

Action Span

Feb 10 to Mar 27

Sked (Mar 6)

March 31, 1970

Mrs. May S. Fujii
4232 Hoala Street
Lihue, Kauai, HI

Dear Mrs. Fujii:

This will acknowledge receipt of your letter dated March 20 regarding SP70-73, Tomoyoshi & May S. Fujii, wherein you have stated the petitioners accept the condition imposed by the Land Use Commission that "the existing structure will be demolished within one year after the death of the last surviving parent of May S. Fujii, or within one year after such time that neither parent no longer occupies the structure".

Your acceptance of the condition imposed by the Land Use Commission validates the approval granted by the Land Use Commission on March 6, 1970, and you may contact the Planning Department regarding construction of a new dwelling.

Very truly yours,

RAMON DURAN
Executive Officer

cc: Brian Nishimoto, Planning Director

copy

2693
March 20, 1970

Land Use Commission
P.O. Box 2359
Honolulu, Hawaii, 96804

RECEIVED

MAR 24, 1970

State of Hawaii
LAND USE COMMISSION

Attention: Mr. Ramon Duran, Executive Officer

Dear Mr. Duran:

Thank you for the approval of our special permit.

We agree to accept the condition that the existing structure be demolished within one year after the death of the last surviving parent or within one year after such time that neither of my parents continue to occupy the structure.

We will contact the County Planning Department here in Lihue regarding construction.

Very truly yours,
May S. Fujii

March 16, 1970

Mr. and Mrs. Tomoyoshi Fujii
4232 Hoala Street
Lihue, Kauai, HI

Dear Mr. and Mrs. Fujii:

At its meeting on March 6, 1970, the Land Use Commission voted to approve a special permit to Tomoyoshi and May S. Fujii (SP70-73) to locate a second dwelling unit on parcel 34, Tax Map Key 4-4-03, in the Kapaa Homesteads area, Kapaa, Kauai, subject to the condition that the existing structure be demolished within one year after the death of the last surviving parent of May S. Fujii, or within one year after such time that neither parent continues to occupy the structure, with the further condition that the petitioners indicate their acceptance of these conditions in writing within 60 days.

If the above conditions are acceptable, please write to the Land Use Commission, P. O. Box 2359, Honolulu, Hawaii 96804, within the next 60 days and state that you agree to them, and then contact the County Planning Department regarding construction of your home.

Very truly yours,

RAMON DURAN
Executive Officer

Encl.

cc: Brian Nishimoto, Planning Director

March 16, 1970

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

Attention: Mr. Brian Nishimoto, Planning Director

Gentlemen:

At its meeting on March 6, 1970, the Land Use Commission voted to approve a special permit to Tomoyoshi and May S. Fujii (SP70-73) to locate a second dwelling unit on parcel 34, Tax Map Key 4-4-03, in the Kapaa Homesteads area, Kapaa, Kauai, subject to the condition that the existing structure be demolished within one year after the death of the last surviving parent of May S. Fujii, or within one year after such time that neither parent continues to occupy the structure, with the further condition that the petitioners indicate their acceptance of these conditions in writing within 60 days. In the event the petitioners do not accept these conditions within 60 days, the special permit shall be considered denied.

Enclosed for your information is the staff report.

Very truly yours,

RAMON DURAN
Executive Officer

Encl.

cc: Tomoyoshi & May S. Fujii
Department of Taxation, Property Assessment
" " " Property Technical Services
Office of the Assessor, Kauai

STATE OF HAWAII
LAND USE COMMISSION

VOTE RECORD

ITEM SP70-73 - TOMOYOSHI & MAY FUJII DATE March 6, 1970

PLACE State Conference Room TIME 1:00 p.m.
Lihue, Kauai

NAME	YES	NO	ABSTAIN	ABSENT
NAPIER, ALEXANDER				✓
TANGEN, EDDIE	✓			
MARK, SHELLEY	✓			
KIDO, SUNAO				✓
INABA, GORO	✓			
WUNG, LESLIE	✓			
SAKAHASHI, STANLEY	✓			
YAMAMURA, TANJI	✓			
CHOI, WILBERT	✓			

COMMENTS:

*Appears on
condition exists
Process to remove within one yr
of death of last person or more
& petitioner except condition within
60 days otherwise SP is denied.
send letter to Walter*

DEPARTMENT OF WATER

COUNTY OF KAUAI

P. O. BOX 1706

LIHUE, HAWAII 96766

3258

gpc

RECEIVED

MAR 3, 1970

State of Hawaii
LAND USE COMMISSION

March 2, 1970

Land Use Commission
State of Hawaii
P. O. Box 2359
Honolulu, Hawaii 96804

Subject: SP70-73, Tomoyoshi & May Fujii
TMK: 4-4-03:34

Attached is a copy of our comment to our County
Planning Department which gives approval for the
proposed use.



Walter L. Briant Jr.
Manager and Chief Engineer

Enc.
c: Kauai Planning Dept.

COUNTY OF KAUAI
PLANNING DEPARTMENT
LIHUE, KAUAI

FROM: Brian Nishimoto, Planning Director DATE: Dec. 2, 1969

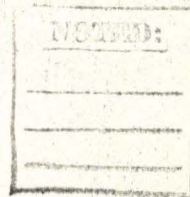
SUBJECT: Special Permit Appl. SP-69-4 = Tomoyoshi Fujii & May S. Fujii

TO: { } Public Works Department
 { } Water Department
 { } State Health Department
 { } Economic Development Office
 { } Kauai Electric Co., Ltd.
 { } State Highways Division
 { } Police Department
 { } Fire Department

FOR YOUR COMMENTS & RECOMMENDATIONS:

December 16, 1969

An adequate water supply is available for the proposed use.



Signature: W. Nishimoto

Please return one copy by Dec. 15, 1969 . Thank you.

STATE OF HAWAII
LAND USE COMMISSION

State Conference Room
Lihue, Kauai

March 6, 1970
1 p.m.

STAFF REPORT

SP70-73 - TOMOYOSHI AND MAY FUJII

The Kauai County Planning Commission has forwarded a special permit request to locate a second dwelling unit on parcel 34, TMK 4-4-03, 1.5 acres in area, generally located in the Kapaa Homesteads area.

The property in question is situated approximately 2.5 miles mauka of the Kapaa Urban District. The property in question fronts upon Hauiki Road. The right-of-way of Hauiki Road is approximately 30 feet, of which approximately 10 feet are paved. This property is situated in about the center of the Agricultural District. The surrounding lands are primarily used for pasture purposes, although cane is grown in the makai sections and pineapple in the mauka sections. Power and water are available to this area.

