential uses are not prohibited in Rural Districts unless more than one residence is built per half acre.

- (f) That the proposed use will not substantially alter or change the essential character of the land and the present use.

Comment: Again, it is the possible initiation of an undesirable trend that is of concern.

- (g) That the proposed use will make the highest and best use of the land involved for the public welfare.

Comment: There is no indication that the current classification, in the Rural District, does not provide for the highest and best use in the interest of the public welfare.

RECOMMENDATION

Staff recommends denial of this petition on the bases that:

1. The proposed use is not "unusual and reasonable" in accordance with statutory requirement.
2. The proposed use would not promote the effectiveness and objectives of the law as:
 - a. It would weaken the integrity of State zoning because there are no valid bases for granting this special permit.

- b. It would tend to weaken, rather than strengthen, a complementary assessment basis, and force adjacent lands into uses not in the best public interest.

While approval of this and similar issues would not appear to be grave or consequential issues at the moment or even in the near future, it can become grave and consequential in the long run.

February 26, 1965

Ref. No. LUC 589

Ms. Ann N. Kali
Hanapepe, Kauai

Dear Ms. Kali:

The Land Use Commission next meets on March 19, 1965, at 1:00 p.m., in the Board of Supervisors' Board Room, County of Hawaii, Hilo, Hawaii.

At that time the Commission will conduct a hearing on two petitions for a boundary change. Shortly thereafter, it is expected that they will consider the action of the Kauai Planning and Traffic Commission on your application for a special permit.

Although there is no requirement for you to be present, you may nevertheless wish to be.

Very truly yours,

RAYMOND S. YAMASHITA
Executive Officer

cc: Chairman M. Thompson
Kauai Planning & Traffic Commission
Mr. Norito Kawakami
P. O. Box 282
Lihue, Kauai

Eagle-57

KAUAI PLANNING AND TRAFFIC COMMISSION
LIHUE, KAUAI, HAWAII

*Copied to Comm.
all files
attached*

December 28, 1964

RECEIVED

FEB 9 1965

State of Hawaii
LAND USE COMMISSION

TO: Planning Commission

RE: Special Permit Application - SP64-3
Construction of additional family dwelling
Ann N. Kali, Petitioner

Submitted herewith is a report with reference to Special Permit Application SP64-3 in regards to construction of an additional single-family residence within an existing lot of record in a rural district, established by the State Land Use Commission on August 23, 1964, at Hanapepe, Kauai.

The applicant and owner of property involved is Ann N. Kali, a resident and mother of three children residing presently in an existing single-family dwelling on said lot of record.

The property in question is located in the Hanapepe Valley area along the East side of Aki Road and extending in a Southeasterly direction to the flood embankment wall, being Lot B and portion of L.C.Aw. 3654, Apana 2 to Kamae, containing an area of 30,361 square feet. It is approximately 1,000 feet Southeast of the junction of Awaawa and Aki Roads, as shown on tax map 1-9-03 as tax parcel 28.

The parcel of land in issue is within a Rural District as established by the State Land Use Commission, permitting low density residential uses with a minimum lot size of one-half ($\frac{1}{2}$) acre and that there shall be no more than one single-family dwelling per one-half ($\frac{1}{2}$) acre.

A field check of the lot involved indicated that there is an existing single-family dwelling on the premises with a major portion of the lot in use for grazing. There are mixed land uses in the immediate vicinity of low density residential and truck crop farming.

Under the existing State Land Use District Regulations it would automatically prohibit the construction of an additional single-family dwelling within the lot due to its provision relating to lot size restrictions and density requirement.

The petitioner's request for special permit does not involve a use which is permitted by State regulations but involves a matter of density, the number of single-family dwellings per acre.

It is also evident that the sought for relief does not involve subdivision of land or maintaining the use of land but rather to seek a form of administrative relief (variance) from the literal import and strict application of the State Land Use Regulations, thru a special permit procedure.

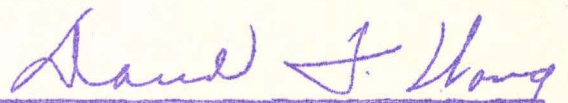
Planning Commission

Page 2

December 28, 1964

From the communication received the petition is seeking authorization for the construction of an additional single-family dwelling on an existing lot of record for her son and family. There will be no increased population density to affect government facilities nor any substantial change in the character of the neighborhood, nor will it be detrimental to the adjoining properties.

