

Action

June 2 to July 17

Sked for:

June 26

How about July 10

October 16, 1970

Planning Commission
City & County of Honolulu
629 Pohukaina Street
Honolulu, Hawaii 96813

Attention: Mr. Robert Way, Planning Director

Gentlemen:

At its meeting on October 9, 1970, the Land Use Commission voted to approve a special permit to Duerkson Landscaping Company (SP70-80) to operate a sand quarry on approximately 18 acres of land situated within the Agricultural District at Laie, Oahu, identifiable by Tax Map Key 5-5-09: 45, 5-5-05: 18 and portion of 1, subject to the conditions set forth in the staff report. A copy is enclosed for your information.

Very truly yours,

RAMON DURAN
Executive Officer

Encl.

cc: Philip Chun, Attorney
Property Assessment, Dept. of Taxation
Property Technical Off., Dept. of Taxation
Tax Maps Branch, Dept. of Taxation

Back of

Type - 2000

CITY & COUNTY CORR. YARD

THIS PORTION OF AREA
REQUESTED DELETED FROM
TOTAL AREA PER
STAFF
REPORT

True North
145 100'

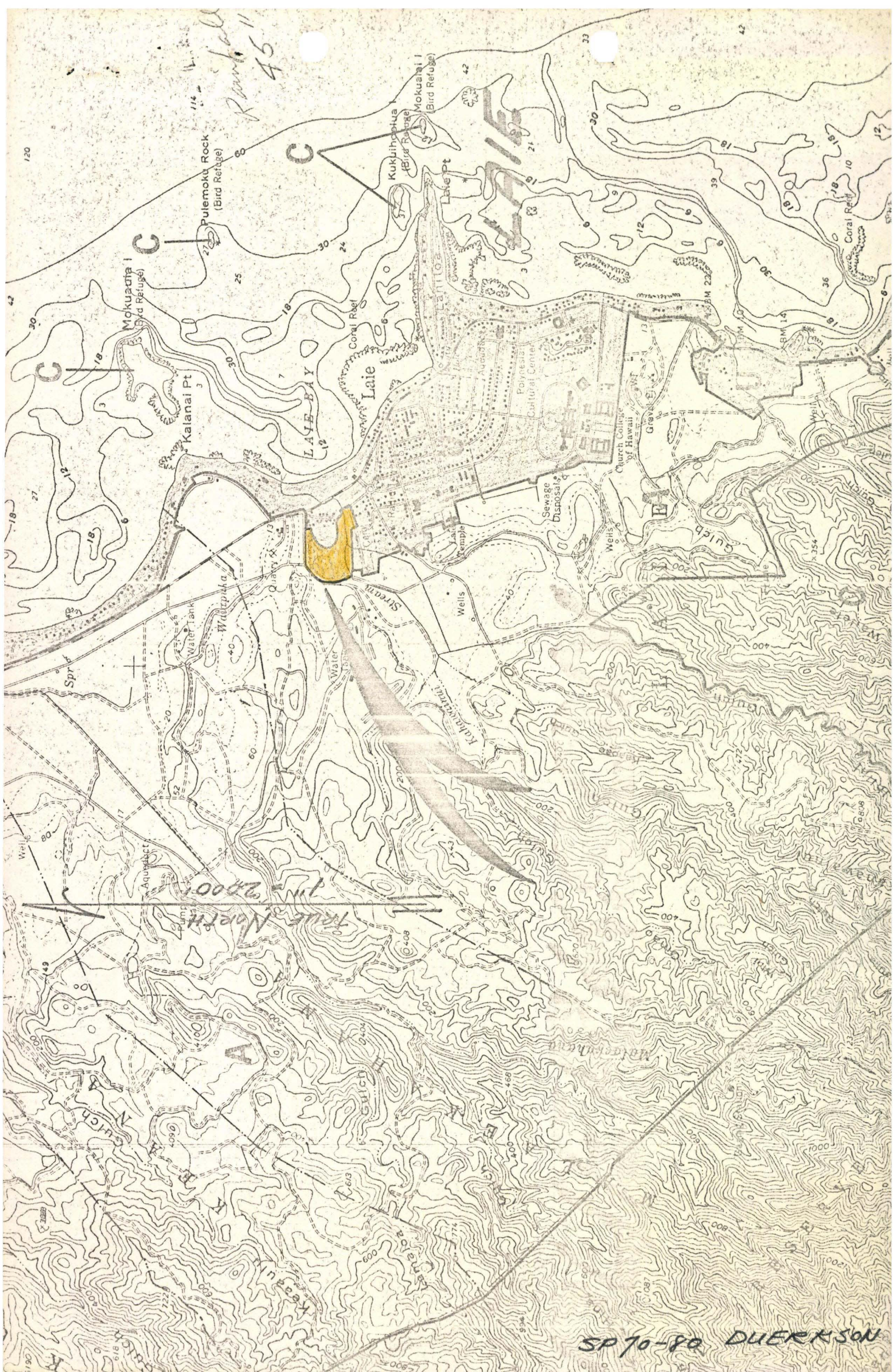
to Kakuu

RT ROAD

EXISTING LAND USE

SITE
BOUNDARY

KAMEHAR





STATE OF HAWAII
LAND USE COMMISSION

Minutes of Meeting

APPROVED
DEC 11 1970

Legislative Auditorium, State Capitol
Honolulu, Hawaii
October 9, 1970 - 7 p.m.

Commissioners Present: Leslie Wung, Chairman Pro Tempore
Sunao Kido
Alexander Napier
Eddie Tangen
Tanji Yamamura
Stanley Sakahashi
Shelley Mark

Commissioner Absent: Goro Inaba

Staff Present: Ramon Duran, Executive Officer
Ah Sung Leong, Planner
Walton Hong, Deputy Attorney General
Dora Horikawa, Stenographer

ADOPTION OF MINUTES

Minutes of the July 10, 1970, and August 1, 1970, meetings were approved as circulated.

HEARING

PETITION BY HELEN, FRANCIS & BERTHA CHUNG (A70-259) TO RECLASSIFY 1.019 ACRES FROM AGRICULTURAL TO URBAN AT PAUMALU, KOOLAULOA, OAHU

The staff planner, Mr. Leong, gave a detailed description of the land use pattern around the area under petition and presented the staff report (on file).

Acting-Chairman Wung asked if there were any questions from the Commission members on additional testimony from the petitioners, government officials, or any interested party. Since there was none, he informed that the Commission will receive additional evidence on this matter up to 15 days after this date and thereupon closed the public hearing.

October 5, 1970

ACTION

PETITION BY NICHOLAS F. GREENER (A70-251) TO RECLASSIFY
4 ACRES FROM CONSERVATION TO URBAN AT KAHALUU, KOOLAUPOKO, OAHU

Mr. Duran, the Executive Officer, presented the staff memorandum recommending approval of a 2.7-acre portion of Mr. Greener's request. The remaining portion of the request was recommended for retention in the Conservation District since it was too steep for development and meets the standards for Conservation Districts. Mr. Duran pointed out a remnant pocket of Conservation land would result on the abutting parcel if Mr. Greener's property is rezoned as recommended. He recommended that this minor adjustment be made during the next boundary review (see staff report on file).

The Acting-Chairman asked for additional testimony. Since there was none, Commissioner Napier moved that the staff's recommendation be accepted. Commissioner Tangen seconded the motion, and it was unanimously carried.

✓ SPECIAL PERMIT APPLICATION BY DUERKSEN LANDSCAPING COMPANY
(SP70-80) TO PERMIT A SAND MINING OPERATION ON APPROXIMATELY
18 ACRES AT LAIE, OAHU

The staff planner presented the staff report recommending approval of the special permit subject to the conditions stipulated and summarized a letter from Marvin Stone of the Zion Securities Corporation, the landowner, stating that they wish to develop a subdivision on the property within five years, after the sand mining operation is completed.

Attorney Philip Chun, newly representing the petitioner, stated that he had no serious objections to the recommendations of the staff.

The Commission's legal counsel interrupted the proceedings to ask Mr. Chun whether he was still on the County Planning Commission and if so whether he was aware of a possible conflict of interest. Mr. Chun replied affirmatively and stated that he is representing Mr. Duerksen only at the State level. He would not participate in this matter at the County level.

October 9, 1970

Mrs. Juliet Gordon, Sierra Club, questioned whether it would be wise to allow a subdivision on the property just because the land will be filled. If this happens, the conservation aspect would be destroyed.

Mr. Leong replied that the issuance of this special permit in no way commits the Land Use Commission to approving a residential subdivision on the property. The landowners would have to petition the Land Use Commission for an Urban designation and receive its approval before a subdivision can be established.

Commissioner Tangen added that the matter being considered presently is a special permit to mine sand only and that no structures will be allowed without proper authorization.

Mrs. Lee Butler, a resident in the area, voiced her concern over the hauling operations since the main highway is narrow and already congested with tour buses.

Mr. Alan Sanborn, Planning Director of the Windward Citizens Planning Conference, questioned whether existing statutes governing pollution are adequate to handle the problems raised at the previous meeting.

The petitioner was asked what he intended to do about the problem. Mr. Chun felt that they are within the statutory requirements of the water pollution act, that Department of Health authorization would be required, and that the conditions imposed on the entire operation will actually result in an improvement of the conditions found at the present time.

Commissioner Tangen agreed with Mr. Chun and suggested that the petitioner work with the Windward Citizens Planning Conference in resolving these problems.

Commissioner Napier's motion to approve the special permit as recommended by the staff was seconded by Commissioner Tangen and unanimously carried.

STATE OF HAWAII
LAND USE COMMISSION

VOTE RECORD

ITEM SP70-80 - DUERKSEN LANDSCAPING DATE October 9, 1970
COMPANY
PLACE Legislative Auditorium TIME 7:00 P.m.
State Capitol, Honolulu

	YES	NO	ABSTAIN	ABSENT
SAKAHASHI, STANLEY	✓			
MARK, SHELLEY	✓			
KIDO, SUNAO	✓			
YAMAMURA, TANJI	✓			
<i>Chairman</i> WUNG, LESLIE	✓			
TANGEN, EDDIE	✓			
NAPIER, ALEX	✓			
<u>INABA, GORO</u>				✓

COMMENTS:

*As staff rec
covered*

STATE OF HAWAII
LAND USE COMMISSION

Minutes of Meeting

Conference Room - Ninth Floor
Kamamalu Building
Honolulu, Hawaii

July 10, 1970
2 p.m.