There are six other homes surrounding the property in question. One of the two lots subdivided by the parents of the applicants has a new dwelling unit. The other lot is vacant. There are no other homes on Hauiki Road for approximately one mile in either direction. The four adjacent lots are less than one acre in area. There are also

3-3-70 sent copy of report to petitioner

two parcels across the street that are less than one acre in area. The rest of the area is characterized by large tracts of land from ten acres to 100 acres in area.

The elevation of the property is about 300 feet above sea level, and the annual rainfall is in the 50-75 inch range. Approximately one-half of the parcel fronting on Hauiki Road is relatively flat, and the overall soil productivity rating is C or "fair". The remaining portion at the rear of the lot is situated at the head of a gulch and is considerably steep. The slopes are in the 36-80 percent range, and the overall soil productivity rating is E or "poor".

The applicants state their parents subdivided the property in September, 1957, into three lots which were given to each surviving child with the understanding that they build their homes on the lots. The petitioners, however, made arrangements for their parents to live on their property in the existing dwelling as long as they live. The petitioners now desire to construct their own home on their lot without disturbing their parents. The petitioners are presently living in a substandard home with community-type bathroom facilities. They point out that the properties located to the west are less than an acre in size. The petitioners' letter dated November 24 in support of their application

has been distributed to the Commission.

On February 5 the Kauai Planning Commission approved the subject application for special permit as recommended by the Planning Director. The Planning Director has stated in part:

"In reference to this request, the staff considers that this petition presents a situation where the strict enforcement of the State Land Use Commission's Rules and Regulations will cause practical difficulty to the applicants due to circumstances that were not foreseen by the parents and children prior to the Land Use Law. The problem that the applicants now face is a problem created as a result of the State Land Use Law."

The Director's report further states:

"In recent actions by the State Land Use Commission, two special permit requests which we recommended favorable action were denied due to the strict interpretation of the land use laws. On that basis, a proper procedure would be to request a district boundary change from Agricultural to Rural classification but this would seem to work against the applicant as well as trying to uphold

the law in terms of spot zoning. In viewing the surrounding area, this property is more Rural in character than Agricultural.

"Inasmuch as the staff recognized the State Land Use Commission's action, the staff feels that a special permit procedure would be a more logical way in which to approach this particular situation. The staff, therefore, recommends approval of this special permit request."

The Land Use Law requires that before a special permit can be approved by the Land Use Commission, the petitioner must show that the proposed use is "unusual and reasonable" within the Agricultural District. The Commission has established the following guidelines to determine whether a proposed use is "unusual and reasonable":

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

Comment

The law is intended to protect prime agricultural land from urban encroachment and to prevent scattered urban development that will be costly to government to provide public facilities.

The placement of an additional dwelling on this lot does not affect prime agricultural land nor would it present a burden on government to provide expensive public facilities. However, the Land Use Law has a minimum requirement of one acre in the Agricultural District or a density of one dwelling unit per acre. Also, our non-conforming use regulations prohibit the expansion or increasing the intensity of such uses. The approval would create a non-conforming condition.

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

Comment

The proposed use would not adversely affect surrounding property, as there are several small lots nearby with dwelling units on them.

- "(c) Such use would not unreasonably burden public agencies to provide public facilities."

Comment

The addition of a dwelling unit on this property will not burden public agencies.

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

Comment

The district boundaries were established August 4, 1969, a short while ago. Therefore, no unusual conditions, trends and needs have arisen that are evident during the past seven months.

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

Comment

The present site has a number of fruit trees growing on it. The soil characteristics are fair for agricultural use. There is a dwelling unit already situated on the property. Therefore, the property is suited for the uses permitted within the Agricultural District.

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

Comment

Another dwelling on the lot will not change the essential character of the land although it will increase the intensity of the present use of the land.

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

Comment

It appears that the property is presently being used for the highest and best use and that the proposed use, the addition of another dwelling unit, does not involve the public welfare but will benefit the petitioners.

From the above it would seem that the request undoubtedly meets the test of reasonableness. However, the staff has some reservations regarding the "unusual" aspects of the use. A use that is permissible within a district is not an unusual use within that same district. By this, it is meant that permissible uses within the Agricultural District include dwellings.

An unusual use has been determined to be any use that is not permitted within the Agricultural District and would include, for example, a commercial use, a hotel site, a public facility not related to the agricultural industry, a nursing home, golf course, and the like.

The staff maintains that the proposed dwelling unit increases the density on this parcel beyond one dwelling unit per acre as intended in the law; that the property owner is not being deprived of the reasonable use of this land since the property already has a dwelling unit on it; that dwellings are not unusual uses within the Agricultural District; and that approval of a residence would create a non-conforming status of the property and the intent of the law is to discourage and eliminate non-conforming uses. Therefore, it is recommended that this special permit be denied.

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25% COTTON FIBER

February 24, 1970

Mr. Tomoyoshi Fujii
4232 Hoala Street
Lihue, Kauai, HI

Dear Mr. Fujii:

The Land Use Commission next meets at 1 p.m., in the State Conference Room, Lihue, Kauai, on March 6, 1970.

At that time your application for a special permit (SP70-73) 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

cc: Kauai Planning Commission

Enclosure - Agenda

Eagle-77

3235

UNIVERSITY OF HAWAII

Land Study Bureau

February 19, 1970

RECEIVED

FEB 20, 1970

State of Hawaii
LAND USE COMMISSION

Mr. Ramon Duran
Executive Officer
Land Use Commission
P. O. Box 2359
Honolulu, HI 96804

Dear Mr. Duran

Attached please find our comments on the land involved in the special permit application by Tomoyoshi and May Fujii.

We have not submitted any comments on the boundary change application at Hanapepe Valley because the area involved is not adequately defined. If you still wish our comments on this parcel, perhaps you could provide us with a map of the specific area.

Sincerely yours

Harold L. Baker

Harold L. Baker
Director

Attachment

UNIVERSITY OF HAWAII

LAND STUDY BUREAU

Kapaa Homesteads

Tax Map Key: 4-4-03:34

Approximately 1/3 to 1/2 of the parcel, fronting on Hauiki Road, is relatively flat, in the 0-10 per cent slope range. The soils are deep, nonstony and moderately fine textured. Overall productivity rating is C.

The remaining back portion is situated at the head of a gulch and is considerably steeper. Slopes are in the 36-80 per cent range. The soils are deep, nonstony and moderately fine textured. Overall productivity rating is E.

Elevation is about 300 feet and median annual rainfall is in the 50-75 inch range.

