

SP68-54 - JOHN G. DUARTE

"Not Going To Appeal"

*Maui News
9-11-68*

Land Use Commission Denies Duarte Request

"I am not going to appeal," John Duarte said last week, regarding the Land Use Commission denial of his request for a special permit to erect a curio shop in Iao Valley.

The LUC issued the denial following a hearing in Honolulu, August 30, when Ramon Duran, executive officer of the commission, said the proposed commercial use of the land is primarily for the benefit of the owner and not the public.

"The fact that the proposed shop is to be operated by handicapped people should not be considered as evidence in support of this request," he said.

Mr. Duarte, who is a State Representative from Maui, reiterated this week that his request for the permit to erect the 20 x 40 lava rock shop was prompted only by his desire to help a handicapped person who can't get a job. He added that any appeal would be up to this person, not himself.

The request for the permit was first submitted to the Maui County Planning Commission on June 4, when Planning Director Robert Ohata recommended denial because the development was not in keeping with primary scenic purposes of the valley and was not desirable from an aesthetic standpoint.

On July 9 the Planning Commission deferred action on the request in order to obtain,

from Mr. Duarte, the exact size and solution of parking requirements. The commission granted approval at its July 23 meeting, with Commissioner Yoshikazu (Zuke) Matsui voting "no," because he did not want "to set a precedent" that might lead to further commercial activity in the valley area.

Although the Planning Commission approved the request, final decision was up to the State Land Use Commission.

At the hearing August 30, Mr. Duran said:

"If our most scenic areas in the State continue to be commercialized with little shops along the road, these places of beauty will no longer exist, the tourist will no longer come to Hawaii, and the economy of the State will suffer."

September 30, 1968

Planning Commission
County of Maui
P. O. Box 1487
Kahului, Maui

Attention: Mr. Robert Ohata, Director

Gentlemen:

At its meeting on August 30, 1968, the Land Use Commission voted to deny the grant of a special permit to Mr. John G. Duarte (SP68-54) to construct and operate a gift shop, to manufacture gift items and for the sale of same, adjacent to Kepaniwai Park in Iao Valley, Maui, identifiable by Tax Map Key 3-3-03: 1, 3 and 10.

Enclosed for your information is the staff report.

Very truly yours,

RAMON DURAN
Executive Officer

Encl.

cc: Mr. John G. Duarte

BRUNNEN
Type-Cross
Eagle

STATE OF HAWAII
LAND USE COMMISSION

VOTE RECORD

ITEM SP68-54 - JOHN DUARTE

DATE August 30, 1968

PLACE Honolulu, Hawaii

TIME 2:00 p.m.

| NAME | YES | NO | ABSTAIN | ABSENT |
|--------------------------------------|-----|----|---------|--------|
| NISHIMURA, SHIRO | ✓ | | | |
| NAPIER, ALEXANDER | ✓ | | | |
| CHOI, WILBERT | ✓ | | | |
| KIDO, JUNAO FERRY, JIM | ✓ | | | |
| MARK, SHELLEY | | | | |
| MURAKAMI, KEIGO | | ✓ | | |
| WUNG, LESLIE | | ✓ | | |
| INABA, GORO | ✓ | | | |
| BURNS, C. E. S. | | | | |

S
M

COMMENTS:

Deny
carried

STATE OF HAWAII
LAND USE COMMISSION

LUC Hearing Room
Honolulu, Hawaii

August 30, 1968
2:00 p.m.

STAFF REPORT

SP68-54 - JOHN G. DUARTE

A Special Permit to erect a gift shop on a portion of parcel KP-1 of TMK 3-3-03: 1, 3 & 10 adjacent to Kepaniwai Park in Iao Valley has been filed by State Representative John G. Duarte.

Representative Duarte has submitted plans for a 20 by 40 lava rock and shake roof gift-workshop combination that is to be located on a parcel of land measuring 40 feet by 75 feet and containing a floor area of 3,000 square feet. Three parking spaces are proposed adjacent to the gift shop. Mr. Duarte testified at the County public hearing that the area can be expanded to as much as 5,000 square feet if necessary and that he is trying to help someone who can't get a job, someone who needs help, by letting the operation be run by retarded children and the parents of retarded children.

Mr. Duarte testified that "if it wasn't for the retarded boy to get established, I wouldn't do it. And, if you tell me that I can't do anything with my property, I can store that place with junk there and make that an ugly looking thing." Mr. Duarte also stated before the public hearing of the Planning Commission that he did not want anyone to get the impression that he is using his influence or power as a State Representative to gain special privileges.

Mr. Raymond Burns testified in support of the proposed shop as it will help provide work for the handicapped people, and Mrs. Patricia Keoho also supported the request as it would provide a place where people could see how black coral jewelry is made.

Mrs. Patricia Weeks, President, Maui Outdoor Circle, appeared against the proposal because it would commercialize the Valley and invite similar commercial uses into the area. Mrs. Patty Thompson of Kihei opposed the Special Permit because of traffic congestion and that the proposed shop and sales area is in close proximity to the proposed Chinese-Portuguese garden across the road to the park. Mrs. Edna Jenkins also opposed the request as it would start a commercial use in the Valley.

The County Planning staff recommended against the proposal. However, on April 23, 1968, the Commission by a 4 to 2 vote voted to recommend approval of the Special Permit.

The property in question is in the State's Rural District and abuts the Conservation District of Iao Valley. This land situated on a 20 to 30 foot high bluff was given to Mr. Duarte by the County in exchange for another property nearby. At the time of the land exchange, this area was in the Conservation District; and one of Mr. Duarte's stipulations for agreeing to a land swap was that the State's land classification be changed from the Conservation District to Rural. The Land Use Commission in its wisdom recognized the "need" for additional Rural land and approved the zoning on June 16, 1967.

The following is a chronological list of events concerning the rezoning of this property:

1. June 17, 1966, the Land Use Commission conducted a public hearing at Kahului, Maui, to rezone 15,360 square feet of Kepaniwai Park from the Conservation District to the Rural District.
2. August 5, 1966, the Land Use Commission in Hilo, Hawaii, denied the petition in accordance with the staff's recommendation.

3. August 26, 1966, upon request of Maui County supervisors and Planning Commission to reconsider, the Land Use Commission decided to accept the new petition with additional evidence.
4. October 29, 1966, the Commission voted to accept the newly filed petition based on additional information.
5. February 17, 1967, the Land Use Commission conducted another public hearing at Kahului, Maui, to consider additional information.
6. June 16, 1967, the Land Use Commission approved the district boundary change from Conservation to Rural.

The following are excerpts from the minutes of the public hearings:

"Commissioner Ferry asked what Mr. Duarte intended to do with the presently County-owned parcel. Mr. Duarte replied that he was going to append it to his property which was separated only by a roadway belonging to him and incorporate the whole thing into one parcel."

"Mr. Ohata replied that they had the assurance of the owner that the land would be developed in a desirable manner."

"Mr. Duarte pointed out that the subject parcel had a 20-foot drop, and it was continuously eroding to the area below. He added that the land was not useable for anything and that not even a house could be built on it."

It is interesting to note that Planning Director, Robert Ohata, recommended against the granting of the Special Permit because it would be the introduction of commercial activity into Iao Valley; because it is an area of spectacular scenery, natural beauty, and its historical background has an unspoiled charm in the surroundings; and because the shop and retail area would not be compatible with the area and the Heritage Garden.

Patricia J. Weeks, President, Maui Outdoor Circle; Mrs. Gerald Thompson; Mrs. Helen Twitchell; and Mrs. Gloria W. Foster have all submitted letters in opposition to the request.

It should also be noted that access to this site once the bank is cut down to the level of the park will be across public property and the improved park parking lot.

The Land Use Commission may permit a Special Permit only when it has determined beyond a doubt that such use is "unusual" and "reasonable" and shall not be contrary to the objectives sought to be accomplished by the Land Use Law and Regulations. Egress to the site will be across land in the Conservation District and County park property. Conservation, according to Act 187, is, in part, the preserving of scenic areas. The introduction of a commercial and manufacturing operation in this area is not preserving scenic areas and therefore is not "reasonable." Were the Law designed to promote such commercialism in our scenic areas, one would expect then to find seed-lei stands lining the road between the park site and the Iao Needle parking lot.

