

TOMITA SAKAI

SP64-4

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.

April 14, 1965

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

Attention: Mr. David F. Wong, Planning Director

Gentlemen:

At its meeting on April 9, 1965, in Lihue, Kauai, the Land Use Commission voted to deny the grant of a special permit to Tomita Sakai for the building of two (2) additional single family residences on an area of 40,139 square feet described as Fourth Division, TMK 2-4-05: 84.

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: Tomita Sakai
Chairman M. Thompson
Horio Kawanami

STATE OF HAWAII
LAND USE COMMISSION

VOTE RECORD

ITEM SP. 64-4 (Tomita Sakai)

DATE 4/9/65

PLACE Pal of Supervisors Rm, Lihue Kauai

TIME 2:40 pm

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

COMMENTS:

Nishimura - Henry
Ferry - sec.

STATE OF HAWAII
LAND USE COMMISSION

Board of Supervisors' Board Room
Lihue, Kauai, Hawaii

2:00 P.M.
April 9, 1965

STAFF REPORT

KAUAI SP64-4 -
TOMITA SAKAI

District Classification: RURAL

BACKGROUND

The County of Kauai Planning and Traffic Commission has referred an application for special permit by Tomita Sakai to add a house onto his property. The property is situated in a Rural District in the heights above Kalaheo, contains an area of 40,139 square feet, and is identified by Fourth Division, TMK 2-4-05: 84.

Access to the property is by the 30 foot Puuwai Road winding uphill from Kalaheo. Power and telephone services are available. A six inch line services the property with untreated water from intakes along two Kuwaawaa streams and with filtered water from Alexander Reservoir.^{1/}

There is presently a house on the applicant's property. Portions of the lot abutting the road are in slopes; the remainder is relatively flat.

In close proximity to the lot - to the west, south and east - are a number of parcels dedicated to agricultural use. Most of these parcels are in an Agricultural District, but at least one lies in the Rural District. Within the Rural District other areas in agricultural uses, but not dedicated, can also be found.

^{1/} Normal yield from Kuwaawaa intakes is 120,000 gallons per day; dependable yield is less than 100,000 gallons per day. Yield from the 800,000,000 gallon Alexander Reservoir is 500,000 gallons per day. The total supply, if efficiently used exclusively for domestic purposes, is sufficient to support a population of about 4,000 to 5,000. Yields from Kauai Pine and Lawai and Koloa sources omitted from discussion.

Agricultural uses in the area are chiefly pastoral although small orchard groves can be found. Some of the area in the upper portions of the Agricultural and Rural Districts are forested with trees and shrubs.

Except for a pocket of about five homes near Poohiwi Road, Rural District lines fairly well circumscribe residential development in this area. The Kalaheo Rural Districts total about 92 acres. There are about 38 homes in the two districts. The overall density is about one dwelling unit to 2.36 acres.

A six man fire station is located in Kalaheo. Police stations are in Lihue and Waimea. School facilities are in the Kalaheo-uka Urban District.

Soils of the Sakai property may be of the Alaeloa silty clay, severely eroded rolling phase, and are of the same character as those soils across the street and farther mauka along Puuwai Road. These soils are not suitable for crops but can be and is used for grazing. Soils a short distance to the east are of Haiku silty clay, eroded hilly and steep phases. This soil phase is only suitable for grazing. South southwest of the Tomita property is an area of Alaeloa silty clay, gently sloping phase which is also suitable for grazing.

At a public hearing conducted by the Kauai Planning and Traffic Commission on February 4, 1965, the report of County Planning Director was recorded. The report states:

"Except for grazing, very little intensive agricultural activities are in evidence. The principal use is residential mixed with subsistence farming."

The report goes on to say that the applicant seeks to construct two additional homes on his lot. The record makes clear that these homes are intended for a bachelor son, and for a married son and his family; and that no subdivision of the property will now be made. The County Planning Director recommended that the application for special permit be approved pointing out that:

"There will be no substantial change in the neighborhood, no increased population density to harmfully effect government facilities nor will it be detrimental to the adjoining properties."