2/19/70

send out limited
notices



STATE OF
HAWAII

DEPARTMENT OF PLANNING AND ECONOMIC DEVELOPMENT
LAND USE COMMISSION

P. O. BOX 2359 • HONOLULU, HAWAII 96804

JOHN A. BURNS
Governor

SHELLEY M. MARK
Director Department
of Planning and Economic
Development

WILBERT H. S. CHOI
Commission Chairman

Goro Inaba
Vice Chairman

RAMON DURAN, AIP, ASLA
Executive Officer

COMMISSION MEMBERS
Alexander J. Napier
Shelley M. Mark
Sunao Kido
Eddie Tangen
Leslie E. L. Wung
Tanji Yamamura
Shiro Nishimura

2-12-70

SP70-73 - Tomoyoshi and May Fujii

Please be advised that a special permit application has been filed with the Land Use Commission to construct and ~~operate a~~ another single-family residence on the property on parcel 34, TMK 4-4-03. This property is generally located at Kapaa Homesteads, on the island of Kauai. The County Planning Commission approved this request on January 15, 1970.

An action meeting by the Land Use Commission will be held on this application sometime between February 10, 1970, and March 27, 1970.

We would appreciate any written comments for or against this request, or you or your agent may appear at the meeting. Please do not hesitate to call this matter to the attention of other interested parties. We will notify you of the exact date, time, and place of the meeting.

Should you desire additional information, feel free to contact this office.

Very truly yours,

RAMON DURAN
Executive Officer

NOTE: Action on subject special permit is tentatively scheduled for March 6, 1970.

3217

ANTONE VIDINHA, JR.
MAYOR



BRIAN K. NISHIMOTO
PLANNING DIRECTOR

THOMAS T. YAMASAKI
ADMINISTRATIVE ASSISTANT

COUNTY OF KAUAI
PLANNING DEPARTMENT
P. O. BOX 111
LIHUE, KAUAI, HAWAII 96766

SP70-73

RECEIVED

FEB 10 1970

State of Hawaii
LAND USE COMMISSION

February 6, 1970

State of Hawaii
Land Use Commission
P. O. Box 2359
Honolulu, Hawaii 96804

Subject: Application for Special Permit
Our File No. SP-69-4
Tomoyoshi Fujii and May S. Fujii

At the regular meeting of the Planning Commission held on February 5, 1970, the Commission approved the subject application for special permit, as recommended by the Planning Director.

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

A handwritten signature in purple ink, reading "Brian K. Nishimoto".

BRIAN K. NISHIMOTO
Planning Director

attach.
cc: applicant

KAUAI PLANNING COMMISSION
LIHUE, KAUAI

RE: Special Permit Application SP-69-4

APPLICANTS: Tomoyoshi Fujii and May S. Fujii

COMMENTS & RECOMMENDATION:

In reference to this request, the staff considers that this petition presents a situation where the strict enforcement of the State Land Use Commission's rules and regulations will cause practical difficulty to the applicants due to circumstances that were not foreseen by the parents and children prior to the land use law. The problem that the applicants now face is a problem created as a result of the State land use law.

In 1957 the applicants' parents subdivided their property and gave the properties to their surviving children with the understanding that the children would construct their own homes on their respective properties. According to the applicants' statement, this has been done on two properties. The applicants had made an agreement with their parents that they may live in the existing dwelling for as long as they lived, not foreseeing the land use law. Due to economic and social reasons, they forestalled constructing their home. The applicants are presently living in a substandard home with community type bathroom facilities and are in great need to upgrade their standard of living. Now that they are capable to build, they learned they cannot do so under the State land use law. They are requesting to place a second residence on the property through a special permit procedure.

In recent actions by the State Land Use Commission, two special permit requests which we recommended favorable action were denied due to the strict interpretation of the land use laws. On that basis, a proper procedure would be to request a district boundary change from Agricultural to Rural classification but this would seem to work against the applicant as well as trying to uphold the law in terms of spot zoning. In viewing the surrounding area, this property is more Rural in character than Agricultural.

Inasmuch as the staff recognizes the State Land Use Commission's action, the staff feels that a special permit procedure would be a more logical way in which to approach this particular situation. The staff, therefore, recommends approval of this special permit request.



Brian Nishimoto
Planning Director

November 24, 1969



County of Kauai
Planning Commission
Lihue, Kauai, Hawaii

Gentlemen,

We are hereby requesting for a special permit use for the purpose of constructing our dwelling on our lot, more properly described in the application and land maps, for the following reasons:

1. Our land is situated in the Agricultural District and the State Land Use District Regulations, regulates the use of our land.
2. Under the present land use regulations, only one (1) single family dwelling is permitted on our property and there already is an existing single family dwelling on the property, thereby, restricting us from building our own dwelling.
 - a. The existing dwelling is occupied by our parents.
3. When our parents subdivided the property in September of 1957 it was subdivided and given to each surviving child with the understanding that we build our place of abode, which wishes was carried out on lots A-12 and A-3. However, an agreement was made with us whereby we permitted our parents, as long as they live, the continued use of the existing dwelling on our property.

Not realizing any foreseeable changes in land use laws and other factors at that time, we put off building our own dwelling.

4. Due to economical and social factors we felt that the time has come for us to build. However, in consulting with those that are versed in the building industry, we found that we were restricted from building another dwelling due to the State Land Use District Regulations. Hence, our application for Special Permit.
5. We are presently renting a substandard home with community type bath room facilities and are in great need of upgrading our standard of living.
6. Our property is fronting Hauiki Road with all necessary utilities available to us. Furthermore, the properties located to the West are all less than an acre in size and the usage is more for residential purpose.

Based on the above mentioned reasons and facts, we would appreciate a most favorable decision from the Commission.

Sincerely,

Tomoyoshi Fujii
May S. Fujii

C-2

3-3-70 copy to Comm., EDAW

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

(X) (We) hereby request approval of a special permit to use certain property located in the County of Kauai, Island of Kauai, Land Use Commission District Boundary map number and/or name Kawaihau District, County of Kauai, for the following-described purpose:

Description of property: Lot A-1, Portion of Lot A, Tax Map Key: 4-4-03-34 Kapaa Homesteads 2nd Series, Kapaa, Puna, (Kawaihau), Kauai-State of Hawaii. Containing a net area of 1.551 Ac. with a 173.77 foot frontage, fronting Hauiki Road.

Petitioner's interest in subject property:

Refer to attached letter.