The following guidelines established by the Commission to determine an "unusual" and "reasonable" use for a Special Permit have not been satisfied:

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

The most significant surrounding property is Kepaniwai County Park within the Conservation District. Kepaniwai Park Heritage Garden is about to be initiated. In early 1966, \$187,000 was appropriated by the Legislature, \$56,000 from the Bureau of Outdoor Recreation, and \$56,800 from the County for this project. An additional \$187,000 was appropriated by the County to match the Legislative funds. Thus, the proposed request would adversely affect the proposed \$480,000 Heritage Garden about to be undertaken across the road.

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

Ingress and egress would be required across public property thereby using park property for personal use. The existing parking area adjacent to the proposed site will obviously be used by customers of the gift shop and thereby depriving park users of public parking space.

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

No unusual conditions, trends, or needs have arisen to warrant approval of this request since the petitioner stated a year ago that he only wants to append this parcel to his property.

2.24 (e) "That the land upon which the proposed use is sought is unsuited for the uses permitted within the district."

Residences are permitted within the Rural District, and the top of this bluff will make an ideal home site.

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

The introduction of a commercial spot on the only entrance road to this beautiful lush green valley will substantially alter the character of Iao Valley.

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

It seems that the proposed commercial use of the land involved in this request is primarily for the benefit of the owner of the developer and not that of the public.

The fact that the proposed shop is to be operated by handicapped people should not be considered as evidence in support of this request. A decision of this nature should not be based on sentimentality but should be considered on its commercial and physical merits, its relationship to the site and the surrounding area, and on what public purpose the proposed function will serve in the community.

If our most natural scenic areas in the State continue to be commercialized with little shops along the road, these places of beauty will no longer exist, the tourist will no longer come to Hawaii, and the economy of the State will suffer. Therefore, this proposal is in direct conflict with the best interest of the State and since it cannot pass the criteria established for an "unusual" and "reasonable" use, it is recommended that the Special Permit request be denied.

August 26, 1968

Mr. John G. Duarte
Iao Road
Wailuku, Maui

Dear Mr. Duarte:

The Land Use Commission next meets at 2 p.m.
at the Land Use Commission Hearing Room, 426 Queen
Street, Honolulu, Hawaii, on August 30, 1968.

At that time your application for a special
permit (SP68-54) will be reviewed.

Although there is no requirement for you to
be present, should you wish to attend, please
feel free to do so.

Very truly yours,

RAMON DURAN
Executive Officer

js

ASC - 2492
Duarte S.P. file

R.R 1, Box 296
Waiakoa, Maui 96790
August 12, 1968

RECEIVED

AUG 14, 1968

State of Hawaii
LAND USE COMMISSION

Mr. Ramon Duran
Land Use Commission
426 Queen Street
Honolulu, Hawaii 96813

Dear Mr. Duran:

Recently the Maui County Planning Commission granted approval to John Duarte's request to erect a gift shop in the Kepaniwai Park area.

I am strongly opposed to the decision as I believe that the Park should be preserved as a scenic area for the enjoyment of all people.

I understand that the final decision rests with your commission and strongly urge that this request be denied.

I called Mr. Duarte August 6th in the afternoon informing him of my reaction to the commission's decision. Mr. Duarte stated that he was quite surprised as he expected the request would not be granted. He also stated that his reason for his thinking was because he is known "not to be able to refuse anyone who asks him for help", hence his passing on the responsibility to the commission.

I understand also, that there is a question of the Iao Needle Hotel changing hands in the near future and its fate is not known.

I would like to suggest at this time that if such should come to pass, that the State purchase the building and set it up as a recreation center where people can stop a while and read the history of the valley. There should be a well stocked library of Hawaiiana, maps and slides to tell the story.

for it has to be

This would be an ideal spot for a snack bar and a gift shop, for it would be under constant supervision and those responsible for its maintenance would see that it would be kept clean at all times. An excellent example is the management of "Seaf Life Park at Makapu Point.

I am enclosing a clipping of my letter to the "People's Forum" of the Maui News of August 7th, 1968.

Again may I stress the importance of this area as a recreation park and my conviction that it is vital to be preserved.

Sincerely,
Gloria W. Foster
(Mrs). Gloria W. Foster



10/11/68
PEOPLES FORUMS

Preserve Kepaniwai

I read in The Maui News where several members of the County Planning Commission granted approval to John Duarte's request to erect a gift shop in the Kepaniwai Park area.

Mr. Duarte claimed that he wanted to develop this project to help a retarded person leaves much to be desired. Did Mr. Duarte contact Ka Lima O Maui and other service and civic groups as Maui Chamber of Commerce, the Rotarians, Kiwanis, Lions and the Small Businessman clubs also, women's clubs as the Maui Woman's Club, Business & Professional Womens' Club? Surely, the combined thinking of these people dedicated to community service could have come up with a solution to meet Mr. Duarte's problem.

Aside of the Valley of the Seven Sacred Pools Project and Iao Valley there are no other spots of such exquisite beauty that Mauians can say, "This is ours" and we want it preserved in perpetuity, left on Maui.

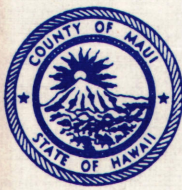
This is a disservice no Commissioner would like to have on his conscience.

Please have the courage to reverse this decision and help to preserve these scenic areas for the people of Maui and for all peoples of the world who visit our shores for all time.

(Mrs.) GLORIA FOSTER

2471

JOSEPH S. MEDEIROS, JR., CHAIRMAN
YOSHIKAZU MATSUI, VICE-CHAIRMAN
G. ALAN FREELAND, MEMBER
WILLIAM HONG, MEMBER
ADRIAN HUSSEY, MEMBER
PETER MATSUOKA, MEMBER
MOTOHISA UNEMORI, MEMBER



KOICHI HAMADA, EX-OFFICIO
HIDEO HAYASHI, EX-OFFICIO
JEAN R. LANE, EX-OFFICIO
MASAO SONE, EX-OFFICIO
ROBERT O. OHATA, PLANNING DIRECTOR
MRS. EVA M. DUPONTE, ADM. ASST.

**PLANNING COMMISSION
COUNTY OF MAUI**

POST OFFICE BOX 1487
KAHULUI, MAUI, HAWAII 96732

July 24, 1968

RECEIVED

JUL 29 1968

State of Hawaii
LAND USE COMMISSION

Mr. C. E. S. Burns, Jr.
Chairman
Land Use Commission
State of Hawaii
426 Queen Street
Honolulu, Hawaii 96813

SP 68-54

Dear Mr. Burns:

Re: Land Use Commission Special Use
Permit No. 28 by John G. Duarte

The Maui Planning Commission at its meeting of July 23, 1968, voted to approve a special permit to Mr. John G. Duarte to construct and operate a gift shop, to manufacture gift items, and for the sale of same, with the stipulation that proper access shall be provided to the shop. The votes were as follows: 4 ayes; 2 noes; and one absent.

Transcript of the public hearing and the sketch of the construction and other data are transmitted herewith.

Very truly yours,

ROBERT O. OHATA
Planning Director

Encls.

cc: Mr. John G. Duarte

MAUI PLANNING COMMISSION
REGULAR MEETING
Tuesday, June 4, 1968

The regular meeting of the Maui Planning Commission was called to order by Chairman Joseph S. Medeiros, Jr., at 1:30 p.m. on Tuesday, June 4, 1968, in the Board of Supervisors Chambers, County Building, Wailuku, Hawaii.

A quorum of the Commission was in attendance. (See record of attendance.)

PUBLIC HEARINGS:

The public hearing on the following request for LUC SPECIAL USE PERMIT under provisions of SECTION 98 H-6, REVISED LAWS OF HAWAII 1965, 1961 SUPPLEMENT, AS AMENDED BY ACT 205, SESSION LAWS OF HAWAII 1963, was opened by Chairman Medeiros. The Director read the NOTICE OF PUBLIC HEARING, a copy of which is hereto annexed and made a part hereof with AFFIDAVIT OF PUBLICATION, published and circulated in the County of Maui, being the County in which said Commission is located, on May 4, 1968.

KEPANIWAI, IAO VALLEY, WAILUKU

Construct and operate an Hawaiian gift shop for the manufacture and sale of gift items to be situated adjacent to Kepaniwai Park in Iao Valley, Tax Map Key 3-3-03, portion of 1, 3 and 10.
Applicant: John G. Duarte

The Director read the application for Special Permit, dated May 2, 1968, attached hereto and made a part hereof.