In view of the above-mentioned factors and for the general welfare, the interest of justice will be served by permitting the construction of another single-family residence on the lot because the need outweighs the harmful effect it will have in the rural district, the staff considers the petitioner's request as being reasonable and recommends granting permission with reference to Special Permit Application SP64-3.



David F. Wong
Planning Director

- C -



1508

TELEPHONE 2781

LIHUE, KAUAI, HAWAII

February 5, 1965

RECEIVED

FEB 9 1965

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. SP64-3 - Ann N. Kali

At the regular meeting of the Planning and Traffic Commission held on February 4, 1965, the Commission approved subject application for special permit.

In accordance with provisions under Section 98H-6 of R.L.H. 1955, as amended, we herewith transmit for your consideration the foregoing application, transcript of proceedings attached.

Respectfully,

PLANNING AND TRAFFIC COMMISSION

David F. Wong
Planning Director

David F. .Wong
Planning Director

attach.

cc: N. Kawakami

RECEIVED

FEB 9 1965

KAUAI PLANNING AND TRAFFIC COMMISSION
PUBLIC HEARING
APPLICATION FOR SPECIAL PERMIT - FILE NO. SP64-3

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, January 7, 1965 at 1:55 p.m. in the County Board Room at Lihue, Kauai. Other members present were Commissioners Asakura, Hashisaka and Ibara.

Planning Director David F. Wong read the letter of application, copy attached hereto, from Norito Kawakami, attorney, in behalf of Ann N. Kali, applicant. Existing land uses of the area adjacent and other background information relative to the application were presented by the Director.

There were no letters of protest as of this date.

Mr. Norito Kawakami, speaking in behalf of his client, stated in effect that: subject lot has been in the Kali family as a kuleana for (he supposed) hundreds of years; that the lot initially was a much larger parcel; that the State, at the time of the construction of the flood wall, took away approximately one-fourth of the original lot, then the remainder was subdivided between two branches of the Kali family--one branch of the family got .343 acres and the other .697 acres, which is registered under Mrs. Ann N. Kali, his client. He added that Mrs. Kali would like very much to have permission to build the extra home which would give each of her sons approximately an area equivalent to that portion of the original lot which is now held by the other branch of the Kali family.

Planning Director Wong presented his report dated December 28, 1964, copy attached, recommending approval of the petition.

Chairman Kageyama advised that under provisions of the Land Use Law a minimum of 15 days after the hearing must be allowed before any action can be taken by the Commission; the matter, therefore, was taken under advisement and the hearing closed at 2:10 p.m.

DECISION OF COMMISSION: At the regular meeting of the Commission held on February 4, 1965, the foregoing Application for Special Permit was approved by the following vote:

AYES: Asakura, Hashisaka, Yama, Kageyama	- 4
NOES: None	- 0
ABSENT, NOT VOTING: Ibara, Nakamoto	- 2

Respectfully submitted,

Thomas T. Yamasaki
Thomas T. Yamasaki, Secretary

EAGLE-A

Agardam Onion Skin

100% COTTON CONTENT

STATE OF HAWAII
LAND USE COMMISSION

426 Queen Street
Honolulu, Hawaii

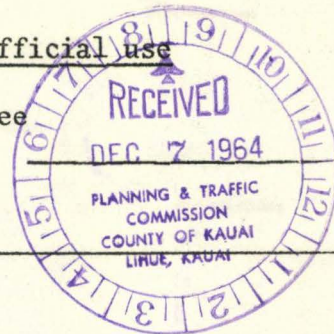
RECEIVED

FEB 9 1965

State of Hawaii
LAND USE COMMISSION

This space for official use

Date Application and Fee
received by LUC



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-2 Hanapepe-Port Allen- Eleele, for the following-described purpose:

To build one (1) single family dwelling in addition to the single family dwelling now on property.

Description of property:

Lot B, Portion of L.C. Aw. 3654, Apana 2 to Kamae
Area: 30,361 sq. ft. Hanapepe, Kauai, Hawaii
Tax Key No. 1-9-03-28

Petitioner's interest in subject property:

Owner

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

Want to build home for son.