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

Signature(s)

Tomiyoshi Toyama
May S. Fujii

Address: 4232 Heala St. Lihue, Hawaii

Telephone: 245-2589

This space for official use

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

Signature(s)

For (agency)



1.551 AC.

A

A

A

A

SPECIAL PERMIT
AGRICULTURE DISTRICT
ONE SINGLE FAMILY RESIDENCE
TAX KEY: 4-4-03:34
WAIPOULI, HOMESTEADS, KAUAI

COUNTY OF KAUAI
PLANNING DEPARTMENT
LIHUE, KAUAI

STAFF REPORT

APPLICATION NO. SP-69-4 (Special Permit Application within the State
Land Use Commission District Boundary)

REGISTERED OWNER : Tomoyoshi Fujii and wf May S.

LESSEE :

AUTHORIZED AGENT :

APPLICANT : Tomoyoshi Fujii and May S. Fujii

TAX MAP KEY : 4-4-03:34

LOCATION OF PROPERTY : Situated along the south boundary of Hauiki Road,
approximately 2200 feet east of the junction of
Waipouli Road, being Lot A-1, portion of Kapaa
Homesteads, 2nd Series, and identified by Tax
Map Key: 4-4-03:34, Waipouli, Kawaihau, Kauai.

LOT SIZE : 1.551 Acres

EXISTING LAND USE : One (1) single family dwelling located on lot.

PROPOSED FUTURE LAND USE (COUNTY GENERAL PLANS): Agriculture

PROPOSED ZONING : Agriculture

INTENDED USE OF PROPERTY: Construction of another single family residence
on the property for the owners and permit Mrs.
Fujii's parents the continued use of the old
existing dwelling according to an agreement
between parties at the time of subdivision of
property in September, 1957.
(See applicant's letter on file)

Staff Report - Cont'd

PUBLIC FACILITIES: (COMMENTS FROM VARIOUS AGENCIES)

County Water Department: An adequate supply^{of water}/is available for the proposed use.

County Police Department: Advises that there is no reason to disapprove this request as it pertains to the department.

County Fire Department: There is no fire hydrant along Hauiki Road. The present water supply is inadequate for fire protection. There is a 3" main located part way along Hauiki Road then reduces to 2" the remainder of the way.

State of Hawaii, Department of Health: No objections to the proposed use.

Kauai Electric Company: Power is available.

County Department of Public Works:

1. Land abuts a government (Hauiki) road which is 30 ft. wide, 10 ft. of which is paved.
2. There is no public sewerage system in the vicinity of this land.
3. Land is not subject to normal flooding.
4. Land is not within the tsunami inundation limits.

Advises set-back lines 5 feet wide be established on both sides of Hauiki Road.

COMMENTS AND RECOMMENDATION: (ATTACHED)

January 7, 1970

Date

By: 

ALBERT M. GOKAN
Zoning Technician-Inspector

KAUAI PLANNING COMMISSION
REGULAR MEETING
JANUARY 15, 1970

The regular meeting of the Planning Commission of the County of Kauai was called to order by Mr. Leonard Zalopany, Chairman, at 1:30 p.m. on Thursday, January 15, 1970, in the Council Room at the County Building, Lihue.

As stated in the policy of the Planning Commission that the Chairman and Vice-Chairman be elected at the first meeting of the year, Chairman Zalopany opened the floor to nominations for Chairman. Mr. Tateishi nominated Mr. Richard Johnston as Chairman and Mr. Welcome Albao as Vice-Chairman. There being no other nominations, on motion of Mr. Louis, seconded and carried, the nominations were closed and the Chair declared the nominees duly elected.

As the presiding officer of the Planning Commission, Chairman Johnston thanked the members for giving him the opportunity to serve the Commission and also commended Mr. Zalopany for a job well done during the past year. The Commission then proceeded as follows:

ROLL CALL:

Mr. Richard Johnston, Chairman
Mr. Welcome Albao
Mr. Robert Kunimura
Mr. Alfred Louis, Jr.
Mr. Gisao Tateishi
Mr. Leonard Zalopany

Absent:

Mr. Takato Sokei

Others present:

Mr. Kei Hirano, County Attorney

HEARINGS:

Interim Zoning Variance, Application V-69-33, Lyle C. Nichols & Trygve Bjornstad, Apartment Use of Property, Anahola, Kauai.

Public hearing on the subject variance application was opened by Chairman Johnston at 1:34 p.m.

Mr. Albert Gokan, staff member, presented the report and analysis on the request to construct a 14-unit condominium apartment at Anahola Bay. (Staff Report on file.)

In the absence of an elevation view of the project, Planning Director Nishimoto described the proposed development from the schematic drawing submitted by the applicant. He also pointed out the roadway to the shoreline as mentioned by the Public Works Department and other surrounding areas.

Questions by the Commissioners as follows:

Mr. Tateishi: The plan shows a structure to be 5-10 ft. from the high water mark; how accurate is that; is it from the shoreline survey or as it exists today?

Mr. Gokan: We did not receive any definite data of the actual location of the high water mark or vegetation line from the property.

Mr. Tateishi: What is the regulation regarding the shoreline?

Director Nishimoto: At the present time the State Health Department's setback requirements govern the County of Kauai due to the lack

of a comprehensive zoning ordinance. As pointed out, the Health Department's standards are such that if you have more than one story within a residential area, you will need a 10 ft. setback line. This plan designates an approximate high water mark.

Mr. Tateishi: The reason for the question is because we set a 75 ft. setback line from the shoreline for the Blackfield developments.

Director: In that case, it was a self-imposed 75 ft. setback from the high water mark.

Mr. Albao: Is the 14 ft. path a County right-of-way?

Mr. Gokan: This is a private right-of-way to the beach reserve. It may be a kuleana but not a designated right-of-way; kuleanas have a right of entry.

Mr. Zalopany: Do we have any history of tidal wave damages in that area?

Mr. Gokan: Major damage occurred in 1957 along this area (pointed out on map); also along the shoreline, the beach section was washed out.

Mr. Kunimura: What is the width of the shoreline that is proposed?

Director: The width is about 96 ft. along the shoreline frontage.

Mr. Kunimura: I raise this question because the State Supreme Court recently ruled that the high water mark is along the line of vegetation. I want to be sure that the owner adheres to the rule.

Director: At this time we are not certain whether this is a new defined seashore boundary; actual survey would be necessary to determine the boundary.

Mr. Louis: What's the elevation of this property?

Mr. Gokan: There is no topography of this property but it's just about 8 ft. above sea level.

The hearing was then opened to the public and the following are statements, in effect, for and against the variance application.

Mr. Trygve Bjornstad, applicant: I am one of the two members who applied for this variance. I might introduce my partner, Mr. Nichols, his wife and my wife. I want to thank you for setting up this meeting for us and we very much appreciate the attention given us.