Approved
10/9/70

Commissioners Present: Wilbert Choi, Chairman
Goro Inaba, Vice-Chairman
Alexander Napier
Eddie Tangen
Shelley Mark
Stanley Sakahashi
Leslie Wung
Sunao Kido

Commissioner Absent: Tanji Yamamura

Staff Present: Ramon Duran, Executive Officer
Ah Sung Leong, Planner
Walton Hong, Deputy Attorney General
Dora Horikawa, Stenographer

The meeting was called to order by Chairman Choi, then he swore in persons planning to testify.

HEARING

✓ PETITION BY NICHOLAS F. GREENER (A70-251) TO RECLASSIFY
4 ACRES FROM CONSERVATION TO URBAN AT KAHALUU, KOOLAUPOKO, OAHU

Mr. Duran, Executive Officer, presented the staff report, described the property under consideration, and noted that a portion of the property is already situated within the abutting Urban District. He advised that the petitioner would waive any requirement by the Board of Water Supply to service the area above the 135-foot elevation and that he would furnish his own pump to service the area. Mr. Duran also noted that in the event the makai portion of Mr. Greener's property is rezoned, a small boundary adjustment should be

July 10, 1970

made possibly during the next five year boundary review for the abutting property on the makai side in order to eliminate a small pocket of Conservation-zoned land which would result from rezoning the Greener property.

In reply to Chairman Choi's question regarding the allowable lot size if the property is rezoned, the Executive Officer replied that under the City's new zoning ordinance, the area would be determined by the slope of the property since the greater the percentage of slope, the larger the lot area requirement.

Since there was no further testimony, the Chairman informed Mr. Greener that he had 15 days to submit additional evidence. The hearing on this matter was closed thereafter.

ACTION

✓ SPECIAL PERMIT APPLICATION BY DUERKSON LANDSCAPING COMPANY
(SP70-80) TO ALLOW A SAND MINING OPERATION ON APPROXIMATELY
18 ACRES AT LAIE, OAHU

Mr. Leong, staff planner, referred to the maps on the wall to describe the area in question and presented the staff memo recommending approval of the subject permit subject to the conditions contained in the staff memo (see staff memo on file).

Mr. Haruo Tashiro, abutting property owner and long-time resident of the area, voiced his concern over possible erosion and flood problems which would result from the proposed sand-mining operation.

Commissioner Tangen questioned the staff on the omission of several conditions which the County wanted to impose on the petitioner. Mr. Leong replied that any additional condition may be stipulated by the County when the petitioner appears before the City Planning Commission for a conditional use permit which would be required of the petitioner in addition to the special permit now being considered. Mr. Duran elaborated that the conditions which were omitted are recommendations from the City planning staff to the City Planning Commission for processing the Urban portion of the petitioner's land under a conditional use permit. Processing of the conditional use permit by the County has been held in abeyance pending the outcome of this special permit request. Therefore, the Land Use Commission

July 10, 1970

staff is recommending only the minimum requirements to the State Land Use Commission at this time. However, restrictions which would more appropriately be applied at the County level, such as truck mufflers and noise emission can be imposed by the County when a conditional use permit is considered at the Planning Commission and City Council level.

Lincoln Ishida, attorney for the petitioner, was questioned as to whether the sand mining and filling operation will be done in increments or whether all the excavation work will be done before filling commences. He was also asked about the source and type of fill material. Mr. Ishida replied that he was not familiar with the operation and stated that he would be willing to postpone the matter in order to get an answer to the questions from a Professor Hummel.

Walton Hong, Deputy Attorney General, questioned Mr. Ishida whether he had seen the lease agreement between Zions Securities and the petitioner. Mr. Ishida replied in the negative.

Mr. Duran advised the Commission that in view of the facts presented which the staff was unaware of, the staff's recommendation for approval of the request is withdrawn until the issues are clarified. The problem of pollution, type of fill, mode of operation, and future use of the property are questions that should be resolved before a decision is made.

Mr. Allan Sanborn, Planning Director for the Windward Citizens Planning Conference, presented a letter to the Commission and upon the Chairman's suggestion, elaborated on its contents. He testified that the City was not certain whether the back fill would be a sanitary land fill or an earth fill. He stated that it was confirmed by Mr. Marvin Stone of Zion Securities that the main stream floods on occasion; and, therefore, the possibility of contaminating the bay exists. Mr. Stone also confirmed that the grave site is not within the lease area and that there will be a 30-foot setback between the graveyard and the extent of the lease. The problem of dust and noise pollution was also raised by Mr. Sanborn.

Mr. Duran stated that he was not aware that the WCPC would testify on this matter and since he is a member of that organization and since the Commission raised the issue of conflict of interest on the Joe Pao Enchanted Lakes rezoning asked if he should disqualify himself from any further discussion. Since the Commission believed that there was a

July 10, 1970

possible question of conflict; and, upon advice of Deputy Attorney General Walton Hong, the Chair requested the Executive Officer be excused from further participation.

Since Mr. Ishida could not answer many of the questions brought up at this meeting, Commissioner Tangen suggested that Mr. Ishida find these answers and thereupon moved that action on this special permit be deferred until the next Commission meeting on Oahu. The motion was seconded by Commissioner Sakahashi and unanimously carried.

✓ SENATE BILL 1139

The Executive Officer summarized past discussions of the shoreline setback bill and noted that the consultants for the boundary review were present to answer questions regarding their recommendation to the Land Use Commission to initiate public hearings for a 40 foot shoreline setback.

Deputy Attorney General Walton Hong, in reply to a question from Commissioner Sakahashi, elaborated that the bill gives the Land Use Commission the discretion to establish a shoreline setback of between 20 and 40 feet. Once the minimum is established by the Land Use Commission, the Counties may expand on the setback but cannot go below the minimum established by the Commission.

The Executive Officer added that the shoreline setback line which will be established after public hearings will be stated in our District Regulations but will not be delineated on our District Maps.

Mr. Hong advised that the setback bill was unclear as to whether public hearings are required on every island. In view of this uncertainty, he recommended that a public hearing be held in each County. Mr. Duran added that this procedure will be fairer to the public and that the hearings may be dovetailed into the regular schedule of meetings.

Land Use Commission consultant, Howard Altman, felt that it should be the landowner or other interested party who should present arguments for the use of land below the 40-foot setback which his firm recommends. Based on the merits of these arguments, the Land Use Commission can then make appropriate adjustments.

STATE OF HAWAII
LAND USE COMMISSION

State Capitol
Honolulu, Hawaii

October 9, 1970
7 p.m.

STAFF REPORT

SP70-80 - DUERKSEN LANDSCAPING COMPANY

A decision on this special permit request by the Duerksen Landscaping Company to operate a sand quarry on approximately 18 acres of land situated within an Agricultural District at Laie, Oahu, was deferred at the meeting held by this Commission on July 10, 1970.

At that meeting several questions were raised about the operation, which Mr. Lincoln Ishida, attorney for the petitioner, was unable to answer. We have since received a letter from Mr. Ishida dated September 11, 1970, advising that he has withdrawn as counsel for the Duerksen Landscaping Company.

Attorney Philip Chun, newly appointed representative for the petitioner, has indicated the following in reply to the questions raised at the July 10 meeting:

1. In regard to the possibility of mining and filling in half acre increments, the petitioner has found that this is infeasible. Increments of 3 or 4 acres would be required because of the need for a stockpile area.

10-6-70 sent copy to petitioner, Luc

2. The excavated portion will be backfilled "with surface soil generally free from rocks and suitable for the purpose of growing grass and other types of ground cover". This requirement is quoted from the lease agreement, which is actually an installment contract between the petitioner and Zion Securities, the landowner. The contract further requires that:

"Buyer will back fill and compact excavated areas to a level 12 (12) inches higher than the original level of sand. Seller agrees to allow Buyer the use of Seller's mountain soil for the purpose of back fill in excavated areas. The location of mountain soil will be chosen by the Seller."

Back filling will be done as soon as the stockpile is sufficient to accommodate the market for at least one month.

3. Regarding the future use of the subject area, Mr. Chun advises that Zion Securities should properly answer that question since his client has a contract for the sand mining operation only.

Since the writing of this report, we have rec'd a letter from Marvin Stone, Mgr of the Zion Securities Corporation stating that they wish to develop a subdivision on the subject site within 5 years. This letter was circulated to the Commission on Oct 6 '70.

4. Concerning air and water pollution problems, the petitioner indicates that all Department of Health regulations pertaining to ecological and pollution matters will be complied with.
5. Mr. Chun has obtained a copy of the lease or installment contract between Zion Securities and Duerksen.
6. The petitioner will strictly conform to the excavation setback from the grave site and will possibly screen the area.
7. In regard to fencing and screening requirements, the petitioner feels that since security measures will be maintained 24 hours a day, fencing of only the area abutting the existing residential developments will be required.
8. In addition, the petitioner desires to conduct only loading and hauling operations during night hours and will comply with noise and dust pollution regulations of the Health Department.

Evaluation of all the evidence submitted to date finds that this request is in substantial conformance with the guidelines established under Sub-Part E of the State Land Use District Regulations for determining an "unusual and

reasonable use" within an Agricultural District. However, to insure that the proposed use would not adversely affect surrounding property, the staff recommends that approval of this special permit be conditioned on the following:

1. that security measures be maintained on a 24-hour basis and that fencing be constructed along the east and south boundaries of the subject property;
2. that mining operations be done in increments of 3 acres and filling operations be completed before the next 3-acre increment is started;
3. that the excavated area be backfilled in accordance with the terms contained in the lease agreement between the petitioner and Zion Securites. In no case shall the backfill be a sanitary fill;
4. that a 40 foot excavation setback be maintained around any grave site found to be within the subject area;
5. that the hours of operation, including excavation, loading, hauling, and filling be from 7 a.m. to 6 p.m., Monday through Friday only;
6. that the operation be in compliance with all State and County regulations governing air, noise, and water pollution; vibration; drainage and safety;

7. that a small area measuring approximately 20 feet x 200 feet situated at the intersection of the access road and Kam Highway be deleted from the area proposed for excavation;
8. that the special permit expire 5 years from the date of Land Use Commission approval; and
9. upon finding that the above conditions are not complied with, the enforcement agency shall suspend or revoke the privileges granted under this special permit.

The staff recognizes the above recommendations as the minimum requirements since this matter must receive a conditional use permit from the County after a public hearing by the Planning Commission and after adoption of an ordinance by the City Council with any additional conditions deemed necessary.

8980

PHILIP T. CHUN

ATTORNEY AT LAW

257 ALEXANDER YOUNG BUILDING

HONOLULU, HAWAII 96813

TELEPHONE 5336273

5336273

RECEIVED

OCT 6, 1970

October 6, 1970

State of Hawaii
LAND USE COMMISSION

Mr. Ramon Duran
Executive Officer
State Land Use Commission
Kamamalu Building
Honolulu, Hawaii

Dear Sir:

Enclosed herewith, please find the original of the letter addressed to the State Land Use Commission from the Zions Securities Corporation relating to George Duerksen's application for a special permit to quarry sand at Laie.