From posted map of the area the Director explained in detail contents of the report prepared by the Planning Department, attached hereto and made a part hereof. From a sketch of the proposed building, he explained that the plans show the structure will be 20' by 40' in size, and will be situated in an excavated area of the hill adjoining the parking lot.

CHAIRMAN MEDEIROS: Can the LUC grant special use permits in conservation districts?

DIRECTOR: Yes. ^{-?}

MATSUI: How big is the lot? ^{3000 +/- (40' x 75')}

DIRECTOR: [?] 1,200 square feet...The maximum zone in rural districts is $\frac{1}{2}$ acre.

CHIEF LANE: Does that include parking?

DIRECTOR: I don't think so.

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

The following two letters of protests attached hereto and made a part hereof were read:

1. Mrs. Gerald R. Thompson, Kihei, Maui, dated May 19, 1968
2. Mrs. Patricia J. Weeks, President, Maui Outdoor Circle, dated May 28, 1968.

The Chair then opened the hearing to the public for testimony:

MR. JOHN DUARTE: "I want to ask a question first before I started talking. Being a legislator, I want the Commission to know that I did not at

any time approach any members of the Planning Commission. I don't want the public to know...or to feel...that I am using my legislative power to have something granted. As you all know I owned all of that land in Iao Valley...from the Iao Needle down to the present lot...I donated 6 acres with an agreement with Wailuku Sugar Company for the parking. I was offered \$50,000 by Ting to put in a hospital in there for old men. I refused and donated that property to the County. I want to see Iao Valley preserved. Since 1938 when that park was turned over to the County nobody did anything to develop the park. I went out and got the legislature to get money for that park and helped the County to get that park going...then to be accused even in an editorial in the Maui News where my name is spelled out... I did not do that...I am trying to help someone who can't get a job... someone who needs the help...I am not leasing it to make money...I am trying to help the individual...retarded children and the parents of the retarded children...but to be accused that I am trying to use my influence...or my power in the legislature to get something.

Mr. Chairman, I want the members of this Commission to know that I am not making money. I am donating to people to help retarded children. My life is to give, not to take. To be accused of something that is unforeseen...to talk about a jewelry shop...sure, Mr. Texeira came to me and asked me. If it wasn't for a retarded boy to get established I wouldn't do it. And if you tell me that I can't do anything with my property, I can store that place with junk there and make that an ugly looking thing. I bought that property in 1935 from...and to think of being accused of using my influence or power to gain special privileges...I think it's wrong, and I think the Commission knows very well...I have a lot of confidence in the Commission and I trust your decision.

"If making an application is wrong, then how are people going to make applications if they are accused. The Commission are the ones to make the decision. I trust you and I believe in you, and I have faith in you, and believe that you are going to do the right thing. Whether you grant it or don't grant it it's your privilege. Thanks."

CHAIRMAN MEDEIROS: "Your comments will be taken in the light it was given...any others who would like to speak in behalf of the special use permit."

RAYMOND BURNS: I feel that putting this shop in Iao Valley will help the handicapped people to work in there and get better established in the community. I feel it will give the tourists something to do while they are here, because I know many tourists who come and ask me what they can see, you send them up there and they have only a few things to see. Give those handicapped people a chance so they can better themselves. That is all I have to say."

MRS. PATRICIA KEOHO: I sincerely feel that it would be a compliment to the island to have something like that in Iao Valley. As the County Clerk did specify, that work of this sort is not available anywhere on the islands except Lahaina. The Lahaina Outdoor Circle is concerned about Iao Valley, but Lahaina themselves are showing how black coral jewelry is made...This would be where people go and see exactly how it's made. I think it's something the Commission should think of."

CHAIRMAN MEDEIROS: Any others who would like to speak for the granting of the special use permit. (There were none.) Any others who would like to speak against the special use request.

MRS. PATRICIA WEEKS: As an addition to the letter we wrote (Maui Outdoor Circle) we feel it will open the gate. There are other places... Ka Lima O Maui is one...that is open to the public to see how things are made. The Outdoor Circle feels that this would mar the valley."

MRS. PATTY THOMPSON, KIHEI: "I would like to bring out what Chief Lane said about parking. If the tour buses are going up there and the parking area is not too large it will cause congestion and what about the individual person in the U-Drive. A manufacturing plant is very interesting but it creates a great deal of debris...I don't feel this area is large enough where the mess could be kept. I feel this is in close proximity to where the Chinese garden is going and also the Portuguese garden. I feel also, that we are considering a Hawaiian garden near Iao Needle Hotel. If this is granted, we're bringing in a foreign element to conflict with the standards across the street. We would then foul up the overall esthetics."

CHAIRMAN MEDEIROS: "(to Mr. Duarte) Isn't it in the application that he is taking about 1500 square feet?"

MR. DUARTE: "He can take up to 5000 square feet."

MRS. EDNA JENKINS: "I have lived in the Wailuku area for almost 45 years. Iao Valley has been the focal point for all the visitors I always have. We have taken girl scouts there...and I have followed the stories of Iao which is most interesting. I feel that Johnny (Mr. Duarte) and I haven't a great deal of time left and there are other things Johnny could do besides going into industry in an area where we don't want it. I already told Johnny the things that he must do...before it's too late he must write a story about Iao...he knows things about Queen Liliuokalani...the days of Kalakaua... Hitchcock, when he used to go to the Needle to do his famous paintings, and these are remembrances that we are going to lose if Johnny doesn't tell them. He could write this book and turn the proceeds over to the retarded children. I do not feel that starting something that is foreign to the feel of the Valley is very good. And how do we know what will follow. Please may I go on record opposing it."

There were no others to speak against the granting of the special permit.

The Chair closed the public hearing at 2:00 p.m. and informed the applicant that the law provides for 15 days before any action can be taken by the Commission. He pointed out that the final decision rests with the Land Use Commission.

The Chair then opened the public hearing on the following request for a variance under the provisions of SECTION 8-2.5 of the PERMANENT ORDINANCES OF THE COUNTY OF MAUI, 1966, for the construction and operation of a bank office for the Bank of Hawaii in Paia, Maui, Hawaii.

The Director read the notice of public hearing, a copy of which is hereto annexed and made a part hereof, with Affidavit of Publication, published in the Maui News, a newspaper published and circulated in the County of Maui, on June 1, 1968, attached hereto and made a part hereof.

The Director then read the letter of application requesting the variance, dated April 30, 1968, signed by S. Mizuha, District Vice President, Bank of Hawaii, attached hereto and made a part hereof.

The Director explained that the lot, situated on Baldwin Avenue, Paia, is presently vacant.

COMMISSIONER MATSUI: "I understand the construction has started on the postoffice."

DIRECTOR OHATA: "Yes, the postoffice, but not on the bank."

COMMISSIONER HONG: "What is your recommendation?" (to Director.)

July 16, 1968

MR. HOWARD NAKAMURA
Planning & Traffic Commission
219 Naska
Kahului, Maui

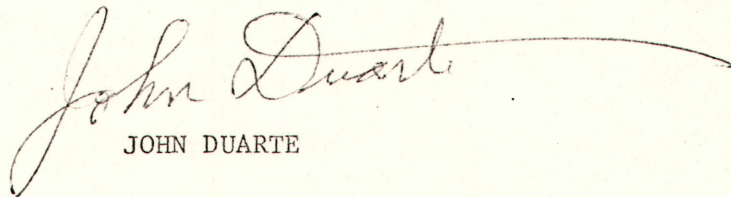
Dear Mr. Nakamura:

As requested in your letter of July 10, 1968, we submit the following information:

1. Attached is a sketch indicating the approximate boundries of the proposed area for the gift shop - 3,000 sq. ft.
2. This sketch also shows parking.

I hope that this information is sufficient for the ~~State Land~~ ^{Planning} ~~Use~~ Commission.

Very truly yours,


JOHN DUARTE

June 10, 1968

Planning Commission Chairman
Wailuku, Maui

Dear Sir:

At a time when the importance of conserving our beauty spots and parks is occupying the attention of community planners everywhere, we on Maui should not let down the bars to commercialism no matter how well intentioned. I want therefore to go on record as opposing Mr. Tuarte's resolution re' a stand in Iao Valley.