Signature(s)

Ann N. Kali
Ann N. Kali

Address:

Hanapepe, Kauai, Hawaii

Telephone:

35954

This space for official use

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

Signature(s)

Thomas T. Yamashita

For (agency)

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

NORITO KAWAKAMI
EDWARD STANWOOD

KAWAKAMI & STANWOOD
ATTORNEYS AT LAW

P. O. BOX 282
LIHUE, HAWAII
PHONE 22-692

P. O. BOX 147
ELEEELE, HAWAII
PHONE 3166

December 1, 1964

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

State of Hawaii
LAND USE COMMISSION

Re: Application of Ann N. Kali for Special Permit
to build one (1) single family dwelling house
to one (1) now existing on Tax Key No. 1-9-03-28.

Gentlemen:

I enclose two (2) sets of one (1) copy each of the subject application. One (1) set is addressed to your Honorable Commission and the other set to the State of Hawaii Land Use Commission. Please make the proper distributions of the said applications and also of the copies of this letter.

The subject property has been in the possession of the applicant's family since early Hawaiian times. There is now existing on said lot one (1) single family dwelling house. She would like to build another single family dwelling on the said property for her son.

The applicant is the mother of three (3) children but wishes to divide the property and provide homes for only two (2) of them namely Kenneth Kali and Robert Kali, Jr. At the present time the applicant lives in the presently existing single family dwelling house on the said property together with her son Robert and his wife and his child. She is desirous of construction on a portion of the said land, another single family dwelling to be occupied by her son Kenneth, his wife and child. She will continue to reside in the presently existing dwelling with her other son and his family.

Although the applicant would like to subdivide the said land so that the fee title in each half of the said land could be conveyed to her sons respectively, she is given to understand that such permission will not be granted under the laws, rules and regulations now in effect. She therefore, respectfully requests your Honorable Commission to approve her request for the construction for the additional family dwelling on her lot.

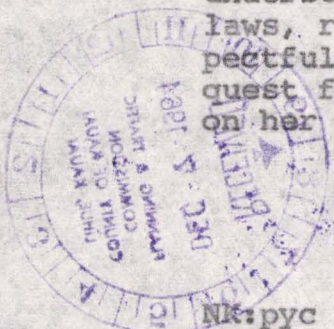
Very truly yours,

NORITO KAWAKAMI

NK:pyc

Encls:

cc: Mrs. Ann N. Kali



P.O. BOX 505
LITTLE HAWAII
PHONE 22-693
P.O. BOX 1-7
LITTLE HAWAII
PHONE 2166

KAWAKAMI & STANWOOD
ATTORNEYS AT LAW

NORITO KAWAKAMI
EDWARD STANWOOD

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State of Hawaii
LAND USE COMMISSION



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FEB 9 1965

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, January 7, 1965, 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

SP64-3

Ann N. Kali

1-9-03:28

Construction of additional
single-family residence
on lot to one (1) now
existing.

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.

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

(Dec. 26, 1964)

- C -

Enumeration District (1960)

Hanapepe

$$15N = 999$$

$$13 = 617$$

$$\underline{1,616}$$

} From ED +
CCD Map
(Highway Dept.)

	1960	'50	'40
<u>Hanapepe</u>	1,383	1,259	1,166

Projection - Hanapepe Planning Area
State G.P.

1960 - 5,300
 { 1980 - 5,400 - Low
 1980 - 11,500 - High

Kanai

1960 Total

27,922

1950 Total

29,683

% Decrease = 5.9

Wanapepe Urban Area

Total ————— 771.34 Ac

{ In Urban Use ————— 429.75 "
 { In Agricul. Use ————— 95.50 "
 { ✓ Vacant, Unimproved — 246.09
 (entirely owned by State)

✓ Area of Rural ————— 27.95 Ac

✓ State of Hawaii —
 ~~vacant~~
 leased.