At the first hearing on this matter, I believe the commissioners inquired as to the arrangements between Zions Securities Corporation and the applicant, George Duerksen Landscaping Company.

I hope that this satisfactorily answers the questions of the Commission.

Yours truly,


Philip T. Chun

PTC:jh
Encl.

LUC 10-6-70

Zions Securities Corporation

HAWAIIAN DIVISION

55-510 KAMEHAMEHA HWY. • P. O. Box 48 • LAIE, OAHU, HAWAII 96762 • TELEPHONE 293-9201

2 October 1970

State Land Use Commission
Kamamalu Building
Honolulu, Hawaii

Gentlemen:

This letter is to verify that on October 16, 1969, we gave George Deurksen a retail installment contract for the purchase of sand from a sand quarry site located on Tax Key 5-5-9-45.

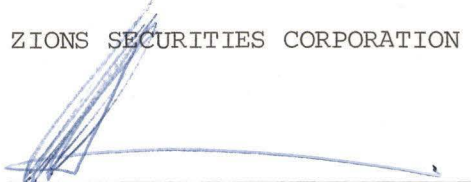
We have agreed to furnish soil from a mountain location of our choice for back fill purposes on the sand quarry site. Deurksen is responsible for obtaining all necessary government permits for the sand site and the mountain soil site.

One of the material inducements causing Zions Securities Corporation to enter into this agreement with Deurksen is our desire to have this sand quarry site mined, back filled, leveled, covered with surface top soil and compacted to a level twelve (12) inches higher than the original level of sand so that the final finished condition of the sand site will allow us to develop a subdivision on this site within five years. It would therefore be necessary for the compaction of back fill to be done in a qualified manner as specified by guide lines from the City, County and State to allow this subdivision development within five years.

Thank you for your cooperation.

Very truly yours,

ZIONS SECURITIES CORPORATION



Marvin H. Stone
Manager

MHS:ej

luc 10-6-70

Questions raised during the July 10, 1970 meeting re: P70-80, Duerkson Landscaping Co.:

1. Can the mining operation be done on the basis of one-half acre at a time, fill the half acre before starting on the next half acre?
2. How soon will the hole be filled up and with what material? Dirt or sanitary fill?
3. What are the future plans for the use of this excavated area? The answer to this will determine the type of fill that should be used.
4. Questions were raised about the underground stream, cesspool and fresh water issue, pollution of the pond and possibly the bay, how developers propose to take care of this. Also control of the dust problem.
5. Copy of the lease contract between Zions Securities and Duerkson.
6. How are they going to stake out graveyard site because sometimes these things have a tendency to go a little further than they're supposed to.

*from Phil Chum
Oct 2 '70*

① 1 Acre = $43,560 \text{ sq ft} \times 14' \text{ Depth} \times \frac{1}{27} = \text{Say } 22,000 \text{ cu yd.}$
@ 1,000 cu yd. MINING PER DAY = 22 DAYS / 1 MO.
BACKFILL @ 1,000 cu yd. = 1 MO.
THIS: NEED TO STOCKPILE 1 ADDITIONAL MONTH (1 x 2) = 2 ACRE.
STOCKPILE AREA = 1 ACRE

22,000 cu yd

Unclear → ② AS SOON AS STOCKPILE IS ENOUGH TO TAKE CARE OF MARKET FOR AT LEAST ONE MONTH. MATERIAL IS DIRT RESOURCE AVAILABLE FROM ZION SECURITIES, MAINTAINERS OF PROPOSED OPERATION.

③ ZION SECURITIES TO ANSWER

④ WE WILL CONFORM TO ALL BOARD OF HEALTH REGULATIONS PERTAINING TO ECOLOGICAL & POLLUTION MATTERS

⑤ ?

⑥ Strict performance - will keep way away & possibly screen it.

Security measures - 24 hrs/day

encumbrances or on any other account to protect the interest of the Seller shall be secured by this agreement.

5. Buyer agrees that obligations incurred in connection with the removal of the said sand and all obligations of every kind or nature of the Buyer shall be fully paid and discharged by the Buyer and Seller shall be indemnified and saved harmless therefrom.

6. Buyer will obtain from all government agencies any permit required for the removal of sand from the leasesite.

Extracted from installment contract

7. In leveling said leasesite, Buyer shall fill the quarry floor with surface soil generally free from rocks and suitable for the purpose of growing grass and other types of ground cover. One of the material inducements causing Lessor to enter into this lease at the ^{purchase price} ~~xxx~~ provided for herein is the desire to have the leasesite leveled and covered with surface top soil to the depth of two (2) feet. Buyer will back fill and compact excavated areas to a level 12 (12) inches higher than the original level of sand. Seller agrees to allow Buyer the use of Seller's mountain soil for the purpose of back fill in excavated areas. The location of mountain soil will be chosen by the Seller. The Buyer will, before commencing excavation of said leasesite, deposit with the Seller a bond naming the Seller as an obligee in the penal sum of \$ 25,000.00 with a responsible corporate surety authorized to do business in Hawaii, guarantying the Buyer's performance and completion of such excavation, back fill and compaction free and clear of all mechanic's and materialmen's liens. The bond shall be in form and shall have a surety satisfactory to the Seller.

8. Observance of Laws. Buyer will at all times during said term keep said leasesite in a reasonably clean, orderly and sanitary condition and observe and perform all laws, ordinances, rules and regulations now or hereafter made by any governmental authority for the time being applicable to said leasesite or any improvement thereon or use thereof, and will indemnify

Noise & vibration emission shall
be regulated by the County
in accordance w/ Sec 21-232
and 21-233 of the City's
CZC, ~~and, including any~~
~~other means that the~~
including any other restrictions
that the City PD may
deem necessary.

Lair Bay = 1 A

A A - highest qual
for research &
food growth

A - ocean as it is -
some discharge
permitted

B - piers & docks
lowest category

bacterial count
solid matter
clarity etc

enhance quality of water

→ Quality

Water Standards

Mayer (Bogø)

Sanitary Engineering
Environmental Health Branch

Oct 2 '70

September 24, 1970

Mr. George L. Duerksen
Duerksen Landscaping Company
Suite 1705
2270 Kalakaua Avenue
Honolulu, Hawaii 96815

Dear Mr. Duerksen:

The Land Use Commission next meets at 7 p.m., in the Legislative Auditorium, Basement, State Capitol, Honolulu, Hawaii, on October 9, 1970.

At that time your application (SP70-80) for a special permit 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

Enclosure - Agenda

September 15, 1970

Send notice of meeting to Mr. Philip
Chun, Attorney, Suite 257, Alexander
Young Building, Honolulu.



**State
Department
AND ECONOMIC**

Date:

TO:

FROM:

8935

LINCOLN J. ISHIDA
ATTORNEY AT LAW
SUITE 401 CITY BANK BUILDING
810 RICHARDS STREET
HONOLULU, HAWAII 96813
TELEPHONE 537-5955

RECEIVED

SEP 14, 1970

State of Hawaii
LAND USE COMMISSION

September 11, 1970

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

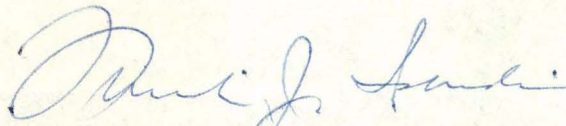
Re: Duerksen Landscaping Company
Application for Sand Mining Permit

Gentlemen:

This is to advise you that I have withdrawn as counsel for the above-mentioned company. All further communications should be made directly with the applicant at the following address:

Suite 1705
2270 Kalakaua Avenue
Honolulu, Hawaii 96815

Very truly yours,


LINCOLN J. ISHIDA

LJI:jk

cc Planning Department
City and County of Honolulu
Duerksen Landscaping Company

Star-Bulletin

PAGE 2

TUESDAY,
AUGUST 11, 1970



The Kokua Line

Dial 536-7477

Mr. K. will answer questions, cut red tape, solve problems. TELEPHONE 8 a.m.—8 p.m. weekdays or write: Kokua Line, Box 3080, Honolulu Hawaii 96802.

Q—Why did the City close its dump at Laie? It has been in existence many years. Now with all this talk about ecology, they close it. The result is that people dump things wherever they feel like it, creating a far worse problem.

A—Early this year Mayor Frank Fasi announced that as soon as enough dirt was available, the City would switch from open dump burning to a land-fill disposal system. The switch was made in April. Since that time, the only City dump at which burning has continued is in Wahiawa. That, said a City spokesman, is because the dump is far from any residences.

Land occupied by the dump at Laie is owned by Zion Securities, financial arm of the Mormon Church. According to the City, leaders of Zion Securities said that a land-fill system was not compatible with their long-range plans for the property. Since land-fill usage was not part of the lease agreement, the lease was discontinued.

That leaves Laie residents with several alternatives. Things they want to get rid of can be put out for refuse collectors to haul away during regular twice a week service. If the junk is too large, residents can call the Laie roads division yard at 293-5657 to request bulky-item service. Or, the people can haul their stuff to the nearest dumps, at Kawailoa behind the pony farm, or at Kailua beside Kawainui Swamp.

PUBLIC HEALTH REGULATIONS

Department of Health, State of Hawaii

Chapter 37

WATER POLLUTION CONTROL

Under and by virtue of the provisions of Sections 46-13 and 46-16, Revised Laws of Hawaii 1955, and all other applicable laws, Chapter 37 of the Public Health Regulations, Department of Health, State of Hawaii, relating to Water Pollution Control, is hereby amended to read as follows:

Section 1. DEFINITIONS

The following definitions shall apply in the interpretation and enforcement of this Chapter:

- (a) "Water pollution" means
 - (1) Such contamination, or other alteration of the physical, chemical or biological properties, of any waters of the State, including change in temperature, taste, color, turbidity, or odor of the waters, or
 - (2) Such discharge of any liquid, gaseous, solid, radioactive, or other substance into any waters of the State,
as will or is likely to create a nuisance or render such waters unreasonably harmful, detrimental or injurious to public health, safety or welfare, including harm, detriment or injury to public water supplies, fish and aquatic life and wildlife, recreational purposes, and agricultural, industrial, research and scientific uses of such waters.
- (b) "Wastes" means waste materials of any kind, whether treated or not, and whether animal, mineral or vegetable, and whether liquid, gaseous, radioactive or solid, including sewage and agricultural and industrial wastes, which cause any waters of the State to be reduced in quality below the standards applicable to the area as set out in Chapter 37-A of the Public Health Regulations, Department of Health, State of Hawaii.
- (c) "Treatment works" means the various devices used in the treatment of wastes including the necessary intercepting sewers, outfall sewers, or outlets, pumping, power and other equipment and their appurtenances.
- (d) "Waters of the State" means all
 - (1) rivers, streams, canals,
 - (2) ponds, lakes, reservoirs,
 - (3) bays, harbors, channels,

- (4) lagoons, and
- (5) coastal and shore waters,
whether natural or artificial, which are situated within or bordering upon the State.
- (e) "Person" means any individual, firm, association, organization, partnership, business trust, corporation, company, foundation or other institution or entity, or governmental agency.
- (f) "Director" means the Director of Health or his duly authorized agent.
- (g) "Master" means any person or persons appointed by the Director of Health to conduct investigations, to hold hearings, to report or make recommendations to the Director on matters of water pollution, the disposal of wastes and standards of water quality.