And that:

"the interest of justice will be served by permitting the construction of two additional single-family dwellings as requested because the need outweighs the harmful effect it will have in the rural district, so the staff considers the petitioner's request as being reasonable...."

On March 4, 1965 the Planning and Traffic Commission expressed its approval of the special permit application by Mr. Sakai.

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.

In coping with the hazardous task of outlining Rural Districts, heavy reliance was placed on County recommendations. Only the County of Honolulu showed lack of interest in establishing such districts. Except for the areas of Hilo and Puna, no County had much advance preparation in defining Rural Districts.

In the instant case your staff finds that the Rural Districts in question are overwhelmingly devoted to agricultural use even though it be chiefly grazing. Your staff finds that residential uses do not predominate the land but are, overall, low density in character. Your staff finds that parcels close at hand are dedicated to agricultural use and that further intensification of urban uses in the Rural District can serve to increase assessments of adjoining agricultural lands.

Minimum lot size standards for Rural Districts are also established by statute and not by regulation. 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."

Guidelines for determining an "unusual and reasonable use" are 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.

The objective of Act 205 in establishing Rural Districts appears to be a measure of expediency, recognizing that areas exist where low density residential uses can be found in an otherwise predominantly agricultural area. Act 205 specifies what is meant by low density residential development.

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

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.

- (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.

The approval of this application alone would, of course, not impose an unreasonable burden on public agencies. Concern, however, that a policy might be reflected in a series of such approvals has prompted the Land Use Commission to deny such applications in such cases as Wade, Kim, Horner and Kali.^{2/}

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

Since the district boundaries were established in August 1964, unusual conditions, trends and needs have not arisen.

^{2/} Kauai SP63-1, 63-4, 63-5, and 64-3.

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

Residential uses are not unusual in Rural Districts unless they are of high density in character. High density uses, however, are only unusual because they are not permitted in Rural Districts.

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

Act 205 specifies what uses are permissible in Rural Districts. It does not permit uses simply because there will be no substantial alteration or change in the essential character of the land and the present use.

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

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. Nor is it clear that the construction of two additional homes on the applicant's property will have any significant effect on the public welfare.

RECOMMENDATION

Staff recommends denial of this petition 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 an assessment basis, and force lands from uses which Rural Districts were intended to protect.

March 25, 1965

Ref. No. LUC 602

Mr. Tomita Sakai
P. O. Box 44
Eleele, Kauai, Hawaii

Dear Mr. Sakai:

The Land Use Commission next meets on April 9, 1965, at 1:00 p.m., in the Board of Supervisors' Board Room, County of Kauai, Lihue, Kauai.

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.

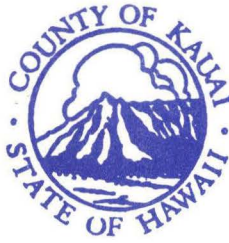
Although there is no requirement for you to be present, you may nevertheless wish to be.

Very truly yours,

RAYMOND S. YAMASHITA
Executive Officer

cc: Chairman M. Thompson
Kauai Planning & Traffic Commission

P. O. BOX 111



LIHUE, KAUAI, HAWAII

March 5, 1965

TELEPHONE 2781

RECEIVED

MAR 8 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. SP64-4 - Tomita Sakai

At the regular meeting of the Planning and Traffic Commission held on March 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

attach.

cc: Kawakami & Stanwood

RECEIVED

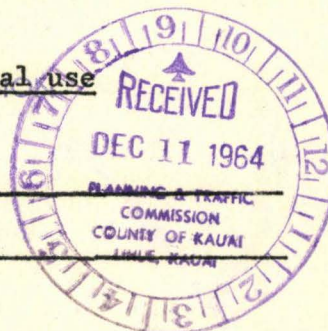
MAR 8 1965

COUNTY OF KAUAI
PLANNING AND TRAFFIC COMMISSION

Lihue, Kauai, Hawaii

This space for official use

Date Application and Fee
received by KP&TC



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 Map No. K-3, Koloa, Poipu area, for the following-described purpose:

To build two (2) additional residences on this lot.