First of all, I want to explain that we don't want to do anything to destroy the use or beauty of the beach or buildings over there. We have enjoyed your beaches and enjoyed your golf courses and we don't want to do anything to disrupt the condition of the beach.

As far as the project is concerned, we are willing to do whatever the Commission feels we should do as far as setback, etc.; obviously, we can't put the setback 55 ft. from the shoreline or we won't have any property left. But, when we have it designed, we would have a bulkhead which will be back of the growth line and shaped in such a way that it can stop wave action. Then we would raise the building to some reasonable amount for tidal wave to go underneath and not damage the structure itself.

As far as fire, we want it built 100% concrete so that fire will become relatively a minor problem.

At the present time we have shown 5 ft. 7 in. or so from each property line and along side is the 14 ft. right-of-way, so we didn't

feel we were encroaching anyone else's property on that side. We have set off one of the stairway to make room for a future elevator.

I feel that we are not commercial developers. Mr. Nichols is in the advertising business and I happen to be a consulting engineer in Seattle, and the people that we have in mind bringing here are the same type. They've been here many times and enjoyed the people and community and would like to spend more time here with an apartment type development.

Mr. Zalopany: You said you would like to keep the beauty of Kauai as it is; don't you think a building like this would mar the beauty of Anahola?

Mr. Bjornstad: I think the houses that are there at the present time had just about had their run; apparently the tidal wave hadn't damaged or washed them away. It's been there a long time and most of them are rented; practically no owners there, this is my understanding. I feel that the building will be in good shape.

I noticed the last time I went down that garbage had been picked up quite a bit but every other trip that we made, there was a great number of beer cans and bottles and scraps of paper, etc., all along that area. I've never seen more than 4-6 people out on the beach. I don't feel the type of building that we have in mind would detract from the appearance.

Mr. Zalopany: Don't you think that you'll be invited to all the luaus in Anahola if you built one cottage for yourself and one cottage for Mr. Nichols?

Mr. Bjornstad: It sounds like a wonderful thing but the price per square foot is hard to justify; we would like to do it this way but on the other hand, we would like to have a few more people enjoy the place.

Mr. Kunimura: The price that you paid for the property must have been quite substantial. Were you ever promised that if you bought this property, you could place an apartment in the future?

Mr. Bjornstad: No, we took this without any promises at all.

Mr. Kunimura: And you plunked that much money not knowing or caring whether or not you can place an apartment?

Mr. Bjornstad: We just took a chance.

Mr. Kunimura: I want to let you and all the other developers know that this Commission does not take into consideration the fact that you bought this property for a substantial amount of money and must have a return from it.

Mr. Bjornstad: I would like to explain that we are not developers; we just want a residential apartment for a few people; we are not commercial developers at all.

Mr. Louis: Don't you think it would have been wise to check the zoning map before you bought the property? The zoning map shows the area as Residential and you are here with an application for a condominium apartment.

Mr. Bjornstad: We did know that it's a residential zone; on the other hand, we feel that we are providing residences with a higher density than single-family residences but we are thinking of a small type of apartment for a few more people to enjoy, if this variance is obtained.

Chairman Johnston: Did you purchase the property or are you going to purchase this property pending the variance?

Mr. Bjornstad: We have purchased the property.

Mr. Albao: You were aware that it is a single-family area?

Mr. Bjornstad: Yes.

Mr. Tateishi: How accurate is the shoreline shown on the drawing?

Mr. Bjornstad: We had a survey made by Mr. Yokoyama just a few months ago. He identified the shoreline quite accurately.

Mr. Zalopany: Did you sustain any damage there from the high surf?

Mr. Bjornstad: No; even with the high winds there wasn't any sign of damage and practically no erosion.

Mr. John D. Texeira, representative for the applicant: I would like to bring out something that's entirely forgotten--property rights. They own the property; they don't rent it; they are only asking that four couples owning the property share the same roof; they won't invade the property rights of anybody else.

(Mr. Texeira read excerpts from the General Plan of the State in the Land Use District study of 1961 relative to economic factors and goals and objectives.)

I am 61 years old and raised in this area. I remember the Anahola area when it was a plantation landing. Nobody complained about the commercial use; the people of Anahola were very satisfied to have something to do.

This is not going to change the use; it's going to keep the Hippies out, and get rid of empty beer cans and bottles and rats infested in the area; and it is also going to bring a couple of people to share the beautiful sand, ocean and climate. Nobody can claim the air and ocean; we have invited people to be with us and share our ocean, sand, etc.; they are not going to put a "No Trespassing" sign. There is a beach right-of-way reserve along the high water mark; nobody can take it away from the public; it will always be there.

(Mr. Texeira then read construction figures of 1969 which appeared in the local newspaper as reported by the County Building Division.)

We all know that taro, rice and pineapple went out and that the sugar companies are looking for "rice boats" to get rid of sugar. I'm the father of five children and I want to have an economy for our children to remain here. What is going to take the place of sugar when it goes...our resorts; condominiums; people who come to retire permanently or semi-permanently; these are the people who are going to replace the lost economy. We want to see our island continue to exist and we want to share our beauty with the whole world.

Mr. John Souza: I'm here to voice the opinions of the old Hawaiians who live in Anahola.

The people of Kauai are wondering why we are using all our beaches; we want to keep our beaches to enjoy ourselves and have privacy.

Miss Jahne Hupy, resident of Anahola: First of all, Mr. Bjornstad made reference to the fact that our road has beer cans around; I'm sure it happens to all of us. I might say that the property he owns and is being rented is probably the most unkept lot on the road...right now, there's an old rusty car on it.

I also might comment on Mr. Texeira; that this was not a commercial development but for themselves, yet Mr. Texeira gave a long speech on what we have to do with our economy in terms of economic development.

Mr. C. B. Holtwick: I'm a property owner in the general area where this lot is located. A few years ago, I was able to acquire this property and now in the position where I can put a beach cottage where we can spend our weekends and most of our time. I would like to say that we welcome these couples from the Mainland if they would like to live on Anahola Bay but I wonder what their reaction would be if this variance were granted and tomorrow I applied for a variance to put 196 units on my lot, which happens to be 14 x 14; if somebody else had a density 14 times their 14?

Mr. C. R. Schies: I live here in Lihue. I don't have anything against this variance but I don't think we have enough parks as it is. The Anahola park is way too small for the number of people we have. I think we should leave the thing go and get more parks up.

Mrs. Shirley Young: Im a property owner in that area, too. I like living there; it's very quiet. The people are so wonderful and they like to camp out. In the summer time, there are people there, kids and dogs, and they drink beer but they're enjoying it. I would like to see it continue.