Section 2. STANDARDS OF WATER QUALITY

The Director may appoint a Master who shall divide the waters of the State into areas and who, after investigations and hearings conducted in accordance with the Rules of Practice and Procedure of the Department of Health, State of Hawaii, shall recommend standards of water quality applicable to such water areas. The standards of quality recommended by the Master shall be such as to protect the present and prospective best use of each water area. Consideration shall be given by the Master to the standards and requirements of other government agencies having legal responsibilities for water quality control.

Standards of water quality, or any modification thereof, shall become effective upon their adoption by the Director in accordance with the requirements of the Hawaii Administrative Procedure Act. Such standards shall remain in effect until amended or repealed by the Director.

Section 3. PERMITS REQUIRED

It shall be unlawful for any person to do any one of the following without a permit issued in accordance with the provisions of this Chapter:

- (a) To discharge any wastes into any waters of the State so as to reduce the quality of the water below the standards of water quality adopted for such waters by Chapter 37-A;
- (b) To construct, install, modify, alter, or operate any treatment works or part thereof or any extension or addition thereto;
- (c) To construct or use any new outlet for the discharge of any wastes into the waters of the State.

Section 4. APPLICATION FOR PERMIT

Every application for a permit shall be made on forms furnished by the Director and shall be accompanied by a statement of the proposed activity, or by a

complete and detailed plan, description and history of the proposed or existing treatment works or outlet for the discharge of any wastes into the waters of the State and of any proposed additions, modifications or alterations thereto. An application for the renewal of a permit need contain only such information as is necessary to reflect changes in the permitted activity or in the treatment works or outlet which have occurred since the original filing.

All persons responsible for existing treatment works or outlets which discharge wastes into any water areas for which standards of water quality have been adopted by the Director shall file, within sixty days after the date on which a notice of adoption of the standards of water quality for such area has been published, an application for a permit to continue to discharge such wastes.

Section 5. ISSUANCE OF PERMIT

Application for permits will be reviewed together with plans, descriptions and histories submitted by the person making such application and together with such additional information as may be requested by the Director to ascertain the effect or probable effect upon the standards of water quality established for the water area involved. No permit shall be issued by the Director unless the application and the supporting information clearly show that the issuance thereof is in the public interest and unless the application contains a schedule of implementing actions the applicant will follow in order to comply with such standards of water quality. No permit shall be denied unless the applicant has had an opportunity for a hearing by the Director.

The Director may issue a permit for any period not exceeding five years, or may renew a permit for any additional period not exceeding five years. Upon expiration of the period stated therein, the permit shall automatically terminate and no rights shall become vested in the permittee.

Each permit shall set forth the conditions under which it is issued and shall require the permittee to conform to a schedule of implementing actions designed to obtain compliance with the standards of water quality established for the water area involved. The conditions shall include, but shall not be limited to, a requirement that the permittee shall do effluent sampling and shall report the results of such sampling to the Director. Any permittee may apply for a change in the conditions of the permit. A statement of the reasons for requesting such change shall accompany the application.

Section 6. REVOCATION OF PERMIT

Each permit shall be subject to revocation, to modification or change by the Director if he shall determine that such action is in the public interest. In taking such action the Director shall consider operation records, investigations or other information regarding the treatment works, outlets or quality of the receiving waters. Such action shall be effected by giving written notice to the permittee.

The notice shall contain the reasons for the action.

No permit shall be revoked, modified, or changed unless the permittee has had an opportunity for a hearing by the Director.

Section 7. PENALTY

Any person who violates any provisions of this Chapter shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than five hundred dollars (\$500.00), or by imprisonment for not more than one (1) year, or by both such fine and imprisonment.

Section 8. SEVERABILITY

If any provision of this Chapter, or its application to any person or circumstance, is held invalid, the application of such provision to other persons or circumstances, and the remainder of this Chapter, shall not be affected thereby.

I, Walter B. Quisenberry, M.D., Director of Health, hereby certify that the foregoing regulations were adopted by the Department of Health on the 26th day of December, 1967.

WALTER B. QUISENBERRY, M.D.
Director of Health

The foregoing regulations are hereby approved as to form this 9th day of January, 1968.

NOBUKI KAMIDA
Deputy Attorney General

BERT T. KOBAYASHI
Attorney General

The foregoing regulations are hereby approved this 26th day of January, 1968.

JOHN A. BURNS
Governor of Hawaii

Questions raised during the July 10, 1970 meeting re: SP70-80, Duerkson Landscaping Co.:

1. Can the mining operation be done on the basis of one-half acre at a time, fill the half acre before starting on the next half acre?
2. How soon will the hole be filled up and with what material? Dirt or sanitary fill?
3. What are the future plans for the use of this excavated area? The answer to this will determine the type of fill that should be used.
4. Questions were raised about the underground stream, cesspool and fresh water issue, pollution of the pond and possibly the bay, how developers propose to take care of this. Also control of the dust problem.
5. Copy of the lease contract between Zions Securities and Duerkson.
6. How are they going to stake out graveyard site because sometimes these things have a tendency to go a little further than they're supposed to.

SB July 11, 1970

Decision Delayed on Laie Sand Mining Operation

The State Land Use Commission has put off for two months a decision on whether to permit a sand mining operation in Laie.

A representative of Duerkson Landscaping Co., the holder of a lease on 25 acres of Zion Securities Corp. land, was asked to answer questions about possible land and water pollution resulting from the quarry operations—questions such as:

—How soon after excavation does the company intend to fill the hole?

—What material will it use to fill the hole?

—If it uses garbage from the adjoining City dump to fill the hole, will that pollute the land and the ocean?

—What does the company intend to do about the old Hawaiian graveyard in the center of the excavation site?

LINCOLN ISHIDA, attorney for Duerkson, was unable to answer those questions fully for the commission.

The sand mining operations, which are expected to supply material for golf courses on the nearby Del Webb development, are opposed by the Laie Community Association.

The Windward Citizens Planning Conference also asked for deferral of the matter until the City and State can get proper assurances against stream, ocean, land, dust, smell and noise pollution.

A resident near the site said the company has been removing sand from the area

at night for about two months without a permit from the commission. Wilbert Choi asked Ishida to come up with facts for "our so many unanswered questions."

Commission Chairman

Duerkson file

HA July 4, 1970

land board defers action on moving

The State Land Use Commission yesterday deferred action on a request for a special permit that would allow a sand mining operation in an agricultural zone at Laie.

The request is from Duerkson Landscaping Co., which has leased some 25 acres from Zion Securities Corp. for the mining operation. Seven of those acres are already in urban zoning.

The property, vacant except for two acres of cane, is about 2,000 feet on the Kahu-ku side of the Mormon Temple and includes part of a City dump site.

THE REQUEST was on the commission agenda for action yesterday, but was put off with the consent of Duerkson's attorney, pending clarification of how the land will be filled after excavation and what steps will be taken to prevent pollution. It will be taken up at the commission's next meeting on Oahu in September.

Alan Sanborn, planning director of the Windward Citizens' Planning Conference, asked the commission to delay approval of the permit until more information is obtained and specific conditions are set.

He said his organization is concerned about pollution of Laie Bay via Laie Wai Stream, especially if the excavation site is used for a sanitary landfill; methods of noise and odor control; and the condition in which Duerkson is to leave the property at the end of the 3 to 5 years of excavation.

A. H. TOSHIRO, a resident of the area, also complained to the Commission of possible pollution of streams running through the property, if the excavation is permitted next to the dump.

The City Zoning Board of Appeals has approved the special permit, subject the approval of other agencies involved. If the Land Use Commission approves it, the matter must next go to the City Planning Commission for consideration of a conditional use permit.

In other action yesterday, the commission:

- Held a hearing and took under advisement a request from Nicholas F. Greener to change four acres at Kaha-luu from conservation to urban use. No opposing testimony was presented at the hearing.

- Deferred action on setting public hearings on shoreline setback regulation changes in accordance with the shoreline setback bill passed by the legislature. The commissioners asked for further clarification of legal technicalities from the Attorney General's office.

LINCOLN J. ISHIDA
ATTORNEY AT LAW
SUITE 401 CITY BANK BUILDING
810 RICHARDS STREET
HONOLULU, HAWAII 96813
TELEPHONE 537-5955

RECEIVED

JUL 14, 1970

State of Hawaii
LAND USE COMMISSION

July 13, 1970

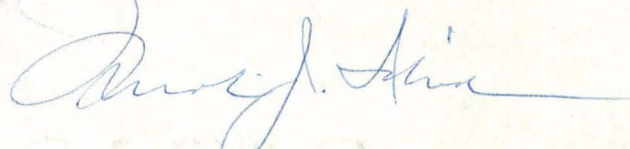
Land Use Commission
P. O. Box 2359
Honolulu, Hawaii

Re: Duerksen Landscaping Company
(Request for Sand Mining Permit)

Gentlemen:

This is to confirm my oral representation that we agreed to have the above matter continued to the next Land Use Commission meeting to be held on Oahu.

Very truly yours,



LINCOLN J. ISHIDA

LJI:jk

July 14, 1970

Mr. Lincoln J. Ishida
Attorney at Law
Suite 401, City Bank Building
810 Richards Street
Honolulu, Hawaii 96813

Dear Mr. Ishida:

At its meeting of July 10, 1970, the Land Use Commission, at your request, voted to defer a decision on the special permit application by Duerkson Landscaping Co. until the next meeting of the Commission on Oahu tentatively scheduled for September 25, 1970. We are also enclosing herewith a copy of the letter from the Windward Citizens Planning Conference which was presented at the meeting. Minutes of the meeting will be forwarded to you as soon as they become available.

We will advise you of the exact date, time and place of the meeting when determined.

Very truly yours,

RAMON DURAN
Executive Officer

Encl.
cc: Planning Dept.