Description of property:

Portion of Lot No. 38, Kalaheo Homesteads
Kalaheo, Kauai, Hawaii - Tax Key 2-4-05-84
Area: 40,139 sq. ft.

Petitioner's interest in subject property:

Fee

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

Build one (1) house for his son and his wife.

Build one (1) house for his unmarried son.

Signature(s)

Tomita Sakai

Tomita Sakai

Address:

BP. O. Box 44, Eleele, Kauai

Telephone:

322-403

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)

Donald T. Yamashita

For (agency)

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

RECEIVED

MAR 8 1965

KAUAI PLANNING AND TRAFFIC COMMISSION
PUBLIC HEARING
APPLICATION FOR SPECIAL PERMIT - FILE NO. SP64-4

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, February 4, 1965 at 1:30 p.m. in the County Board Room at Lihue, Kauai. Other members present were Commissioners Asakura, Hashisaka, and Yama.

In the absence of Planning Director David F. Wong who was at a Legislative Committee hearing in Honolulu, pertinent background information relative to the petition were presented by Thomas Yamasaki, staff member.

Attorney Norito Kawakami, speaking in behalf of his client, stated in effect that: Mr. Sakai had planned on subdividing his property and had made a will just in case something happened to him prior to his subdividing the land after the children became of age. However, he did not anticipate the passing of the legislation so he just didn't do it until the situation arose where he had to put up adequate living quarters for his children and found that he could not do it because of the land use law that had been enacted. This is why he has come in with the petition for special permit. He had initially thought about subdividing the property among his sons so they could build their homes and carry their own mortgages but since that cannot be done he is prepared at this time, if he gets his special permit approved, to mortgage his whole property to guarantee the loan for construction of the homes. In answer to questions by the Commissioners, Mr. Kawakami stated that the homes will be placed evenly on the lot with enough space between them; that just in case the Land Use district classification is changed some day to urban they may be able then to subdivide the property if permitted.

The Director's report of January 28, 1965 recommending approval of the application was read into the records, copy attached hereto.

The Chair announced that under provisions of the Land Use Act 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 1:45 p.m.

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

AYES: Horita, Humme, Tamura, Yama, Kageyama	-	5
NOES: None	-	0
ABSENT, NOT VOTING: Hashisaka, Yoneji	-	2

Respectfully submitted,


Thomas T. Yamasaki, Secretary

NORITO KAWAKAMI
EDWARD STANWOOD

KAWAKAMI & STANWOOD
ATTORNEYS AT LAW

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

P. O. BOX 147
ELEELE, HAWAII
PHONE 3166

December 9, 1964

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

RECEIVED

MAR 8 1965

Re: Application for Special Permit
Tomita Sakai-Tax Key 2-4-05-84.

State of Hawaii
LAND USE COMMISSION

Gentlemen:

I enclose two (2) sets of an original and one (1) copy each of an Application of Tomita Sakai for a Special Permit for the building of two (2) additional single family residences on a parcel of land situated in Kalaheo, Kauai, Hawaii, described briefly as a portion of Lot No. 38, Kalaheo Homesteads containing an area of 40,139 square feet, identified on the tax maps of the State of Hawaii as Tax Key 2-4-05-84. One set is addressed to your Honorable Commission and the other set to the State of Hawaii Land Use Commission. Please make proper distribution of said applications and copies of this letter.

There is presently existing on said land one (1) single family dwelling in which have resided for several last past, the said Tomita Sakai and his wife, together with a son, Masayuki Sakai. Recently another son, William Sakai and his wife came to live with the family. William has two (2) children with another child expected. Also another son James has been discharged from the Armed Forces and has come to live with Tomita, his wife and Masayuki.

The said land was originally purchased in 1949 by Tomita Sakai with the intention that said land be subdivided among the three (3) children after the lifetime of Mr. Tomita Sakai. However, it is the understanding of the applicant that such subdivision is not allowable under the present land use laws. Therefore, it is the present intention of the applicant to place a total of three (3) single family residences on the said lot to provide suitable living quarters for the entire family.

It is respectfully requested that the attached applications be approved.