Miss Barbara Ballard: I'm a property owner of Anahola and Kapaa. I can't help but think what my ancestors, the Indians, got when they sold Manhattan Island for \$24.00; look at it today. Are we going to sell out our island that way?

Mrs. Paula Colburn: I'm a resident of Anahola. When I go home from work everyday, I don't want to see the eye-sore staring at me.

I think they can have a solution to their problem. Right next-door to where I live, I have good friends from the Mainland and they come down two or four times a year and the rest of the time they rent the house to their friends. I think this would be a solution.

When the river mouth is closed and we have heavy rains in the mountain, the water will back up, come to the road and extend all the way to the property, so you may have some trouble.

Alfia McCleery: I live in that area. I think the main objection is that there is no public sewage in that area and with higher density, it will affect the river mouth area which people use for recreational purposes. It was also pointed out that the road is narrow and if we change the size, it will be at the taxpayers' expense.

Mr. Zalopany: Mr. Bjornstad, how many feet is your property above sea level?

Mr. Bjornstad: I asked Mr. Yokoyama to give me an estimate but he hadn't given me that information; but I would imagine that the building sitting on the ground is 14 ft. above sea level.

Mr. Zalopany: Are you an engineer? (Mr. Bjornstad nodded.) Are you familiar with the Black Pot area in Hanalei where they plan to build a condominium? For your information, the developers did some boring tests and they hit water at 3 ft. I suggest you do some boring; you may have some water problems.

Mr. Bjornstad: I know that we intend to take care of any sewage problem. I don't believe the density is so tremendous like Kauai Surf; this is rather small--14 units don't seem very extensive to me. I know you have a wonderful rule that the beach belongs to the people.

I was a little bit surprised that the people who protested are not as dark as I.

The fellow taking care of the property...he hasn't taken care of the place too well...is one of the native boys. I'm sure he didn't make all the mess but several other people have contributed to it.

Mr. Steven Smith: I am 22 years old and have been a resident of this island for approximately 12 years.

There were approximately 25 units at Poipu Beach, when I first arrived on this island, at Waiohai; now there are several hundred. At any rate, there is a certain amount of congeniality between the hotel guests and the people, and having worked at the facility there, I felt a little bad at times when I've been asked by the hotel management to remove the local people because they were annoying the guests. The beach has been used by a lot of our local kids but I don't think you find as many people swimming and taking their families down there now.

The point I would like to make is that, 14 now; we had 25 and now we have over 200. In ten years I don't know how many young people will want to come back to see an area look possibly like Waikiki.

The Commission received for the record, 43 letters of protest and three petitions with 55 signatures.

The Director reported that similar concerns were expressed in the 43 letters protesting the variance application. He then presented his comments on the proposal and recommended disapproval of this variance request. (Comments and recommendation on file.)

The hearing was closed at 2:27 p.m. with decision on the application to be made at the regular meeting which followed.

✓ Special Permit, Land Use - County of Kauai, Application SP-69-4, Tomoyoshi Fujii & May S. Fujii, Waipouli, Kawaihau, Kauai.

Public hearing on the subject application was opened by Chairman Johnston at 2:28 p.m.

Mr. Albert Gokan, staff member, presented the report and analysis on the request to place another single-family residence on property within the Agricultural District. (Staff Report on file.)

The hearing was then opened to the public.

There were no letters of protest as of this date.

No one spoke for or against the application. (Mrs. Fujii, applicant, was present at the hearing.)

Planning Director Nishimoto commented that the petition presents a situation where strict enforcement of the State Land Use Commission's rules and regulations will cause practical difficulty to the applicants since the situation was created as a result of the land use law.

He explained that when the parents divided their property for their children in 1957, it was with the understanding that each build their own home on their lot. This was done by the other children, except the applicants, for economical and social factors. Furthermore, it was the understanding that the applicants' parents could live, for the rest of their lives, in the existing dwelling now on the lot in question, not foreseeing the land use law. The applicants are presently living in a substandard home with community type bathroom facilities and are in great need to upgrade their standard of living. Now that they are capable to build, they find that this is not possible under the land use law.

The Director pointed out two instances where strict enforcement of the land use law caused the Land Use Commission to disapprove the favorable recommendations of this Planning Commission and, instead, initiate requests for district boundary changes. Inasmuch as the staff recognized the actions of the Land Use Commission, he felt that a boundary change would be more contrary to the objectives of the

land use law and a special permit procedure would be a more logical way to approach this particular situation and recommended approval of this request for special permit.

The hearing was closed at 2:46 p.m. with decision on the application to be made 15 days after the public hearing.

MINUTES:

Minutes of regular meetings of December 4 & 18, 1969, were approved as circulated on motion of Mr. Albao, seconded by Mr. Tateishi and carried.

COMMUNICATION:

A communication (12/18/69) from Ramon Duran, Executive Officer, State Land Use Commission, requesting comments and recommendations on the petition to amend the land use district boundaries at Hanapepe Valley.

Director Nishimoto explained the petition is relative to Mrs. Kuulei Wong's request for special permit to place three dwellings on her property in Hanapepe Valley; that the request was denied by the Land Use Commission because density was contrary to the land use law. Mrs. Wong protested the recommendation to submit a petition for district boundary change so the Land Use Commission has initiated the request.

Mr. Gokan presented the report on the petition to reclassify approximately 58 acres of Rural land into the Urban, Agricultural and/or Conservation categories. (Staff Report on file.)

On query by Mr. Tateishi regarding land ownerships and the reason for placing the 58 acres into the Urban District, Mr. Gokan said some lands are owned by the State but most are owned by individuals; that this proposal is to change some of the land from the Rural to Urban District.

Director Nishimoto added the intent of the Land Use Commission is to make a study to determine whether or not the area should be changed from Rural to Urban. He felt more time is needed to re-examine the area to see whether the present designation is proper. His recommendation to defer action on this matter for further consideration at the next meeting of the Commission and to request a 15-day extension to submit our comments and recommendations on the petition was approved by the Commission.

A communication (1/5/70) from R. K. Carter, President, Council on Housing for the Elderly of Kauai, requesting an additional six-month extension of Variance V-68-14 for construction of homes for the elderly at Hanapepe. Mr. Zalopany moved to grant an additional six-month extension, seconded by Mr. Tateishi and carried.

Copy of communication (1/7/70) from Ramon Duran, Executive Officer, State Land Use Commission, regarding the withdrawal of petition to reclassify 320 acres of land at Ninini Point, Kauai, submitted by Amfac Properties. Communication was received for the record.