We all admire Mr. Tuarte's generosity in the past to this community. Let us keep it that way. His name will continue to be honored in the future if this petition is denied.

Very sincerely yours,
(Mrs. C.) Helen C. Twitchell

MRS. GERALD R. THOMPSON
R. R. 1, BOX 923
KIHEI, MAUI, HAWAII 95653

May 19, 1968

Mr. Joe Medeiros, Jr, Chairman
Maui Planning Commission PO Box 1487
Kahului, Maui 96732

Dear Mr. Medeiros:

I am very disturbed by the legal notice of a Special Use Permit request published in the MAUI NEWS on the 4th of May, applicant JOHN G. DUARTE to "construct, operate a Hawaiian Gift Shop..and manufacture..in or adjacent to Kepaniwai Park".

I have seen the proposed site as well as the artist's conception of the building, on file at the Planning Director's office. As I read the map, the building is planned to be within the highway set-back since the area is directly below the bluff..near the large mango tree abutting the driveway to Mr. Duarte's home. As such, the building is not objectionable.

However, it is SPOT ZONING in a Conservation District. In addition, if the County, State and Federal governments were not spending some \$1 million to create the ethnic gardens, the request for special permit would not have been made, in my opinion. It also appears that the applicant, John G. Duarte, intends to use the county-supported parking lot for his customers.

Perhaps his plan has merit although I understand that he intends to lease it to an unknown party after being granted variance. But what of those who wish to follow with hot dogs, pineapple juice and other types of tourist come-ons? On principle, I am against SPOT ZONING. It has a tendency to open a Pandora's Box.

Please consider this a strong protest against the granting of the Special Use Permit to John G. Duarte.

Most sincerely,

Mrs. Gerald R. Thompson
Mrs. Gerald R. Thompson

CC: Maui News

MAUI OUTDOOR CIRCLE

POST OFFICE BOX 402
KAHULUI, MAUI, HAWAII 96732

May 28, 1968

Joseph S. Mederios, Jr., Chairman
Maui Planning Commission
Naska, Maui, Hawaii

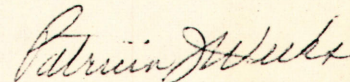
Dear Mr. Mederios:

The Maui Outdoor Circle would like to go on record as opposing Mr. John G. Duarte's application for a Special Change In Land Use, to build a shop for manufacturing and retailing of souvenir items in or adjacent to Kepaniwai Park.

The proposed building plan is attractive, but we feel that additional commercial activity is undesirable.

The Lahaina Outdoor Circle joins us in protesting this application. They also feel that permitting this business venture would only be speeding the erosion of Maui's natural beauty.

Sincerely,



Patricia J. Weeks
President

PJW:ib
cc: Maui News

AFFIDAVIT OF PUBLICATION

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

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

.....SPECIAL USE PERMIT.....
of which the annexed is a true and corrected printed notice, was
published1..... times in the MAUI NEWS, aforesaid, commencing
on the4th..... day ofMay....., 19.....68., and ending
on the.....4th..... day ofMay....., 19.....68., (both days
inclusive), to-wit: on
.....May 4, 1968.....

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

Rose Yoshizawa

Subscribed and sworn to before me this
.....F..... day ofMay..... A. D. 19.....68.....

Manana Oea
Notary Public, Second Judicial
Circuit, State of Hawaii.

My commission expires August 31, 1971

NOTICE OF PUBLIC HEARING

SPECIAL USE PERMIT

NOTICE IS HEREBY GIVEN of a public hearing to be held
by the County of Maui Planning Commission on Tuesday, June
4, 1968, in the Board of Supervisors Chambers, Wailuku, Maui,
Hawaii, at 1:30 p.m. or as soon thereafter as those interested
may be heard to consider the following request for SPECIAL
USE PERMIT under provisions of SECTION 98 H-6, REVISED
LAWS OF HAWAII 1955, 1961 SUPPLEMENT, AS AMEND-
ED BY ACT 205, SESSION LAWS OF HAWAII 1963:

KEPANIWAI, IAO VALLEY, WAILUKU

Construct and operate an Hawaiian gift shop for the manu-
facture and sale of gift items to be situated adjacent to
Kepaniwai Park in Iao Valley, Tax Map Key 3-3-03, por-
tion of 1, 3 and 10.

Applicant: John G. Duarte

Sketch showing the general location is on file in the office
of the County of Maui Planning Commission at Naska, Kahu-
lui, Maui, Hawaii, and is open to th public for inspection dur-
ing office hours.

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

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

(MN: May 4, 1968)

May 30, 1968

TO: MAUI PLANNING COMMISSION
FROM: PLANNING DEPARTMENT
SUBJECT: LUC SPECIAL PERMIT APPLICATION #27, JOHN G. DUARTE
(KEPANIWAI)

The applicant, John G. Duarte, has applied for a Special Permit to develop a shop for the manufacture and sale of Hawaiian gift items in the State Rural District. It is intended that a portion of the building to be erected will be devoted to retail sales; the remaining portion will be a work shop, where items to be sold will be manufactured. It is anticipated that the shop would be leased and operated by persons other than the applicant.

LOCATION: The parcel in question is located adjacent to the Kepaniwai Park parking lot, and is a part of Lot KP-1, originally a portion of TMK 3-3-03: parcel 5. The land involved was reclassified from Conservation to Rural District by the State Land Use Commission on June 16, 1967, upon petition by the County of Maui, and was subsequently exchanged with the applicant, in order to facilitate development of the Kepaniwai Heritage Gardens. A later consolidation with TMK 3-3-03: parcel 10 created a 1.809 acre lot which has upon it a single-family residence and two storage buildings. Along the boundary between the subject parcel and the Kepaniwai parking lot, there is an embankment of approximately 20 to 30 feet in height, which would be excavated for construction of the gift shop.

SURROUNDING LANDS: There are four residences in the vicinity, located within the Rural District. The Hotel Iao Needle, the only commercial activity in the vicinity, is a non-conforming use in the Conservation District. Kepaniwai Park is located within the Conservation District. Approximately one mile above Kepaniwai Park, at the terminus of Iao Valley Road, is the State's Iao Needle Park. The area is heavily grown with kukui, guava and other natural foliage.

KEPANIWAI HERITAGE GARDENS: The County's present Kepaniwai Park is shortly scheduled to undergo major changes. Based upon the spectacular natural beauty and historical value of Kepaniwai and Iao Valley, the contributions of the different ethnic groups to life and culture in Hawaii is to be commemorated through the establishment of the Kepaniwai Heritage Gardens. Increment "A", which is expected to commence shortly, will develop the area between the two existing roads into a Japanese Garden (expanding upon the existing), Chinese Garden and Filipino Garden. At a later date, toilet and shower facilities will be added. Increment "B" will see the addition of Hawaiian, Portuguese and Early American Gardens and Pavilions, main pavilion and picnic pavilions. County, State and Federal participation will be involved in the project, which will result in a major scenic and recreational attraction.

RECOMMENDATION: Based upon the following, it is the recommendation of the Planning Department that the granting of the Special Permit be denied:

(a) The Iao Valley--Kepaniwai area is one of the major tourist attractions on the island of Maui. The spectacular scenery, natural beauty and historical background have lent an air of unspoiled charm to the surroundings, which is enjoyed by both visitors and residents. The creation of the Heritage Gardens will further enhance and emphasize this. The participation of the Federal Bureau of Outdoor Recreation in developing the Heritage Garden adds further testimony to the desirability of maintaining Kepaniwai for public recreation and enjoyment. The introduction of commercial activity into the area would not be compatible with these major goals.

(b) The proposed use is not "unusual and reasonable" under the criteria established by the State Land Use Regulations in that:

1. It would substantially alter the essential character of the land
2. The land is suitable for permitted uses within the District (low-density residential).

The establishment of a retail and manufacturing establishment on the fringe of the Conservation District is not justified, inasmuch as a major commercial center exists only 1½ miles away in Wailuku.

(c) The proposal envisions major excavation into the embankment adjoining the parking area. From an aesthetic standpoint, this would not be desirable, particularly since the proposed location is at the entrance to the Park.