Very truly yours,

2
NORITO KAWAKAMI

NK:pyc
Encls:

cc: Mr. Masayuki Sakai
Mr. Tomita Sakai



RECEIVED

MAR 8 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, February 4, 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 98H-6, Act 205, Session Laws of Hawaii 1963.

Docket Number
and Applicant

Tax Map Key

Permission Requested

SP64-4

Tomita Sakai

2-4-05:84

Construction of two (2) additional single-family residences on lot to one (1) now existing, located in Rural District and containing an area of 40,139 sq. ft.

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 Nagayama, Chairman
By David F. Wong, Planning Director

(Jan. 27, 1965)

(c)

KAUAI PLANNING AND TRAFFIC COMMISSION
LIIHUE, KAUAI, HAWAII

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MAR 8 1965

State of Hawaii
January 28, 1965 LAND USE COMMISSION

TO: Planning Commission

RE: Special Permit Application SP64-4
Construction of two additional single-family dwellings.
Tomita Sakai - Petitioner
Kalaheo, Kauai

Submitted herewith is a report with reference to Special Permit Application No. SP64-4, requesting permission to construct two additional single-family dwellings for his sons and their families who are living together in the only existing dwelling on the lot of record in a rural district established by the State Land Use Commission on August 23, 1964 at Kalaheo, District of Koloa, County of Kauai.

The applicant and owner of property involved is Tomita Sakai who is seeking relief to provide suitable living quarters for his entire family as requested.

The property in question is located on the East side of Pua Wai Road, being portion of Lot 38 of Kalaheo Homesteads, First Series, Kalaheo, District of Koloa, County of Kauai, containing an area of 40,139 square feet, as shown on tax map 2-4-05 as tax parcel 84. The original Homestead Lot 38 has been from time to time subdivided into various size parcels ranging from 0.23 to 2.3 acres.

Except for grazing, very little intensive agricultural activities are in evidence. The principal use is residential mixed with subsistence farming. There is presently existing one single-family dwelling on the lot of record being occupied by the entire family.

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 minimum lot size of one-half ($\frac{1}{2}$) acre and that there shall be no more than one (1) single-family dwelling per one-half acre.

Under the existing State Land Use District regulations, it would automatically prohibit the construction of two additional single-family dwellings on the existing lot of record due to its provision relating to minimum lot size and density requirement.

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

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Planning Commission
Page 2
January 28, 1965

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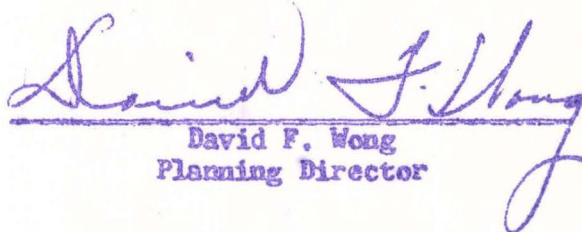
MAR 8 1965

State of Hawaii
LAND USE COMMISSION

With reference to the communication received, the petitioner is seeking authorization for the construction of two additional single-family dwellings on the existing lot of record to provide suitable living quarters for his entire family, living independently as family units.