STATE OF HAWAII
LAND USE COMMISSION

VOTE RECORD

ITEM SP70-80 - DUERKSON
LANDSCAPING CO.

DATE July 10, 1970

PLACE Conference Room
State Kamamalu Bldg., Honolulu

TIME 2:00 p.m.

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

COMMENTS:

defer till
next meeting on Oahu

to hold
no. 70-80
ex.

✓

✓

✓

✓

✓

✓

✓

RECEIVED

JUL 8, 1970

State of Hawaii
LAND USE COMMISSION

Notification of Special Permit Application
SP70-80 - Duerkson Landscaping Company

The subject property consists predominantly of low-lying alluvial deposits along Kahawainui Stream. This area is virtually flat and relatively shallow to ground water level. It may be subject to flooding during storm periods. Overall productivity rating for agriculture is A with irrigation.

A small portion along the northern boundary consists of coral material. It is part of a coral terrace which rises above the alluvial deposit described above. These lands are stony, with some soil material and has been used for sugar cane production. The overall productivity rating is C with irrigation.

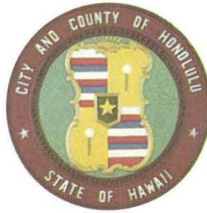
Median annual rainfall is about 50 inches.

7/7/70

2826

FIRE DEPARTMENT
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII 96802

FRANK F. FASI
MAYOR
RICHARD K. SHARPLESS
MANAGING DIRECTOR



RECEIVED

JUL 8, 1970

State of Hawaii
LAND USE COMMISSION

July 8, 1970

L. M. KWAITKOWSKI
CHIEF

B. K. AIU
DEPUTY CHIEF



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

Dear Mr. Duran:

This is in reply to your letter of June 18, 1970 regarding a special permit application filed with your office to operate a sand quarry and excavation activities on portions of TMK 5-5-5 and TMK 5-5-9.

The Fire Department has no objections.

Very truly yours,

L. M. Kwaitkowski

FIRE CHIEF

WINDWARD CITIZENS PLANNING CONFERENCE

P. O. Box 434
Kailua, Hawaii 96734

OFFICERS

Gordon Potter — President
Richard Chun — 1st Vice-President
Robert Ellis — 2nd Vice-President
Lynne Story — Secretary
Bill Dunford — Treasurer

DIRECTORS

Donald A. Bremner
Rev. Ford Coffman
Ramon Duran
Diane Esias
Donald Griffin
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Rosalie Hermanson
Leon Kahn
George S. Kanahele
Michael T. McGovern
K. C. F. Monckton
G. A. (Red) Morris
Robert Nelson
Lola Perry
Lowrey Roobian
Oswald Stender
Marvin Stone
Dale Trenhaile
Jiro Wakumoto

BOARD OF ADVISORS

Harold Eichelberger
Chairman of Board, AMFAC, Inc.
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President, Oahu Development Conference
Thomas McCormack
Realtor-Developer
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Windward District Supt. of D.O.E.
Robert A. Mitchell, Jr.
Executive Vice-President
Edward Enterprises, Inc.
Richard Schulze, Jr.
Attorney
Director, Windward District
Community Action Program

STAFF

Alan Sanborn
Planning Director
Bette Sanders
Director of Community Relations

July 10, 1970

*Rec'd at
July 10
Action Mtg
ASC*
2834

Mr. Ramon Duran, Executive Officer
State Land Use Commission
Kamamalu Building
Honolulu, Hawaii 96813

Dear Mr. Duran:

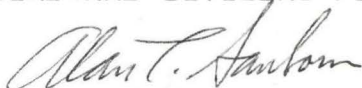
In the opinion of our organization all factors regarding this application should be reviewed before any Special Use Permit is granted to the Duerksen Landscaping Company. It is apparent through our organization's research that the City Planning Department has not precisely stipulated to the applicant or to this Commission the condition which must prevail in regard to:

1. The pollution of Laie Bay via the Laiewai Stream--especially if the quarry is to be backfilled as a sanitary land fill for the City and County.
2. The condition in which the applicant must leave the area upon completion of the excavation.
3. The methods of dust and smell control which must be employed over the next five years.
4. The methods of noise control which the applicant must adhere to.

Thus, it is the opinion of the Windward Citizens Planning Conference that any decision should be deferred by the Commission until such time as precise details on the above are fully prepared and presented by the City Planning Department to the applicant and the State Land Use Commission. There is no other way that this Commission can make a sound determination in this matter.

Very truly yours,

WINDWARD CITIZENS PLANNING CONFERENCE



Alan T. Sanborn
Planning Director

STATE OF HAWAII
LAND USE COMMISSION

Conference Room, 9th Floor Penthouse
State Kamamalu Building, Honolulu, Hawaii

July 10, 1970
2:00 p.m.

STAFF REPORT

SP70-80 - DUERKSON LANDSCAPING CO.

The Zoning Board of Appeals of the City and County of Honolulu has transmitted a special permit request by the Duerkson Landscaping Co. to allow a sand mining operation on approximately 18 acres of land situated within the Agricultural District at Laie, Oahu. An additional 7 acres are proposed for excavation but are not part of this request since the land is situated within the abutting Urban District. The land is leased for sand mining only from the Zions Securities Corp. and is described as Tax Map Key 5-5-09: 45, 5-5-05: 18 and portion of 1.

The subject property adjoins and includes a part of the City's rubbish dump site at Laie and abuts the northwest boundary of the Laie Urban District. It is situated on a site about 2000' on the Kahuku side of the Mormon Temple and is presently vacant except for a 2-acre portion planted in cane. The property is swampy and overgrown and consists of fine sand topped by about a foot of brown clay soil. A large pond also exists where sand has already been excavated. Land Study Bureau data indicates an "A" or very good agricultural suitability rating for the

7-8-70 copy to Petitioner's lawyer L. Ishida
copy to commissioners

major portion of the land. A small portion is designated "C", indicating fair suitability. Elevation ranges from approximately 13' to 20' above sea level, except for the pond area. *Rainfall is about 50 inches in the area* Adjacent lands in the Agricultural District are in cane cultivation, used as the dump site, or vacant. Existing uses in the immediately abutting Urban District include a cemetery and single family residences. The Mormon Church College and the Plynesian Cultural Center are situated about one mile to the south.

The petitioner proposes to haul the sand to various construction projects and golf courses. He states that no dust problem will be caused since the sand is mined from a swampy area. Excavation will be done during daylight hours, and loading operations may be carried on after dark away from the residential areas. An estimated 800,000 cubic yards of sand will be mined over a period of 3 to 5 years. The entire area will be back filled and brought up to grade after the operation.

COUNTY RECOMMENDATION

On May 21, 1970, the City Zoning Board of Appeals concluded that:

- "1. The proposed operation of sand quarry and excavation activities is an unusual and reasonable use within the area classified as Agricultural District by the State Land Use Commission, and it is basically an

extractive industry permitted in the zoning district under a Conditional Use Permit.

"2. The proposed use would promote the effectiveness and objectives of the State Land Use Law and the use sought will not alter the essential character of the surrounding area and will not adversely affect the adjoining property owners.

"3. The land upon which the proposed use is sought is unsuited for the uses permitted within the district. It seems that the proposed use will make the highest and best use of land involved for the public welfare."

Pursuant to its findings, the Zoning Board issued the special permit "subject to further approval by the State Land Use Commission and the City Council, relative to the Conditional Use Permit".

It is noted that under the City's Zoning Ordinances, a Conditional Use Permit must also be secured by the applicant before operations are initiated. In processing a Conditional Use Permit for the Urban designated portion of the property (presently held in abeyance pending the outcome of this petition), the City Planning Department recommended to its Planning Commission that 13 conditions be considered, including the following items:

A 15' setback around the site be maintained; screening or fencing requirements; treating of roadways to prevent dust; operating substantially according to the plan submitted; drainage facilities as required by the County; hours of operation from 7:00 a.m. to 5:30 p.m., Mondays through Fridays; installation of mufflers on trucks and equipment; limitation on use of equipment; report on noise and vibration emission to be submitted every 6 months; and suspension of operation upon finding that conditions are not met.

At the public hearing conducted by the County agency, Dr. Paul Hummel, a soil engineer at the University of Hawaii, appeared on behalf of the petitioners and reported that an examination of the site showed that there is no possibility that the operation would pollute the water supply and that the whole operation is entirely feasible.

In regard to the water situation, the Board of Water Supply reported that they have no objections to the proposed use.

The City's Detailed Land Use Maps designate light industrial uses for the property and the present zoning is Ag 1 acre and Ag 2 acre.

ANALYSIS

Staff evaluation of the above data finds the proposed use "unusual and reasonable" in an Agricultural District, based

on the following:

1. It is not contrary to the objectives of the Land Use Law except for the "A" classification of the soils.
2. It would not unreasonably burden public agencies to provide services.
3. Unusual conditions, trends and needs have arisen.
4. It would not substantially alter the essential character of the land.
5. It will make the highest and best use of the land involved for the public welfare.

RECOMMENDATION

Therefore, it is recommended that the special permit be approved subject to the following conditions:

1. That the area be completely screened (or fenced) and a 15' setback strip be maintained around the perimeter of the quarry site.
2. That appropriate measures be taken to prevent dust problems caused by excavation, hauling and filling operations.
3. That the hours of operation, including excavation, loading, hauling and filling be from 7:00 a.m. to 5:30 p.m., Mondays to Fridays only.
4. That the operation be in compliance with all State

and County ordinances affecting the proposed use,
including proper surface drainage.

- Item # 5 listed here
should be the final condition
therefore 5 should be the*
5. Upon finding that the above conditions are not complied with, the enforcement agency may suspend or revoke the privileges granted under this special permit.
 6. The area be filled with rocks and earth, level with the surrounding area, upon completion of the quarry operation not to exceed 5 years from Land Use Commission approval.

July 1, 1970

Mr. Lincoln J. Ishida
Attorney at Law
Suite 401, City Bank Bldg.
810 Richards Street
Honolulu, Hawaii 96813

Dear Mr. Ishida:

The Land Use Commission next meets at 2:00 p.m., in the Conference Room, 9th floor penthouse of the State Kamamalu Building, corner King and Richards Streets, Honolulu, Hawaii.

At that time, the application by Duerkson Landscaping Company (SP70-80) for a special permit 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

Encl.