INSTRUCTIONS:

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

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

APPLICATION FOR SPECIAL PERMIT
 Special Permit is hereby requested:

DO NOT WRITE IN THIS SPACE

| | |
|-------------------------|---------------|
| Appl. & fee received | <u>5/2/68</u> |
| Notice published | <u>5/4/68</u> |
| Public hearing | <u>6/4/68</u> |
| Recommendation to LUC | _____ |
| Action by State LUC | _____ |
| County & Appl. notified | _____ |

A. Description of Property: (1) Tax Map Key No. Portion of Parcel KP-1 of 3-3-03-1, 3, & 10

(2) Lot Area 1,200 sq. ft. (3) Location Kepaniwai, Iao Valley, Wailuku

B. Ownership: (1) Owner's name John G. Duarte

(2) Lessee's name _____ (3) Unexpired term _____ years

C. Request: (1) State request briefly and exactly: Request that land use of above area be approved in order that a Hawaiian Gift Shop may be developed on this site. In the gift shop will be located craftsmen and makers of Hawaiian products for the visitors to view.

(2) Reasons justifying granting of request: This unique type of gift shop is not now available in the Iao Valley area for the hundreds of tourists who visit there, and such a project can become a tourist attraction point. There will be no adverse effect on adjoining land, rather, an attractive polynesian type shop would enhance the area.

D. Applicant: (1) Name John G. Duarte

(2) Address Iao Road, Wailuku (3) Telephone 336-745

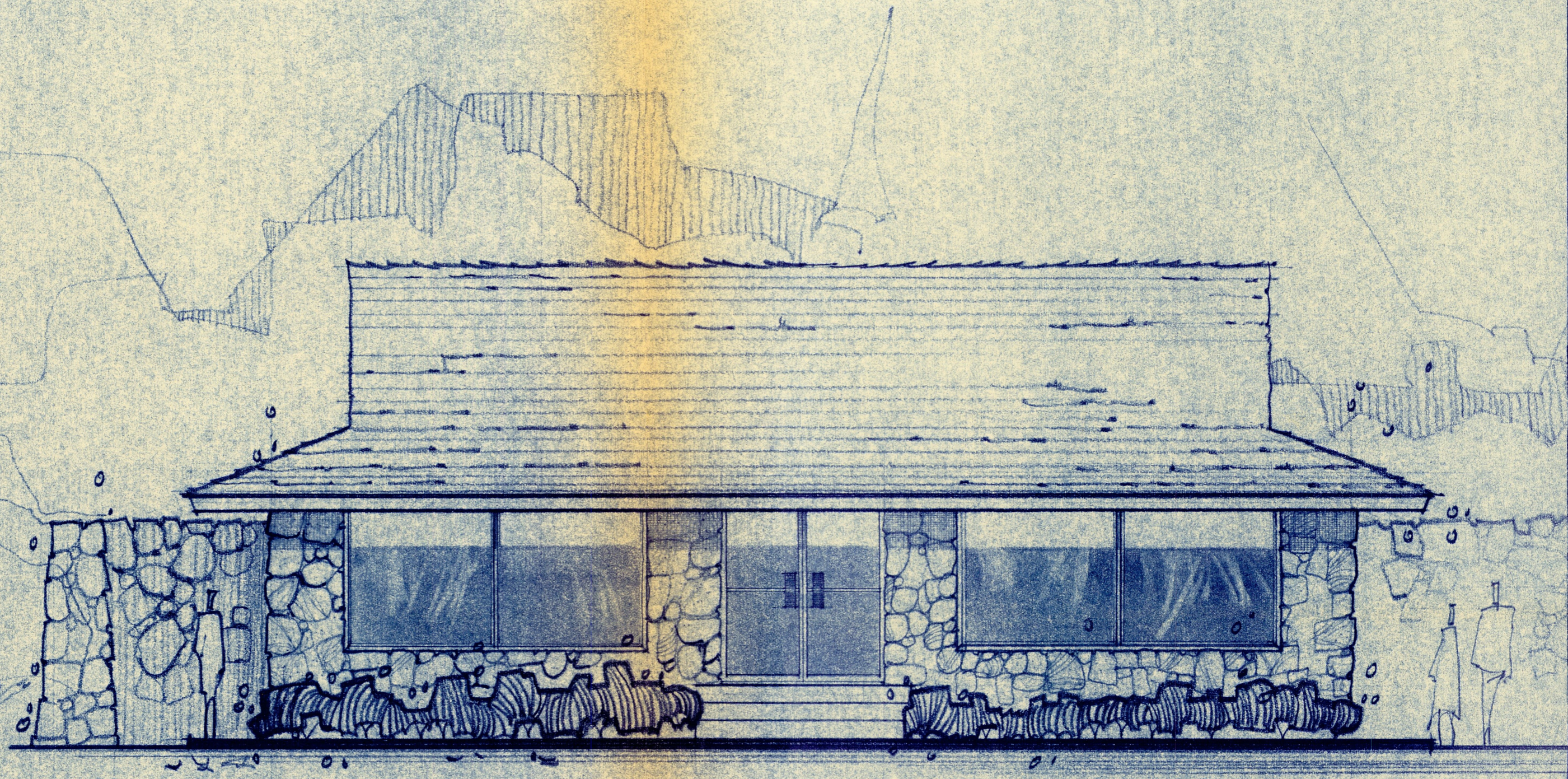
(4) Signature John G. Duarte

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

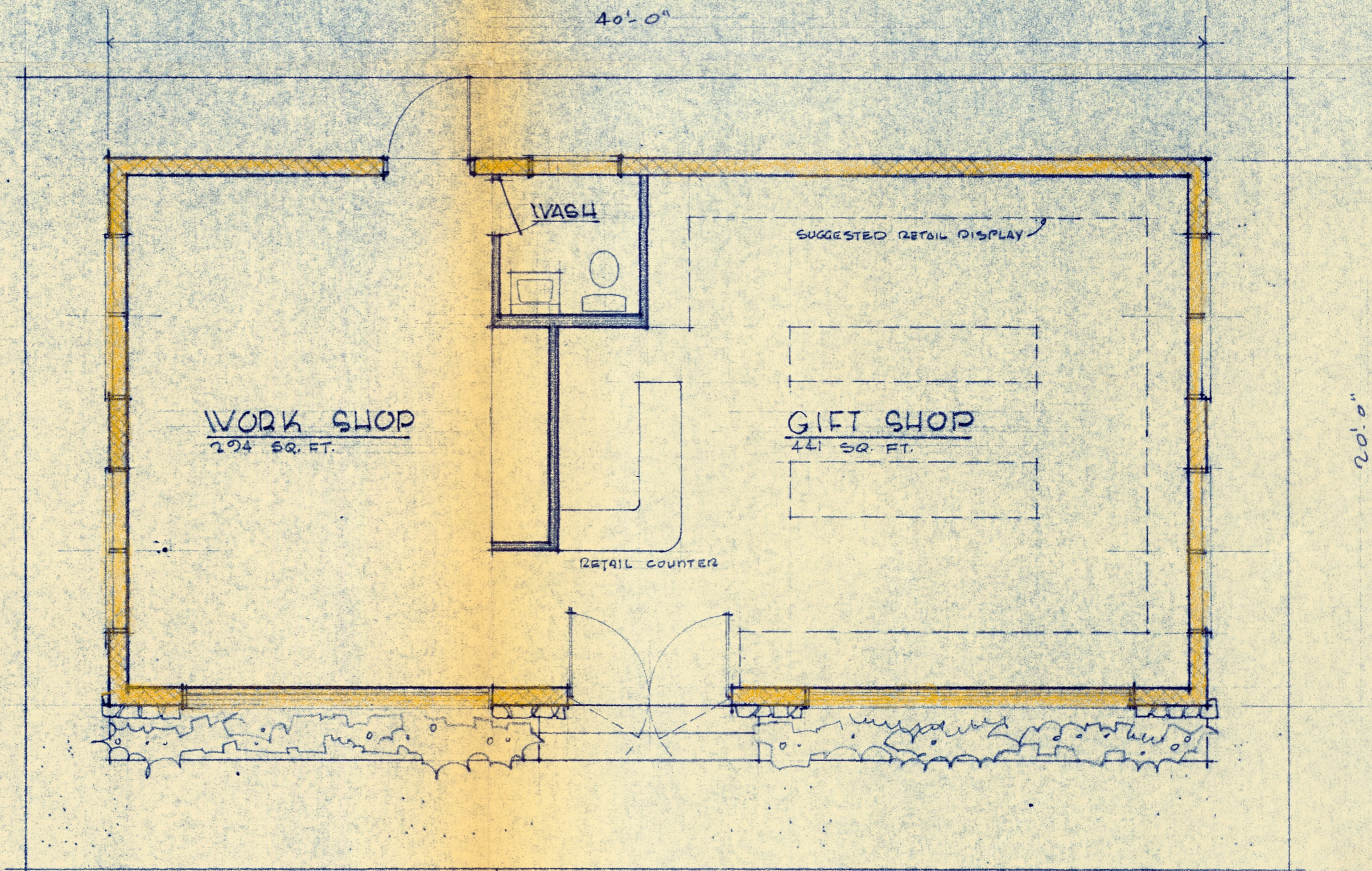
Reasons: _____

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

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



FRONT



FLOOR PLAN

SCALE 1/4" = 1'-0"