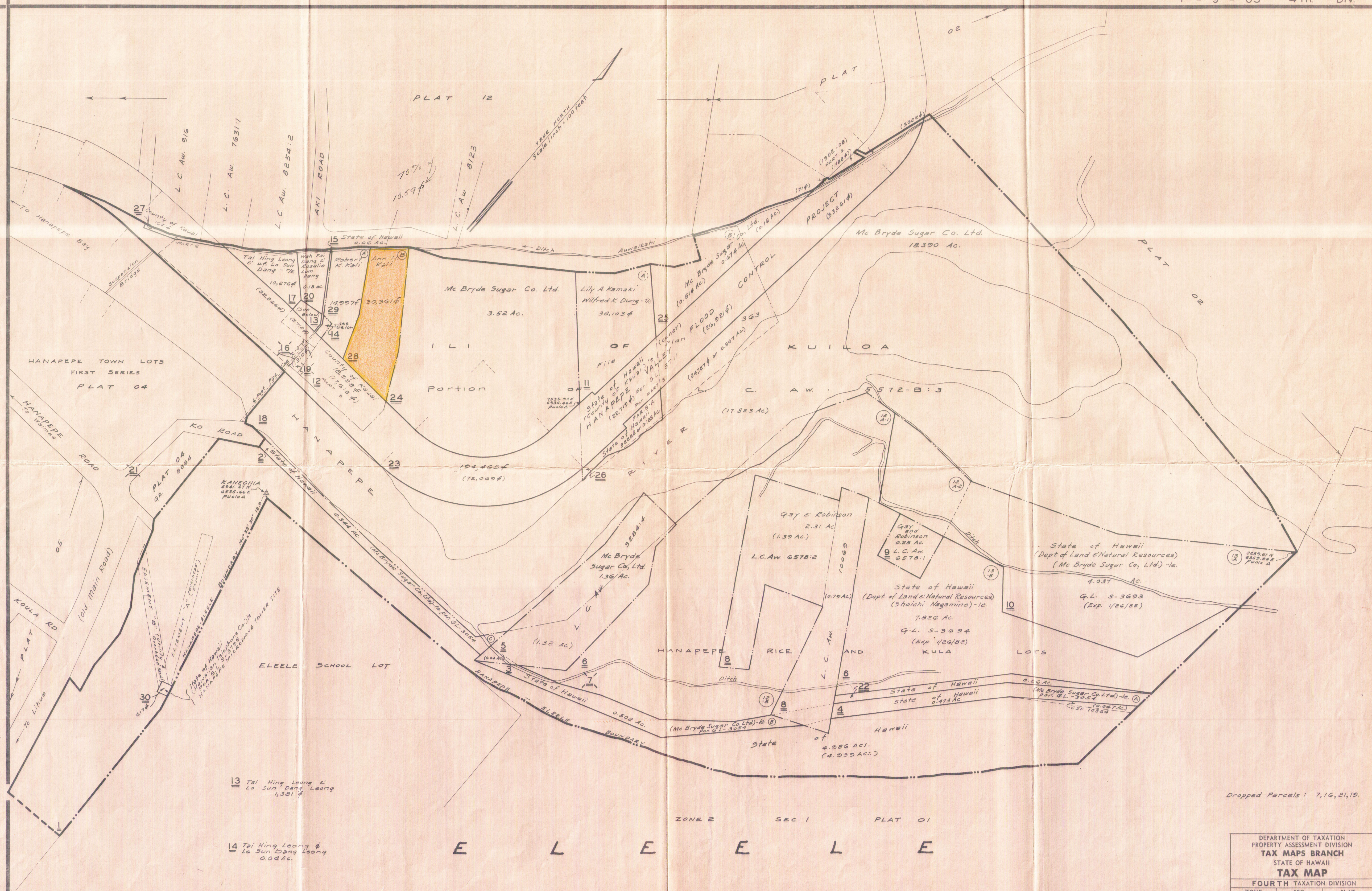
430
 95
 —
 525
 246
 —
 771

No. of Lots = Hanapepe Hts
 House lots = approx.
 179 lots averaging
 15,000 #

Kouie Plan

Population
 existing —
 projection —

DWG. NO.: 2856
SOURCE: TMB Data, State Survey Division & County of Kauai, Map-16B
BY: P.K./AS DATE (Revised) December 1962



Dropped Parcels: 7, 16, 21, 19.