BOARD OF WATER SUPPLY

CITY AND COUNTY OF HONOLULU

630 SOUTH BERETANIA

POST OFFICE BOX 3410

HONOLULU, HAWAII 96801



Members

ROBERT Y. SATO, Chairman

HUGH F. O'REILLY, Vice Chairman

REYNOLDS G. BURKLAND, Secretary

RICHARD H. COX

FUJIO MATSUDA

ROBERT H. ROTZ

ALBERT C. ZANE

GEORGE A. L. YUEN

Manager and Chief Engineer

June 24, 1970

RECEIVED

JUN 24, 1970

State of Hawaii
LAND USE COMMISSION

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

Dear Mr. Duran:

Subject: Special Permit Application, SP70-80
Tax Map Keys 5-5-09-45 & portions of 5-5-05
Applicant: Duerkson Landscaping Company

Thank you for referring the subject application to us
for our comments.

We have no objections to the uses proposed by the
applicant within the designated area.

Very truly yours,

Masami Iwamura
Land Administrator

STATE OF HAWAII
LAND USE COMMISSION
P. O. BOX 2359
HONOLULU, HAWAII 96804

JUN 18 1970

NOTIFICATION OF SPECIAL PERMIT APPLICATION

SP70-80 - DUERKSON LANDSCAPING COMPANY

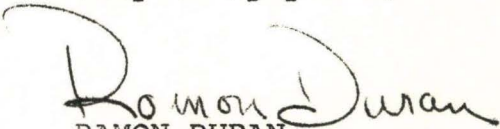
Please be advised that a special permit application has been filed with the Land Use Commission to operate a sand quarry and excavation activities on portions of Tax Map Key 5-5-5 and Tax Map Key 5-5-9, comprising approximately 18 acres. This property is generally located at Laie, mauka of Kamehameha Highway adjoining the City and County dump. The City & County of Honolulu, Zoning Board of Appeals, approved this request on May 21, 1970.

Final action on this application by the Land Use Commission is tentatively scheduled for July 10, 1970, in the City & County of Honolulu.

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

D R A F T

ASL ✓

STATE OF HAWAII
LAND USE COMMISSION
P. O. BOX 2359
HONOLULU, HAWAII 96804

NOTIFICATION OF SPECIAL PERMIT APPLICATION

SP70-80 DUERKSON LANDSCAPING COMPANY

Please be advised that a special permit application has been filed with the Land Use Commission to operate a sand quarry and excavation activities on portions of Tax Map Key 5-5-5 and Tax Map Key 5-5-9, comprising approximately 18 acres. This property is generally located at Laie, mauka of Kamehameha Highway adjoining the City and County dump. The City & County of Honolulu, Zoning Board of Appeals, approved this request on May 21, 1970.

Final action on this application by the Land Use Commission is tentatively scheduled for July 10, 1970, in the City & County of Honolulu.

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

~~Att: [unclear]~~

1 { Harro Tashiro
35-739
Wahinelee St
2 apt

Business Ph =
293-5657

Notify him of
Duerksen meeting
Tent. (Oct 9)

PLANNING DEPARTMENT
CITY AND COUNTY OF HONOLULU

629 POHUKAINA STREET
HONOLULU, HAWAII 96813

SP70-80

FRANK F. FASI
MAYOR



ROBERT R. WAY
PLANNING DIRECTOR

GEORGE S. MORIGUCHI
DEPUTY PLANNING DIRECTOR

70/SUP-1
69/CUP-31

May 25, 1970

RECEIVED
June 2, 1970
State of Hawaii
LAND USE COMMISSION

Mr. Ramon Duran
State Land Use Commission
State of Hawaii
Kamamalu Building
Honolulu, Hawaii 96813

Dear Mr. Duran:

Special Permit Application

Location: Laie, mauka of Kamehameha Highway adjoining
the City and County dump

Tax Map Keys: 5-5-05 and 5-5-09

Applicant: Duerkson Landscaping Company

The Zoning Board of Appeals at its meetings on April 9, April 23, and May 21, 1970, considered the application of Duerkson Landscaping Company for a Special Permit to operate a sand quarry and excavation activities within an area classified as Agricultural District by the State Land Use Commission.

A public hearing was held on April 23, 1970, and at its meeting of May 21, 1970, it was the decision of the Board that a Special Permit be issued subject to final approval of the State Land Use Commission and subject further to obtaining a Conditional Use Permit from the City and County of Honolulu.

We transmit the following:

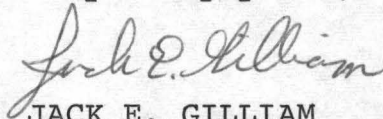
1. Findings of Fact, Conclusions of Law and Decision and Order.
2. Special Permit application.
3. Site Plan.

Mr. Duran
May 25, 1970
Page 2

4. Minutes of the Zoning Board of Appeals dated April 9, and April 23, 1970. The minutes dated May 21, 1970, will be transmitted to you as soon as they have been approved by the Board.

If you have any questions, please feel free to call
Mrs. Loretta Chee at 5473-598.

Very truly yours,



JACK E. GILLIAM
Branch Head
Development Controls



WILLIAM E. WANKET
Assistant Planning Director
Implementation Division

JEG/LC:ww

STATE OF HAWAII

FINDINGS OF FACT, CONCLUSIONS OF LAW,
AND DECISION AND ORDER

II. FINDINGS OF FACT

There is a 2-acre sugar cane field in the area. Laiewai Stream runs along the south portion of the land. The access to the site is a 12-foot wide roadway with a 10-foot pavement. This access road is also used by the City and County dump trucks.

2. Zoning: AG-1 and AG-2 Agricultural Districts.

3. General Plan:

a. Detailed Land Use Map: Light Industrial Use.

b. Development Plan: No plan has been adopted for this area.

4. Existing Land Use:

The property is unimproved. The marshy and swampy land is overgrown with brush. The ground consists of fine sand topped by about one foot of brown clay soil.

5. Applicant's Proposal:

The applicant proposes to operate a sand quarry and haul the sand to various construction projects and golf courses. It is estimated that 3-5 years is sufficient time to complete the excavation of the site.

The applicant will not excavate closer than 15 feet from the boundary lines.

6. Applicant's Justification:

"Material being handled at this sight is in a wet condition causing no dust problem. Excavation of this site will be only during daylight hours. Loading operation which will be away from residential areas may be operated after dark."

7. Section 21-401(c) of the Comprehensive Zoning Code allows for extractive industries including the removal of sand under a Conditional Use Permit; said permit is within the jurisdiction of the Planning Commission and the City Council. Therefore, all decisions are subject to further approval by the State Land Use Commission and the City Council (relative to the Conditional Use Permit).

III. CONCLUSIONS OF LAW

The Board hereby concludes that:

1. The proposed operation of sand quarry and excavation activities is an unusual and reasonable use within the area classified as Agricultural District by the State Land Use Commission, and it is basically an extractive industry permitted in the zoning district under a Conditional Use Permit.
2. The proposed use would promote the effectiveness and objectives of the State Land Use Law and the use sought will not alter the essential character of the surrounding area and will not adversely affect the adjoining property owners.
3. The land upon which the proposed use is sought is unsuited for the uses permitted within the district. It seems that the proposed use will make the highest and best use of land involved for the public welfare.

IV. DECISION AND ORDER

Pursuant to the foregoing Findings of Fact and Conclusions of Law, it is the decision of the Board that a Special Permit be issued to the applicant, and it is hereby so ordered, subject to further approval by the State Land Use Commission and the City Council, relative to the Conditional Use Permit.

Dated at Honolulu, Hawaii, this 21st day of May, 1970.

ZONING BOARD OF APPEALS OF THE
CITY AND COUNTY OF HONOLULU
STATE OF HAWAII

BY

George I. Brown
GEORGE I. BROWN, Chairman

Meeting of the Zoning Board of Appeals
Minutes
April 23, 1970

Page 8.
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The Zoning Board of Appeals met in regular session on Thursday, April 23, 1970, at 1:30 p.m., in the Conference Room of the City Hall Annex with Vice Chairman Jonah Ting presiding:

PRESENT:

Jonah Ting, Vice Chairman presiding
Jack Wakayama

Jack Gilliam, Branch Head, Development Controls

ABSENT:

George I. Brown

MINUTES:

The minutes of the meetings of January 29 and February 26, 1970, as circulated, were approved upon the motion by Mr. Wakayama, seconded by Mr. Ting.

PUBLIC HEARING
ZONING VARIANCE
(R-6 RESIDENTIAL)
MAKIKI
547 KAUHANE ST.
LIBERT CHAN
BY: ROBERT C.
FREITAS
(FILE #70/ZBA-24)

A public hearing had been scheduled to consider an application for a variance from the provisions of Section 21-202(d) of the Comprehensive Zoning Code, relating to fences and walls in yards, to permit the construction of a 4-foot high fence on an existing 4-foot high retaining wall on a 6,600-square foot parcel of land at 547 Kauhane Street in Papakolea, Makiki, and identified by Tax Map Key 2-4-41: 42.

As a result of a report from Mr. Gilliam that the applicant had withdrawn his application, the Board did not hold the hearing and accepted withdrawal of the application. It noted that a reconsideration of the same application will require processing as an entirely new application.

ACTION: The motion to accept withdrawal of the application was made by Mr. Ting, seconded by Mr. Wakayama, and carried.

PUBLIC HEARING
ZONING VARIANCE
(H-1 RESORT HOTEL
DISTRICT)
KAHALUU
47-377 KAMEHAMEHA
HIGHWAY
EVA V. PARKER
(FILE #69/ZBA-140)

A public hearing was held, pursuant to the provisions of Section 5-515(3) of the Charter of the City and County of Honolulu, to consider an application for a variance from the provisions of Sections 21-107(c)(1), (d)(1) and (2), 21-701, and 21-702 of the Comprehensive Zoning Code, relating to nonconforming uses and structures, use regulations, and minimum side yard requirements in an H-1 Hotel District, to permit the construction of a single-family dwelling that will encroach into the side yard area on a 12,517-square foot parcel of land situated at 47-377 Kamehameha Highway in Kahaluu and identified by Tax Map Key 4-7-9: 6.

The notice of public hearing was advertised in the Sunday Star-Bulletin and Advertiser of April 12, 1970, and copies of the hearing notice were sent to the applicable governmental agencies, to the various community and civic organizations in the Kahaluu and the Windward areas, to adjoining property owners, and to interested parties. No written protests have been received to date.

Mr. Gilliam explained the applicant's proposal by reporting the staff's findings and orienting the Board to the location of the subject property. It was noted that the subject property is situated within an area designated for resort use on the General Plan and zoned H-1 Resort Hotel District in which district single family dwellings are not permitted. There are two nonconforming single family dwellings on the property and the applicant proposes to demolish the dwelling located near the ocean and replace it with a new two-story, single family dwelling. In view of the more restrictive setback requirement in an H-1 District, the proposed structure will encroach a maximum of 9 feet into both 20-foot side yard areas.