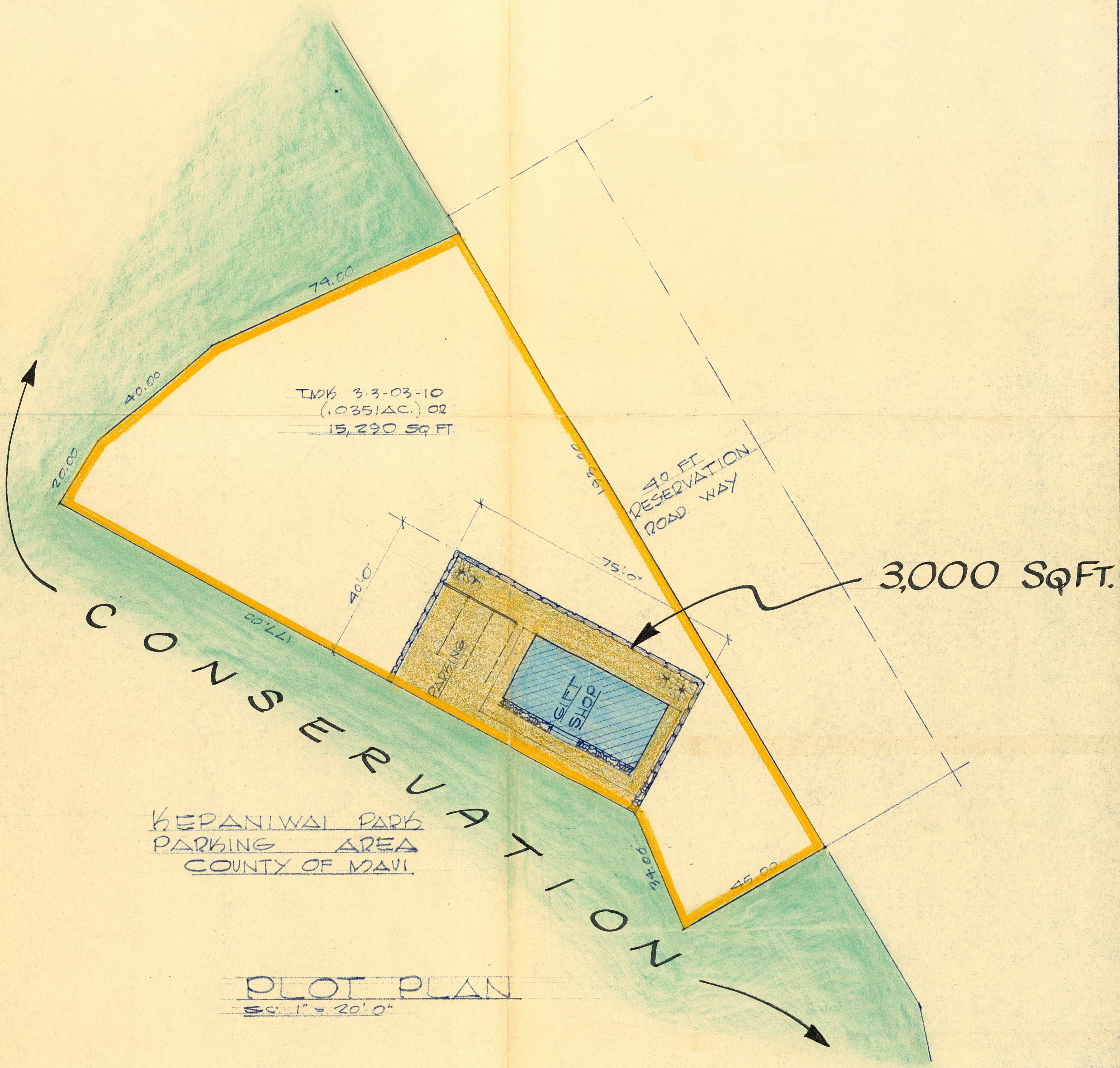
SP68-54 DUARTE

**PROPOSED
GIFT SHOP
120 VALLEY**

| | | |
|-----------------------------|-----------------|-----------------|
| AMFAC INC. KAHULUI, MAUI | JOB No. 93-8 | DATE 4-20-68 |
|-----------------------------|-----------------|-----------------|

AREA 3

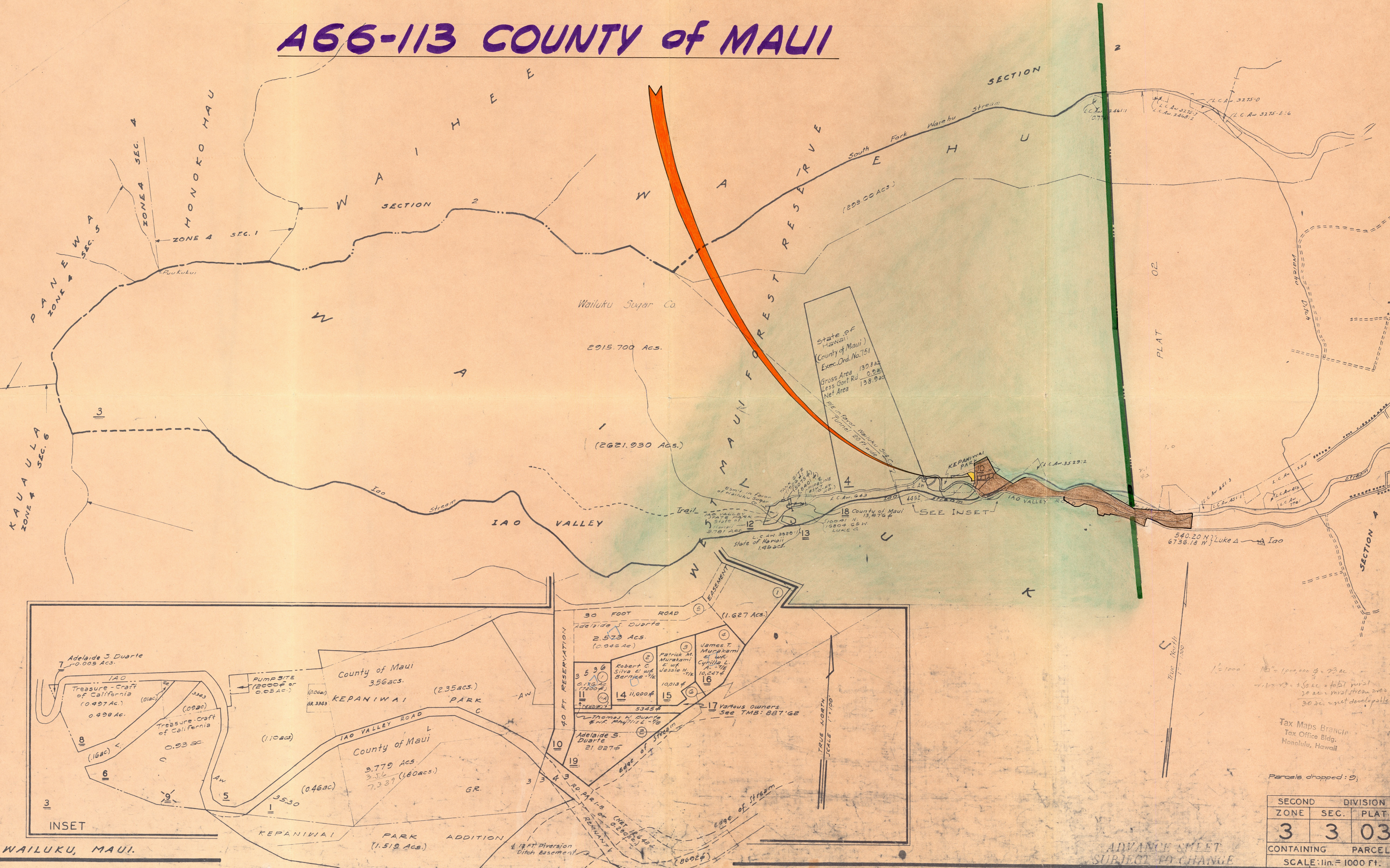
3,000 SQ. FT. PROPOSED
1,200 SQ. FT. 40% PARKING