The Commission was informed that Amfac Properties is now applying for a special use permit to expand the Kauai Surf golf course; that the recent amendment to the land use law does not automatically permit golf courses within an Agricultural District.

SUBDIVISION:

Mr. Tateishi moved to accept Subdivision Report No. 70-1 as discussed by the Commission, seconded by Mr. Zalopany and carried.

A short recess was declared and the meeting reconvened at 3:12 p.m. and the Commission proceeded as follows:

OLD BUSINESS:

For the record, Chairman Johnston entertained a motion to thank Mayor Vidinha and Governor Burns for giving the Planning Commissioners and staff the opportunity to attend the Governor's Travel Industry Congress on January 6-7, 1970. Mr. Zalopany so moved, seconded by Mr. Albao and unanimously carried.

COMMISSION ACTION ON FOLLOWING VARIANCE APPLICATION:

V-69-33, Lyle C. Nichols & Trygve Bjornstad: The rules were suspended to permit Mr. Teixeira to address the Commission. Mr. Teixeira informed he is a member of the Kapaa Planning Area Committee for the 701 General Plan Revision Project; that he is of the understanding that this committee has recommended "Resort" designation of the Aliomanu area for the new County General Plan; that if this were true, he would like the Planning Commission to take this recommendation into consideration.

The meeting was called to order and Mr. Zalopany stated that as a member of the Commission, this is the first time we have received so many protests regarding a development on the beach; that his position is that we should do everything in our power to see that we have more sandy beaches throughout Kauai. He then moved to accept the Director's recommendation to disapprove the variance application, seconded by Mr. Albao.

During the discussion period, Mr. Kunimura implied that if the Kapaa Area Committee recommended the Aliomanu area for resort use, the residents from Anahola appearing before the Commission were not consulted on the zoning proposed for that area; that he was most impressed by the interest shown by some students of this island; that this Commission should listen to the future citizens of Kauai and deny this request for variance.

Mr. Tateishi added he is in favor of development on this island, however, orderly development of the Anahola area is necessary; that in view of the many protests on the proposal, the Commission should respect the wishes of the people and deny this application.

For the record, Mr. Zalopany called attention to letters of protest from four Kapaa High School students.

The question was then put and the motion to disapprove Variance Application V-69-33 was carried by the following roll call vote:

AYES:	Tateishi, Zalopany, Albao, Kunimura, Louis, Johnston	- 6
NOES:	None	- 0
ABSENT, NOT VOTING:	Sokei	- 1

Mr. Lyle Nichols having been granted permission to comment on the Commission's action stated, "About six years ago, we were given treatment from the local people which we never received any place else so we really decided to retire here. I can appreciate the problems that you have in planning this island in the future. As Mr. Tateishi stated, there is a place for planning of this type and it can be worked out."

OTHER BUSINESS:

The Board of Regents of the University of Hawaii having selected Wailua as the site for the Kauai Community College, Director Nishimoto presented a Resolution by the Planning Commission reaffirming its stand on the Puhi site for said college and to urge Governor Burns to seek a reconsideration on the decision by the Board of Regents.

A motion to adopt the Resolution was made by Mr. Albao, seconded by Mr. Kunimura and unanimously carried.

Chairman Johnston announced the reappointments of Messrs. Tateishi and Sokei to the Subdivision Committee.

At this time Director Nishimoto thanked Mr. Zalopany and the Commissioners for guidance and cooperation given to the staff during the past year.

ADJOURNMENT:

The meeting was adjourned at 3:28 p.m.