Mr. Gilliam noted that there is no resort development in this entire area still predominantly in single family residential use. Should the variance be granted, the dwelling will conform to the setback and height regulations of the R-6 Residential zoning.

No one spoke in opposition to the application.

Mrs. Eva Parker, applicant, and her son-in-law Mr. Paul Andrus, had nothing to add to the presentation made by Mr. Gilliam.

The Board closed the public hearing upon the motion by Mr. Wakayama, seconded by Mr. Ting.

ACTION: In its consideration later, the Board determined that there is sufficient evidence to meet the three conditions of hardship specified in the City Charter and granted the variance requested upon the motion by Mr. Ting, seconded by Mr. Wakayama.

PUBLIC HEARING
(AG-1 RESTRICTED
AGRICULTURAL
DISTRICT)
WAIANAE
85-874 PILIUKA
PLACE
MARCUS G. INGLE
(FILE #70/ZBA-41)

A public hearing was held, under the provisions of Section 5-515(3) of the Charter of the City and County of Honolulu, to consider an application for a variance from the provisions of Sections 21-107(d)(1) and 21-402(c) and (d) of the Comprehensive Zoning Code, relating to nonconforming structures and front and side yard setback requirements in an AG-1 Restricted Agricultural District, to permit a sun deck addition

PUBLIC HEARING
ZONING VARIANCE
(R-6 RESIDENTIAL)
WAIALUA
KEALOCHANUI ST.
WAIALUA SUGAR
MILL COMPLEX
WAIALUA SUGAR
COMPANY, INC.
BY: OCEANIC
PROPERTIES, INC.
(FILE #70/ZBA-53)

A public hearing was held, under the provisions of Section 5-515(3) of the Charter of the City and County of Honolulu, to consider an application for a variance from the provisions of Section 21-551 of the Comprehensive Zoning Code, relating to use regulations in an R-6 Residential District, to permit the construction and operation of a laboratory building, and further additions to and reconstruction of existing buildings on a 143.144-acre parcel of land in Waialua, within the Waialua Sugar Mill complex, and identified by Tax Map Key 6-7-1: 5.

The notice of public hearing was advertised in the Sunday Star-Bulletin and Advertiser of April 12, 1970. Copies of the hearing notice were sent to the applicable governmental agencies, to the community and civic organizations in the Waialua area, adjoining property owners, and to interested parties. No written protests have been received to date.

Mr. Gilliam oriented the Board to the location of the property and explained the applicant's proposal by referring to a site plan displayed of the Sugar Mill complex showing the location of the existing buildings and the area of the proposed laboratory building, as follows:

1. As a result of the State Land Use Commission District Boundary designation, approximately 65.462 acres in the Urban District are zoned R-6 Residential and approximately 77.682 acres in the Agricultural District are zoned AG-1 Restricted Agriculture.
2. The General Plan designation of this land is residential, agriculture and industrial uses.
3. The present uses on the land are sugar cane fields, residential homes, the sugar mill, and variety of buildings directly related to the mill operation.
4. The residential houses are situated in the area zoned for agricultural uses but they are gradually being phased out and the land put into cane production. The mill and its related uses are located in the residential zoned area.
5. A former laboratory building located within the mill complex was demolished and is to be replaced with a new laboratory building.
6. The applicant will be filing a rezoning application to have the mill complex area zoned industrial in conformity with the General Plan industrial use designation of the area.

Mr. Donald Camp, representative of the Waialua Sugar Company, had nothing to add to the presentation made by Mr. Gilliam.

No one spoke in opposition to the application.

The Board closed the public hearing and took the matter under advisement upon the motion by Mr. Wakayama, seconded by Mr. Ting.

ACTION: In later consideration, the Board determined that there is sufficient evidence to meet the three conditions of hardship specified in the City Charter and granted the variance upon the motion by Mr. Ting, seconded by Mr. Wakayama.

PUBLIC HEARING
SPECIAL USE
PERMIT
(LAND USE COMM.)
LAIE
MAUKA OF KAMEHA-
MEHA HIGHWAY
DUERKSEN LAND-
SCAPING COMPANY
BY: LINCOLN J.
ISHIDA
(FILE #70/SUP-1)

In compliance with the provisions of Chapter 205.6, Hawaii Revised Statutes, as amended, a public hearing was held to consider an application made by Duerksen Landscaping Company for a Special Use Permit to operate a quarry on approximately 18 acres of land situated on the mauka side of Kamehameha Highway adjoining the City and County dump site in Laie and identified by Tax Map Keys 5-5-05 and 5-5-09, within the Agricultural District of the State Land Use Commission District Boundary Map.

The notice of public hearing was advertised in the Sunday Star-Bulletin and Advertiser of April 12, 1970. Copies of the hearing notice were sent to the applicable governmental agencies, the Kahuku Community Association, the Windward Citizens Planning Conference, adjoining property owners, and to interested parties. No written protests have been received to date.

Mr. Duerksen, applicant, and his attorney Mr. Lincoln Ishida, were present.

Mr. Gilliam oriented the Board to the location of the subject property and presented the following information:

1. The subject property adjoins the City and County rubbish dump site and is situated on the Kahuku side and outer fringes of Laie Village.
2. Access to the site is over a 12-foot roadway with a 10-foot pavement which is also used by the City and County dump trucks. This dump site will be phased out by the City and County.
3. The zoning on the land is AG-1 and AG-2 Agricultural Districts but designated on the General Plan Detailed Land Use Map as light industrial.

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6.6
4. The land is marshy and swampy, overgrown with brush and unimproved. The ground consists of fine sand topped by about one foot of brown clay soil.
 5. The applicant proposes to operate a sand quarry and haul the sand to various construction projects and golf courses, and estimates that 3 to 5 years is sufficient time to complete the excavation.
 6. The material being handled at this site is in a wet condition; therefore, the applicant feels that there should be no dust problem. Excavation will be done only during daylight hours and the limit of excavation will not go closer than 15 feet from the boundary lines. Loading operations may be done after dark since the area is away from the residential areas.
 7. The area under consideration is part of an overall area containing approximately 27 acres to be excavated. The area within the Agricultural District requires a Special Use Permit approval from the Zoning Board of Appeals and the State Land Use Commission and subsequently, a Conditional Use Permit from the City and County while the area within the Urban District requires only a Conditional Use Permit. 24.6 (see map)
 8. A Conditional Use Permit application for the area in the Urban District is being held in abeyance by the Planning Commission pending a decision by the Board and the Land Use Commission on this Special Use Permit application.
 9. The Conditional Use Permit procedure requires a public hearing before the Planning Commission and approval by Resolution of the City Council at which time appropriate conditions that may be necessary for the application can be attached with the Permit.

The Board inquired about provisions for back filling of the excavated areas, and other applicable conditions that should be attached to assure restoration of the land to some productive use.

Mr. Duerksen reported that the entire area will be back filled and the land brought up to grade. Presently, the grade is much lower than surrounding lands. He estimated that about 800,000 cubic yards of clean sand will be removed from the area.

Mr. Gilliam informed the Board of the staff's recommendation to attach the following conditions to the Conditional Use Permit application that is pending before the Planning Commission for consideration:

1. The requirements as set forth under Section 21-248 of the Comprehensive Zoning Code entitled: "Extractive Industries", shall apply.
2. A 15-foot setback strip around the perimeter of the quarry site shall be maintained and the natural growth of brushes shall continue as a separation between the proposed industrial use and the general public use.
3. Such facilities shall be completely screened or fenced and shall be effectuated prior to the operation of the quarry.
4. Dry, dust-prone areas, and the access roadways shall be treated to prevent dust.
5. Excavation and filling of the area shall be in accordance with the site plan on file dated October 31, 1969. Any major deviation from the plans must be first approved by the Planning Director and the Chief Engineer.
6. If the excavation is by increments, the completed increment shall be filled, graded, and planted with vegetated ground cover, plant materials, and trees acceptable to the Planning Department so that the site will not create dust and nuisance problems.
7. Drainage facilities shall be constructed in accordance with the requirements of the Department of Public Works of the City.
8. The hours of operations shall be from 7:00 a.m., to 5:30 p.m., Monday through Friday.
9. The quarry operations shall cease during adverse wind conditions (upon inspection and determination by the Planning Department) to prevent people living in the area from being adversely affected by dust.
10. Mufflers shall be installed on all trucks and equipment to minimize noise. The performance standards of Section 21-232 shall be applicable to this use.

11. Utilization of additional equipment other than one bulldozer, one dragline shovel, one screening and conveyor belt unit, and one generator unit shall be subject to the approval of the Planning Department.
12. A report on noise and vibrations generated by the quarrying operations prepared by qualified personnel shall be submitted to the Planning Director immediately after the quarry operations commence and thereafter on a 6-month basis. Acceptance of the reports shall be subject to the Planning Director's approval.
13. After the issuance of the Conditional Use Permit, the City Council may, at any time, upon finding that any one of the conditions hereinafter imposed is not being complied with by the applicant, authorize the Planning Director to suspend such operation until compliance with said conditions is obtained or to revoke the permit.

The Board remarked that the conditions were rather stringent and asked for comments from the applicant.

Mr. Duerksen stated that this is the first time he was made aware of the conditions.

Mr. Ishida also had no prior knowledge of the conditions. He presumed that the Department was ready to present the conditions at the time of consideration of the Conditional Use Permit application before the Planning Commission, but because of information brought out that his client had to obtain a Special Use Permit from the Zoning Board of Appeals and the State Land Use Commission, the preliminary hearing before the Planning Commission was held in abeyance. Following a decision by the Board and the Land Use Commission, he must go back to the Planning Commission for a Conditional Use Permit approval.

Mr. Ishida further reported that the land is owned by Zions Securities and his client has a lease on the land for removal of the sand only. Thereafter, Zions has the right to use the land.

He then introduced Dr. Paul Hummel, registered soil engineer with the University of Hawaii, to report and answer questions on the ecology of the area.

Dr. Hummel reported that he had examined the subject site with respect to the water condition of the Board of Water Supply and the seepage condition. In his opinion, the flow of water in that area is such that

there will be no possibility of any pollution of the water supply due to the sand mining operation. He also believes that it is entirely feasible to remove the sand and back fill the area to a condition that is entirely suitable.

Mr. Ting inquired whether there will be any restriction on the amount of sand that can be removed from the area.

Mr. Gilliam replied in the negative. He indicated that the restrictions are primarily based on restoration of the site to a suitable condition rather than what is removed. He then informed the Board of a Bill pending before the Legislature regarding procedures on Special Use Permit applications. In order to alleviate appearances before many bodies of the City and the State, the new legislation, if approved, will authorize the Planning Commission rather than the Zoning Board of Appeals to review this type of Special Use Permit application thereby making the Conditional Use Permit also the Special Use Permit. This new procedure was discussed with the staff of the Land Use Commission and it is hoped that this new procedure would be enacted this year.