SP68-54 DUARTE

| | | | |
|---------------|---------|------------|---------|
| PROPOSED | | | |
| GIFT SHOP | | IAO VALLEY | |
| AMFAC | JOB No. | DATE | 7-15-68 |
| KAHULUI, MAUI | 93-8 | | |

A66-113 COUNTY OF MAUI



Dwg No. 90
 By: S.D.P. Oct. 11, 1962
 Source: To: Maui Bureau of Survey Dept.

WAILUKU, MAUI.

1" = 1000'
 10" = 1000.000 ft = 23 ac
 11.7 x 73 = 250 ac = total parcel
 20 ac = total stream area
 30 ac = net developable area

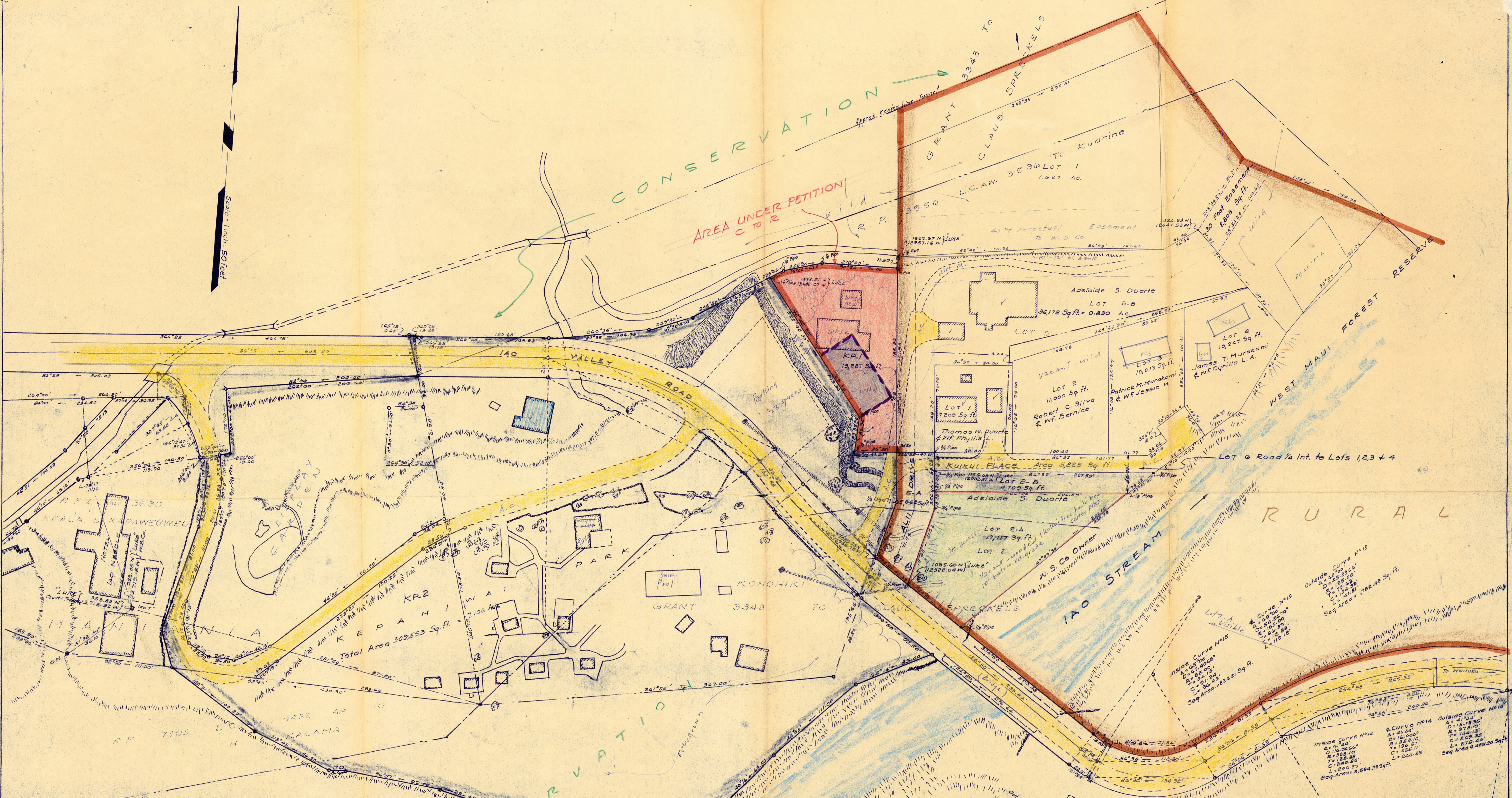
Tax Maps Branch
 Tax Office Bldg.
 Honolulu, Hawaii

Parcels dropped: 9.

| SECOND DIVISION | |
|-------------------------|------------|
| ZONE | SEC. PLAT. |
| 3 | 3 03 |
| CONTAINING PARCELS | |
| SCALE: 1 in. = 1000 Ft. | |
| PRINTED MAY 3, 1966 | |

ADVANCE SHEET
 SUBJECT TO CHANGE

7503



Scale = 1 inch = 50 feet

COUNTY OF MAUI
DEPARTMENT OF PUBLIC WORKS
WAILUKU, MAUI, HAWAII.

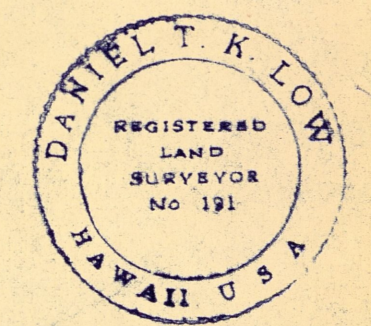
KEPANIWAI PARK LAND EXCHANGE

BETWEEN JOHN G. DUARTE AND COUNTY OF MAUI
IAO VALLEY, WAILUKU, MAUI, HAWAII.