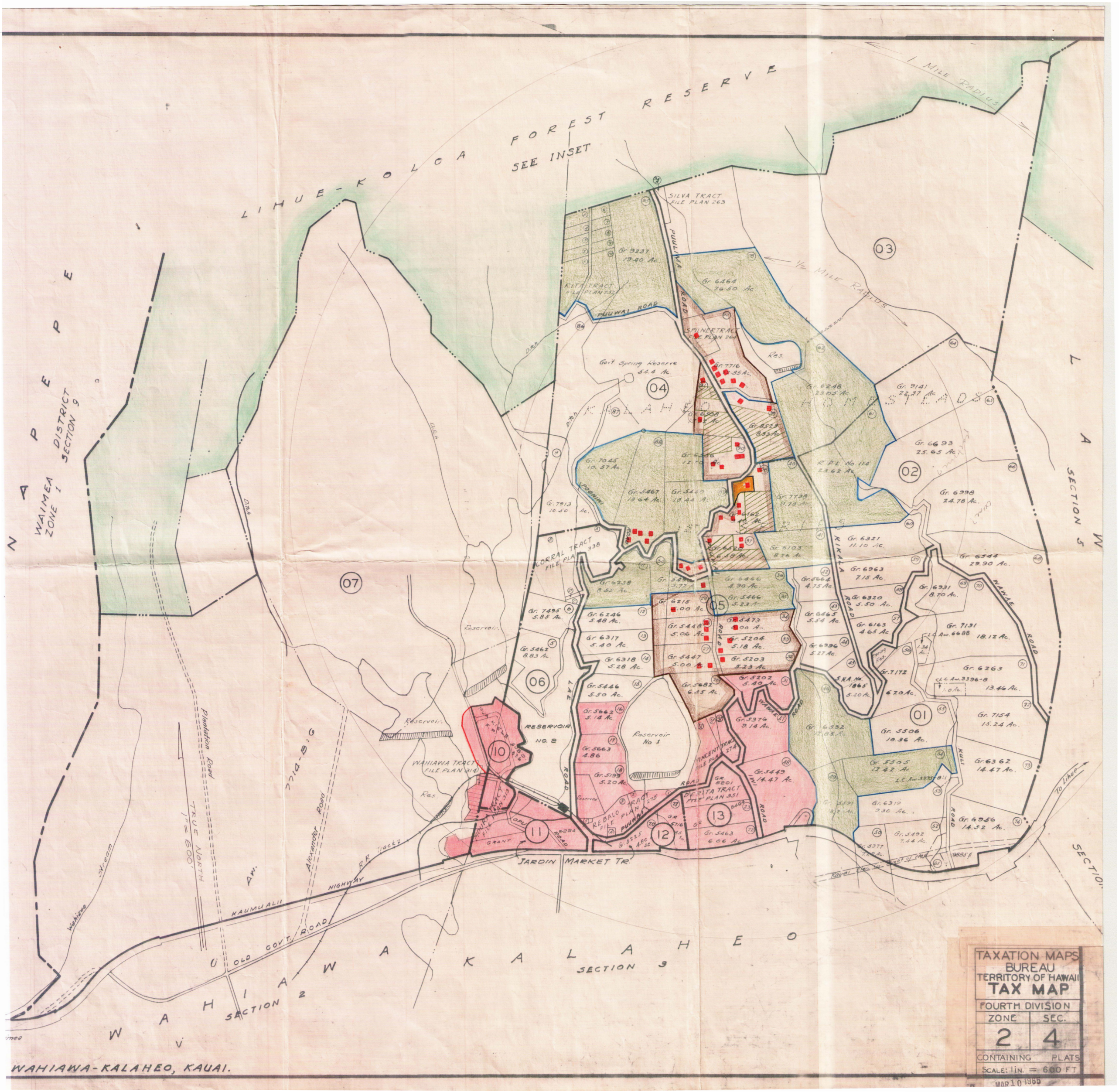
There will be no substantial change in the character of the neighborhood, no increased population density to harmfully effect government facilities nor will it be detrimental to the adjoining properties.

In the light of the above-mentioned factors for the general welfare the interest of justice will be served by permitting the construction of two additional single-family dwellings as requested because the need outweighs the harmful effect it will have in the rural district, so the staff considers the petitioner's request as being reasonable and recommends granting permission with reference to Special Permit Application No. SP64-4.