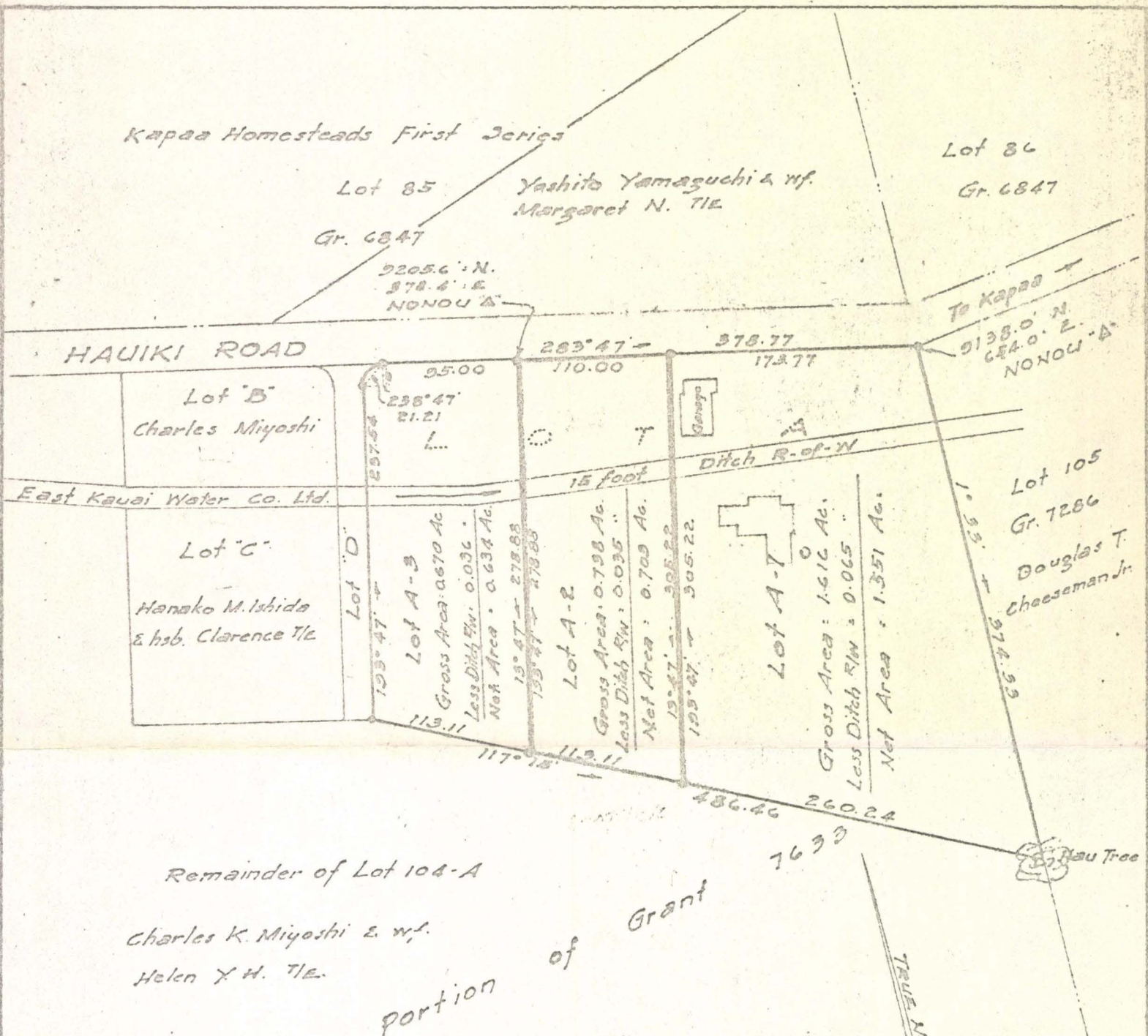
Respectfully submitted,

/s/ Brian Nishimoto

BRIAN K. NISHIMOTO
Secretary to the Commission

my

Kapaa Homesteads First Series



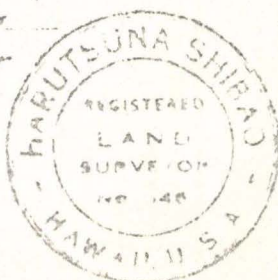
Note: This map is from an actual survey made on the ground by the undersigned on September 29, 1957, and may be checked with my field book 6 and my calculation book 5

o designates pipe, unless otherwise noted

This map has been prepared by the Board of Supervisors of the County of Kauai, at their request, and is hereby approved.

11/1/57
A. B. F. J. R.

Harutuna Shira
Professional Land Surveyor
Registered Certificate No. 346
Kapaa, Kauai, T.H.



LOT A
Being a Portion of Lot 104-A, Grant 7633
Kapaa Homesteads 2nd Series
into
Lots A-1, A-2 and A-3
Kapaa, Puna, (Kawaihau), Kauai, T. H.
Scale: 1 in. = 100 ft. Sept. 1957

PROP ABUTTING WEST
BOUND



HAWAII RD
↑

FUJI

4-4-03:33



SP 70-73 FUJII T.M.K 4-4-03:34

PETITIONER'S PROP.



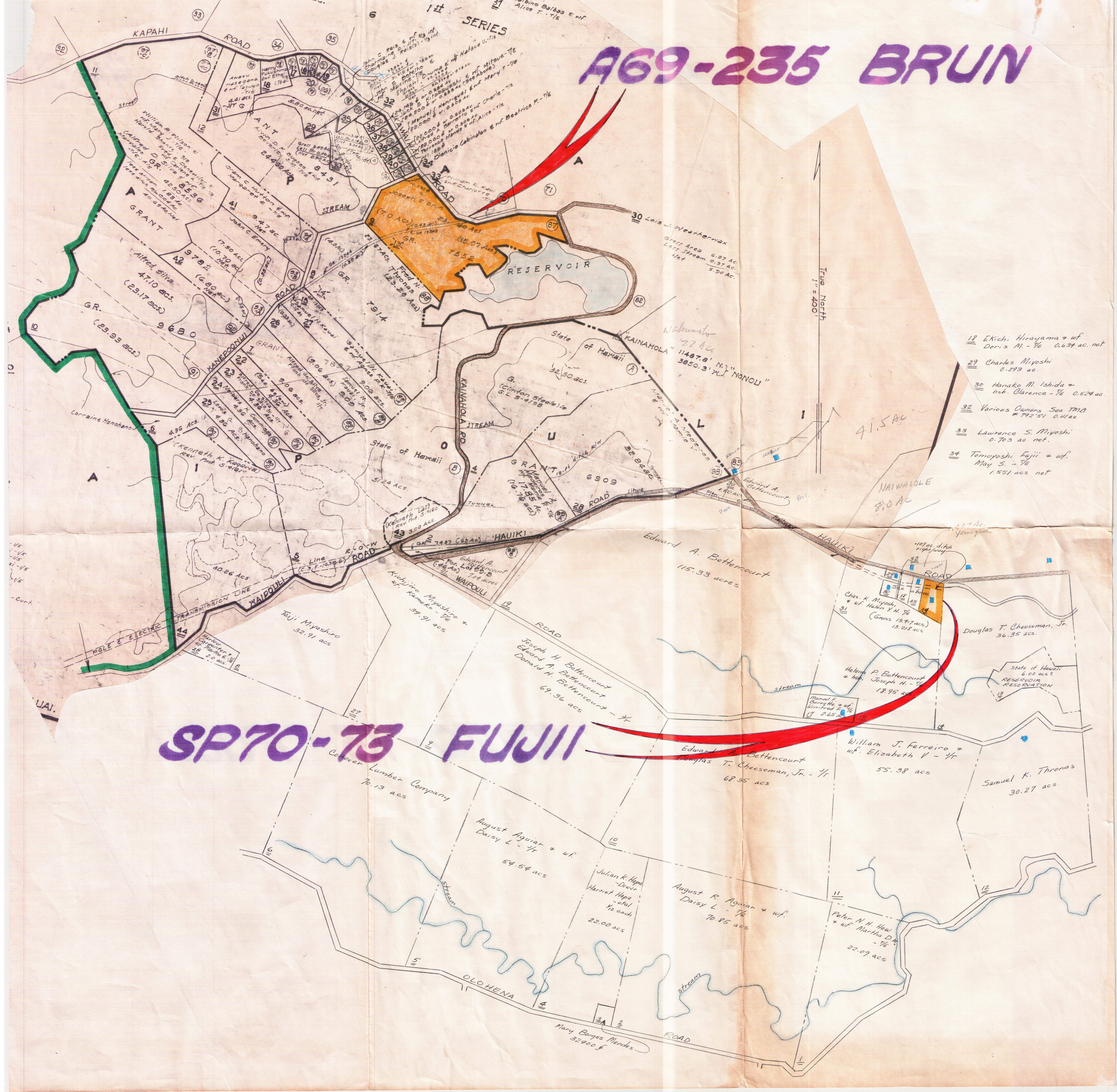
SP 70-73

FUJII

TAK 4-4-5534

A69-235 BRUN

SP70-73 FUJII



JULY 8, 1969

DISTRICT MAP
K-10

STATE OF HAWAII
LAND USE COMMISSION
DEPT. OF PLANNING & ECONOMIC DEVELOPMENT
EFFECTIVE DATE, **Aug 4 1969**

DISTRICTS
U = URBAN
R = RURAL
A = AGRICULTURAL
C = CONSERVATION

KAPAA QUADRANGLE
HAWAII-ISLAND AND COUNTY OF KAUAI
7.5 MINUTE SERIES (TOPOGRAPHIC)