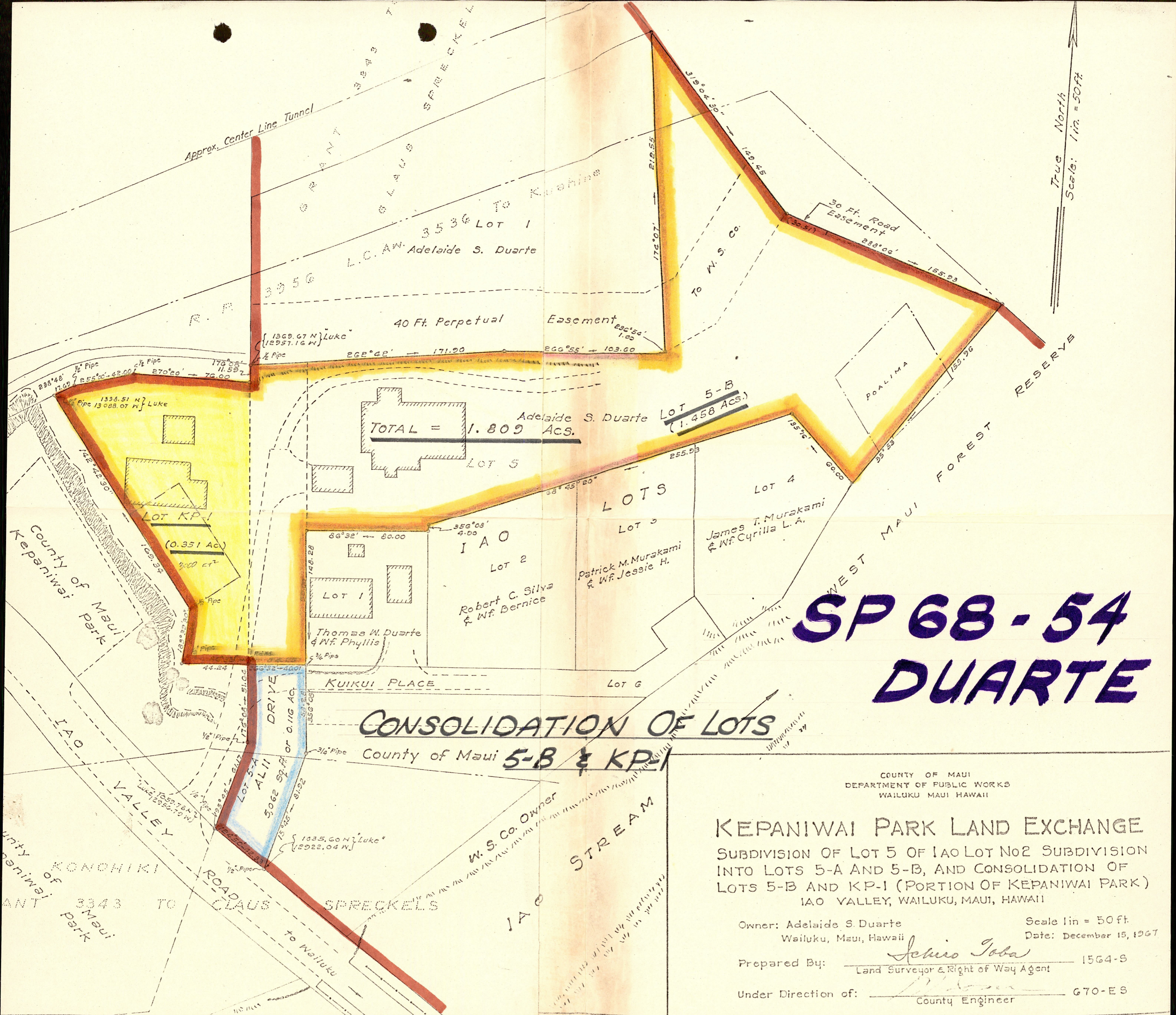
Scale: 1 inch = 50 feet
February 16, 1965

Survey & Plan By: *Harold T. K. Low*
Checked By: *David T. K. Low* 1965

Under Direction Of: *NASAO SOXE*
County Engineer



Tax Map Key 3-3-03-1,3410



CONSOLIDATION OF LOTS

County of Maui **5-B & KP-1**

**SP 68-54
DUARTE**

COUNTY OF MAUI
DEPARTMENT OF PUBLIC WORKS
WAILUKU MAUI HAWAII

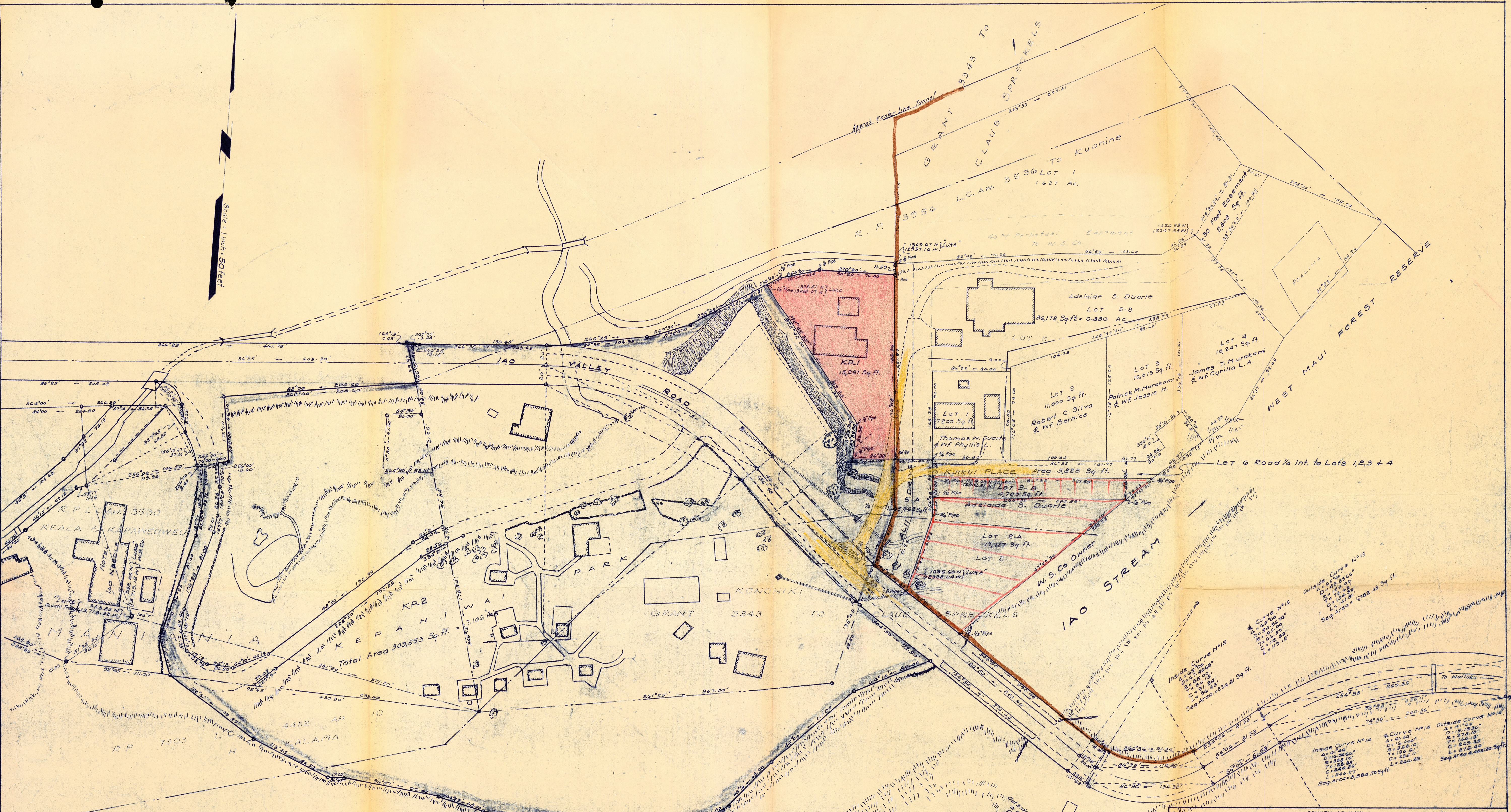
KEPANIWAI PARK LAND EXCHANGE
SUBDIVISION OF LOT 5 OF IAO LOT No2 SUBDIVISION
INTO LOTS 5-A AND 5-B, AND CONSOLIDATION OF
LOTS 5-B AND KP-1 (PORTION OF KEPANIWAI PARK)
IAO VALLEY, WAILUKU, MAUI, HAWAII

Owner: Adelaide S. Duarte
Wailuku, Maui, Hawaii

Prepared By: Schiro Toba 1564-S
Land Surveyor & Right of Way Agent

Under Direction of: [Signature] 670-ES
County Engineer

Scale 1 in = 50 ft.
Date: December 15, 1967

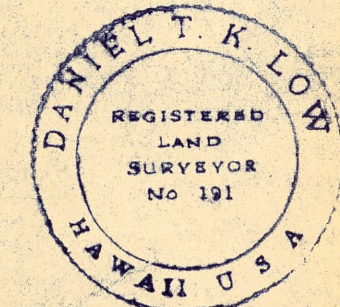


KEPANIWAI PARK LAND EXCHANGE

BETWEEN JOHN G. DUARTE AND COUNTY OF MAUI

IAO VALLEY, WAILUKU, MAUI, HAWAII.

Scale: 1 inch = 50 feet
 Survey & Plan By: *H. Maie & Daniel K. Low*
 Checked By: *Daniel K. Low*
 Under Direction Of: *MARCO SONE*
 County Engineer



February 16, 1965

670-ES

Tax Map Key 3-3-03-13+10

7506 1735

RECEIVED

OCT 24 1966

State of Hawaii
LAND USE COMMISSION

7507