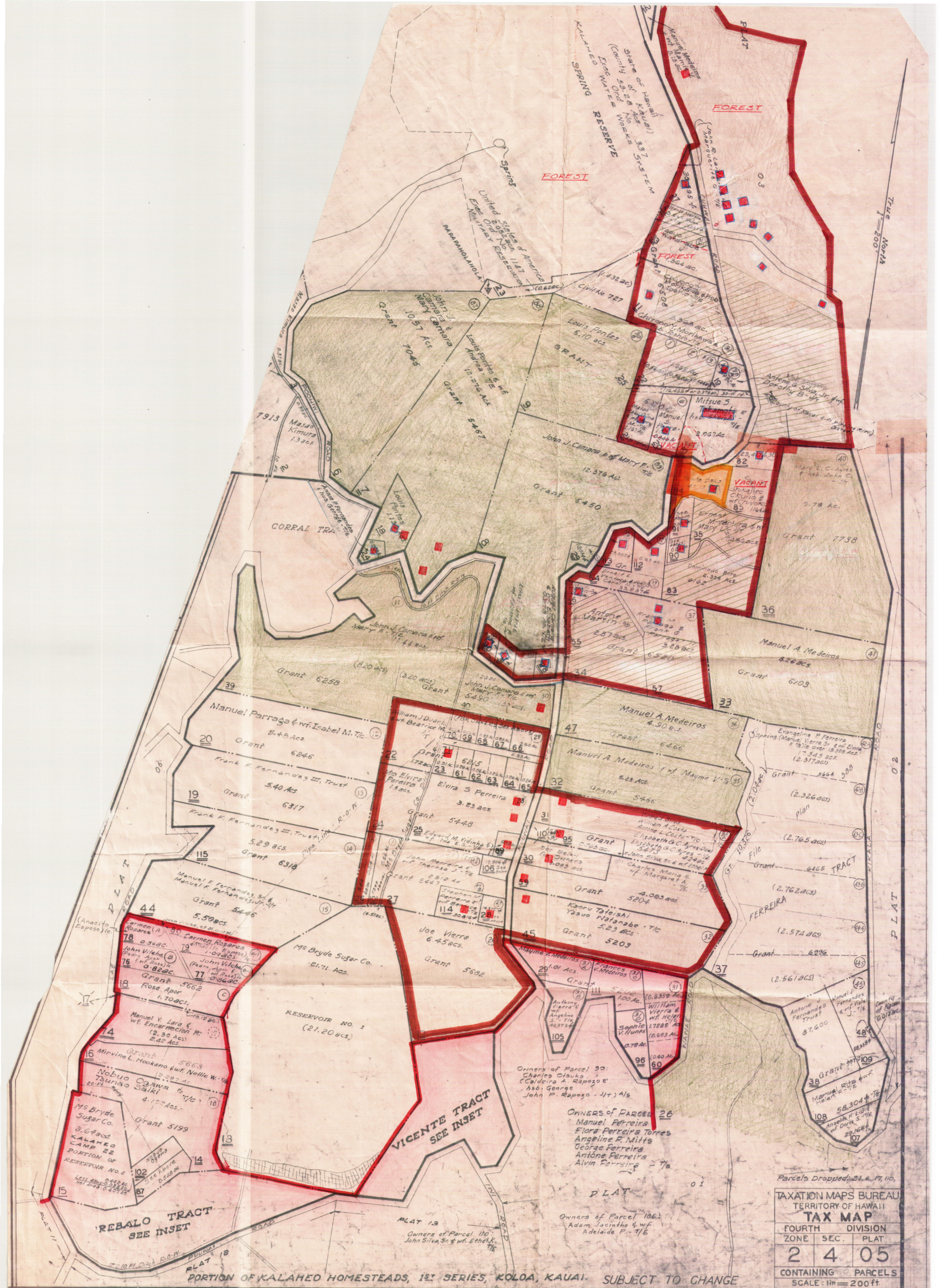


David F. Wong
Planning Director

(c)



TAXATION MAPS
BUREAU OF HAWAII
TERRITORY OF HAWAII
TAX MAP
FOURTH DIVISION
ZONE SEC.
2 4
CONTAINING PLATS
SCALE: 1 in. = 600 FT.
MAP 10 1965



PORTION OF KALAHOE HOMESTEADS, 1ST SERIES, KOLOA, KAUAI. SUBJECT TO CHANGE

TAXATION MAPS BUREAU TERRITORY OF HAWAII TAX MAP		
FOURTH	DIVISION	
ZONE	SEC.	PLAT
2	4	05
CONTAINING 10 PARCELS		
SCALE: 1 in = 200 ft.		



KOLOA - POIPU
 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.