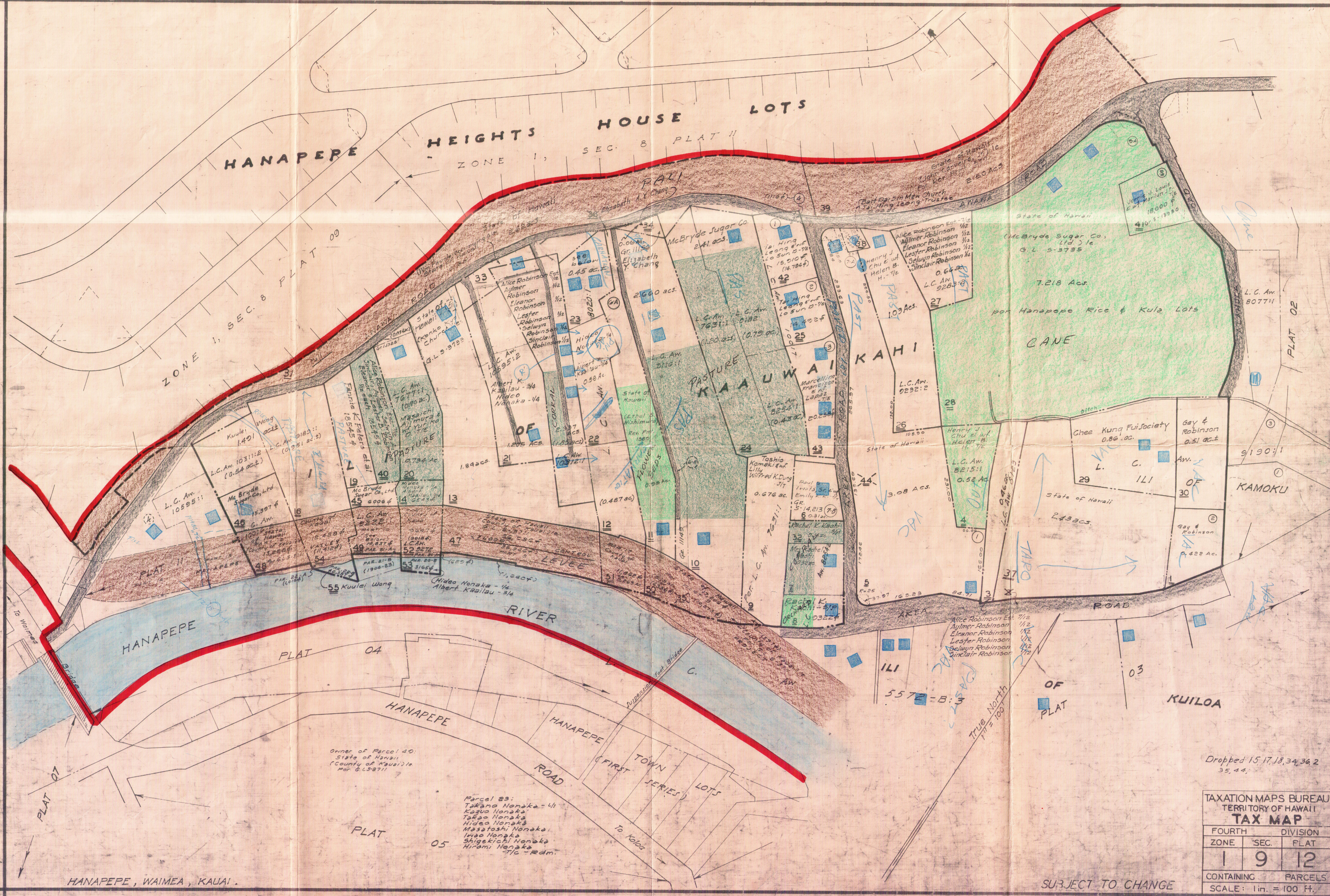
Por. HANAPEPE, WAIMEA, KAUAI

FOR REAL PROPERTY TAXATION PURPOSES
SUBJECT TO CHANGE

DEPARTMENT OF TAXATION
PROPERTY ASSESSMENT DIVISION
TAX MAPS BRANCH
STATE OF HAWAII
TAX MAP

FOURTH TAXATION DIVISION		
ZONE	SEC.	PLAT
1	9	03

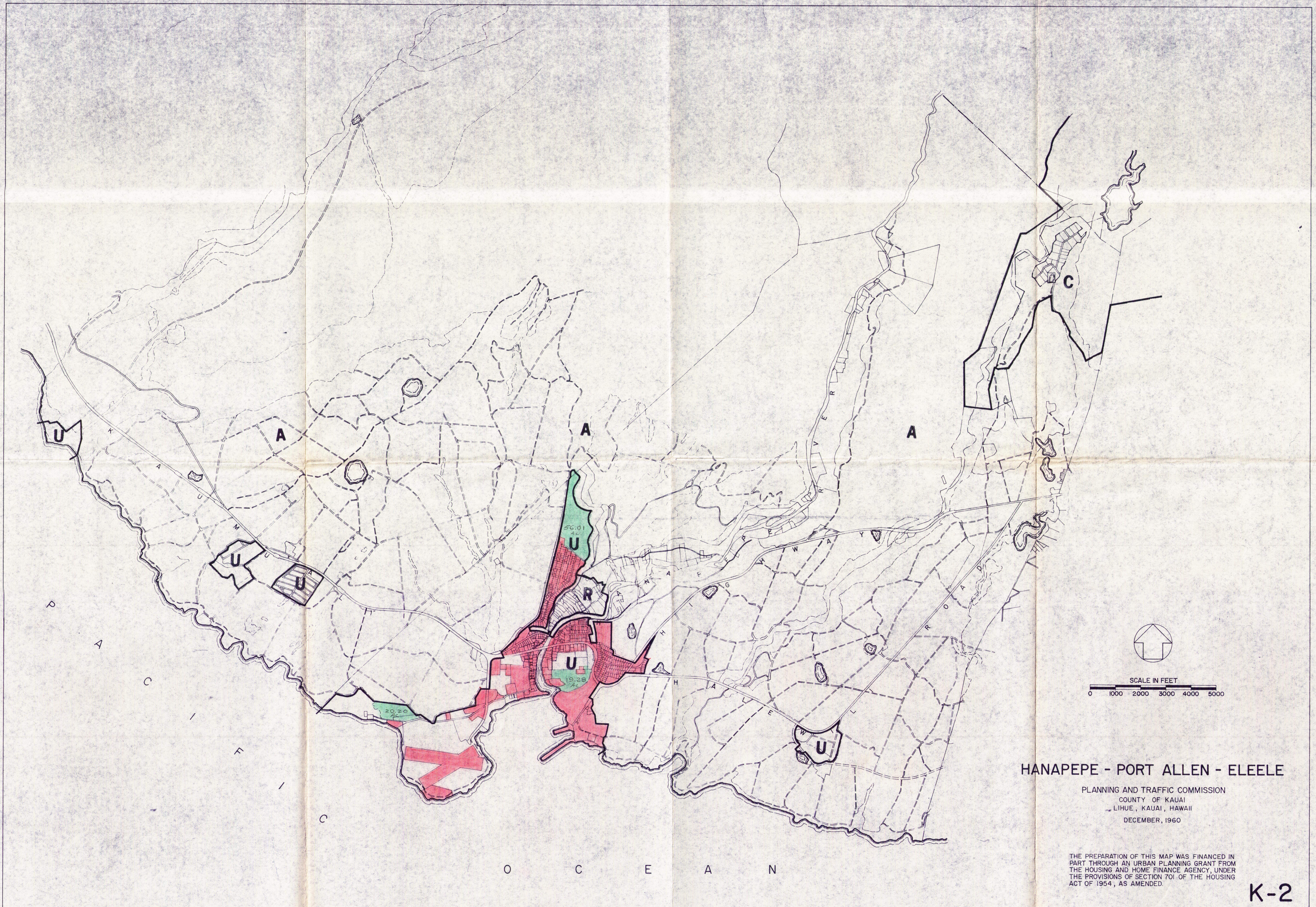
SCALE: 1 IN. = 100 FT.
CSD 24 1965



Dropped 15, 17, 18, 34, 36, 2
35, 44,

TAXATION MAPS BUREAU		
TERRITORY OF HAWAII		
TAX MAP		
FOURTH		DIVISION
ZONE	SEC.	PLAT
1	9	12
CONTAINING		PARCELS
SCALE: 1 in. = 100 Ft.		

SUBJECT TO CHANGE



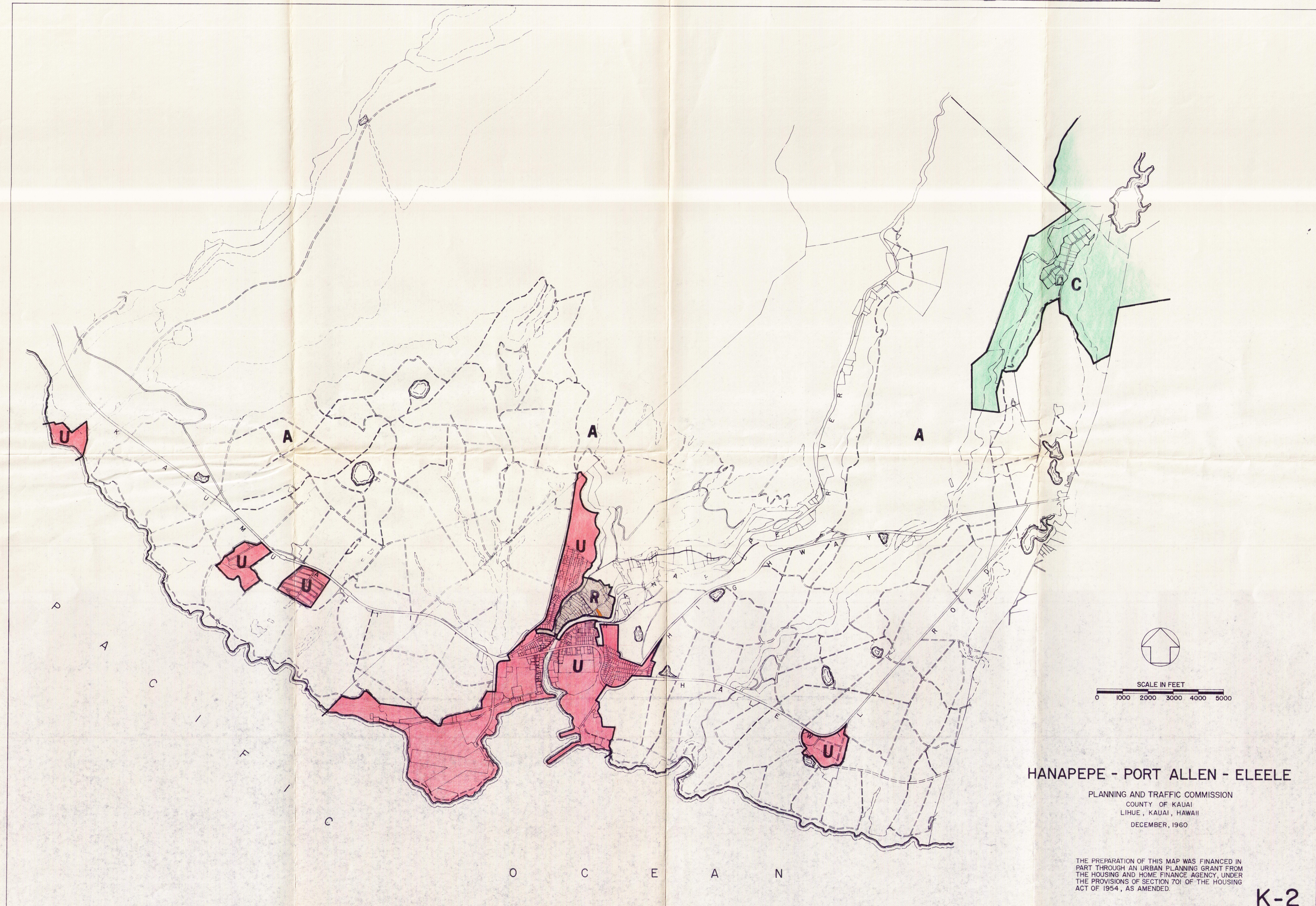
HANAPEPE - PORT ALLEN - ELEELE

PLANNING AND TRAFFIC COMMISSION
COUNTY OF KAUAI
LIHUE, KAUAI, HAWAII
DECEMBER, 1960

THE PREPARATION OF THIS MAP WAS FINANCED IN PART THROUGH AN URBAN PLANNING GRANT FROM THE HOUSING AND HOME FINANCE AGENCY UNDER THE PROVISIONS OF SECTION 701 OF THE HOUSING ACT OF 1954, AS AMENDED.

K-2

K-2



HANAPEPE - PORT ALLEN - ELEELE

PLANNING AND TRAFFIC COMMISSION
COUNTY OF KAUAI
LIHUE, KAUAI, HAWAII
DECEMBER, 1960

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K-2

GORDON & OSC
FIELD MAP



Dwg. No. 1005
By: YAC
Source: Tax Maps Bureau
Survey Office

Appr. by:
Revised by:
Appr. by:

TAXATION MAPS BUREAU TERRITORY OF HAWAII	
TAX MAP	
FOURTH DIVISION	
ZONE	SEC.
1	9
CONTAINING PLATS	
Scale 1 in. = 300 ft.	

SUBJECT TO CHANGE

HANAPEPE, KAUAI.