Testimony from the public was received.

Mr. Faaesea Mailo, representing the Laie Community Association and speaking for its President, stated that the Association has not taken any position to support or to oppose this application. He was here to request a deferral of any decision by this Board because the Association was not informed in advance of this hearing, having received a copy of the hearing notice only a few days ago which was insufficient time to hold a meeting of the Association.

He indicated that the people of the community are concerned about the well-being of their own community and are quite upset because they were not informed or consulted about this proposed operation. He felt it wise for the applicant to inform the people of what is intended and satisfy the community first before holding a hearing before the governmental agencies. He believed it much better for the applicant to have the community's support rather than have a lot of opposition from the people. He reported that the Association will meet tomorrow night at 7:30.

He then inquired of the applicant whether approval to excavate the land was received from the Board of the Zions Securities or from Mr. Stone.

Mr. Duerksen replied that the Board as a whole approved his proposed operation about eight months ago.

As a matter of information, Mr. Gilliam stated that in accordance with the statutes, the Board cannot act on this application until after 15 days from the date of the public hearing. Therefore, the Board cannot make a decision today but may act on it at its next meeting on Thursday, May 21, 1970. In the meantime, he suggested that the Community Association appoint a special committee to meet with the staff in the Planning Department's office and be apprised of and discuss the proposed operation. Since this same matter will be presented at a public hearing before the Planning Commission, he noted that the Association will have another opportunity to testify.

The Board closed the public hearing and took the matter under advisement upon the motion by Mr. Wakayama, seconded by Mr. Ting.

ACTION: Upon the motion by Mr. Ting, seconded by Mr. Wakayama, the Board deferred action on this matter until its next meeting which is four weeks from today.

ZONING VARIANCE
(R-5 RESIDENTIAL)
MOANALUA VALLEY
1605 ALA LANI ST.
WALTER P. YIM
BY: PHILIP W.
WON & ASSOCIATES
(FILE #70/ZBA-38)

A preliminary hearing was held to consider an application for a variance from the provisions of Sections 21-107(e)(5), 21-202(c) and (d), 21-503, and 21-543(d) of the Comprehensive Zoning Code, relating to nonconforming lots in single ownership, garages and carports in yards, structures within the visibility triangle, height regulations, and side and rear yard setbacks within an R-5 Residential District, to permit the construction of a single-family dwelling and carport which will encroach into the required 10-foot front yard area and the visibility triangle and will exceed the height setback limitation on a nonconforming lot in single ownership, situated at 1605 Ala Lani Street in Moanalua Valley.

Mr. Gilliam oriented the Board to the location of the property and showed photographs taken of the property showing the extreme slope of the land and of other properties in the immediate vicinity with structures constructed right up to the property line because of the same extreme slope. He gave the following report:

1. The subject lot containing 6,199 square feet is considered a nonconforming lot because it has a cross slope in excess of 25 percent which requires a land area of 10,000 square feet for a one family detached dwelling.

2. The proposed carport will encroach approximately 5-1/2 feet into the required front yard area and a corner section of the proposed dwelling will encroach into the height setback limitation.
3. As justification for the request, the applicant pointed out the extreme slope of the land and the minimum lot width which make it economically unfeasible to design and construct a house that would meet all setback and height limitations of the zoning code. A conforming house will necessitate extensive and unusual foundation work which will raise the cost of the house to a point not consistent with the values of adjoining properties.

Mr. Eugene Trapp, representative of the applicant, informed the Board that the applicant made a number of studies to design a house that would comply with the requirements of the zoning code, but found that unless he went into an extremely costly and complicated structural design, he could not do it. The proposed plan submitted is about the best plan developed out of ten possible plans.

The Board took the matter under advisement upon the motion by Mr. Wakayama, seconded by Mr. Ting.

ACTION: Upon the motion by Mr. Ting, seconded by Mr. Wakayama, the Board authorized the calling of a public hearing to consider this variance application.

ZONING VARIANCE
(H-2 HOTEL DIST.)
WAIKIKI
2106 KUHIO AVE.
B. W. DEACON
(FILE #70/ZBA-36)

The Board again reviewed an application made for a variance from the provisions of Sections 21-107(d)(1) and 21-202(d) of the Comprehensive Zoning Code, relating to nonconforming structures and the visibility triangle, to permit the retention of additions made to a nonconforming structure which encroaches into the visibility triangle and which additions have enlarged and altered the subject structure so as to increase its nonconformity on a 4,500-square foot parcel of land at 2106 Kuhio Avenue in Waikiki and zoned H-2 Hotel District.

The Board deferred action and had requested the staff to recheck the area and make a further study of the visibility triangle.

Mr. B. W. Deacon, applicant, was present.

Mr. Gilliam briefly reviewed the proposal and reported that a reinspection of the site made by the staff revealed that the storage area has been cleaned and the parking space is no longer being utilized for

Meeting of the Zoning Board of Appeals
Minutes
April 9, 1970

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Dunckson

The Zoning Board of Appeals met in regular session on Thursday, April 9, 1970, at 1:30 p.m., in the Conference Room of the City Hall Annex with Chairman George I. Brown presiding:

PRESENT: George I. Brown, Chairman
Jonah Ting
Jack Wakayama

Jack Gilliam, Branch Head, Development Controls
Andrew Sato, Deputy Corporation Counsel

PUBLIC HEARING
ZONING VARIANCE
(R-6 RESIDENTIAL)
PAUOA VALLEY
2228 BOOTH ROAD
YUKIO HIRAYAMA
BY: FRED Y.
HIRAYAMA
(FILE #70/ZBA-15)

A public hearing was held, under the provisions of Section 5-515(3) of the Charter of the City and County of Honolulu, to consider an application for a variance from the provisions of Section 21-553(a)(2)(a) of the Comprehensive Zoning Code, relating to two-family detached dwellings within an R-6 Residential District, to permit the construction of a two-family detached dwelling on an 8,388-square foot parcel of land situated at 2228 Booth Road in Pauoa Valley and identified by Tax Map Key 2-2-11: Parcel 63.

The public hearing notice published in the Sunday Star-Bulletin and Advertiser of March 29, 1970, was read by Mr. Gilliam. Copies of the hearing notice were sent to the applicable governmental agencies, to the Pauoa Community Association, and to adjoining property owners. No written protests have been received to date.

Mr. Gilliam presented the request by:

1. Orienting the Board to the location of the subject property;
2. Pointing out the R-7 Residential zoned properties right across Booth Road from the applicant's property and noting several lots with two dwellings on them;
3. Confirming the applicant's statement by pointing out the nonconforming lots with two dwellings on them within the R-6 Residential zone;
4. Reporting on the applicable provisions of the zoning ordinance which permits two-family detached dwellings on a minimum lot area of 9,000 square feet;

5. Noting that the applicant's property lacks 662 square feet or 7.4 percent from meeting the lot size requirement for two family dwellings;
6. Citing the justifications for the request as contained in the applicant's letter of application; and
7. Showing photographs taken of the subject property and of nonconforming lots in the immediate surrounding area with more than one dwellings on them.

Mr. Yukio Hirayama, applicant, had nothing to add to the presentation made by Mr. Gilliam.

Mr. Albert Ramos, living right across the street from the applicant's property but in the area zoned R-7 Residential, felt it unfair to him to allow the applicant to construct another dwelling when he wasn't allowed to construct two homes on his property about two years ago. Lewers & Cooke was contracted to build a second dwelling--a guest house with no kitchen facilities--on his property, but because this permission could not be obtained, he had a new house built at a cost of \$27,000. He felt cheated because the applicant can have additional income by renting one of the units while he must keep paying increased tax assessments and rising cost of goods with no additional income coming in.

The Board informed him of the applicant's proposal to construct a duplex and not two separate dwellings. Each case is considered on its own merit and in this instance, there appears to be some hardship to the applicant.

Mr. Gilliam explained the regulations involving construction of duplexes and stated that in an R-7 Residential zone, a duplex is permitted on a minimum land area of 7,000 square feet.

Mr. Ramos believed that his land area is 6,000 or 7,000 square feet.

The Board advised him to consult with the staff to see what can be done for him.

There being no further testimony, the Board closed the public hearing and took the matter under advisement upon the motion by Mr. Ting, seconded by Mr. Wakayama.

modification to the plan must be approved by the planning director.

He indicated that other sugar mills are situated in an agricultural district where existing industrial types of uses were permitted as accessory uses to the mill operation. The present situation is very unique because through the State's land use classification of Urban District, the prior Rural Protective zoning conveyed on the sugar mill complex land was changed to R-6 Residential in the transition under the new Comprehensive Zoning Code.

The Board stated that a rezoning procedure seems preferable, then the applicant would not require a variance every time he wished to make improvements on the property.

Mr. Donald Camp, representative of the applicant, was willing to follow the rezoning procedure later upon consultation with the Planning Department staff. In view of the inconsistent zoning of the land, he cited the plight of the Plantation which wishes to construct the new laboratory building and make other improvements. They realize that some action must be taken to have the land properly zoned for the uses found there.

The Board took the matter under advisement upon the motion by Mr. Ting, seconded by Mr. Wakayama.

ACTION: Upon the motion by Mr. Ting, seconded by Mr. Wakayama, the Board authorized the calling of a public hearing to consider this variance application.

SPECIAL USE
PERMIT (LAND
USE COMMISSION)
LAIE
MAUKA OF KAMEHA-
MEHA HIGHWAY
DUERKSEN LAND-
SCAPING COMPANY
BY: LINCOLN J.
ISHIDA
(FILE #70/SUP-1)

Presented to the Board was an application submitted by Duerksen Landscaping Company for a Special Use Permit, pursuant to Chapter 205.6, Hawaii Revised Statutes, as amended, to permit the operation of sand quarry and excavation activities on approximately 18 acres of land identified by Tax Map Keys 5-5-5 and 5-5-9, situated on the mauka side of Kamehameha Highway adjoining the City and County dump site in Laie.

Mr. Gilliam presented the following information:

1. The subject site is within the Agricultural District of the State Land Use Commission District Boundary Map. The zoning on the land is AG-1 and AG-2 Agricultural Districts but designated on the General Plan Detailed Land Use Map as light industrial use.

1. As a result of the State Land Use Commission District Boundary designation, approximately 65.462 acres in the Urban District are zoned R-6 Residential and approximately 77.682 acres in the Agricultural District are zoned AG-1 Restricted Agriculture.
2. The land is used for sugar cane cultivation and the sugar mill complex consisting of several residential and nonresidential structures which are the mill, shops, tool sheds, laboratories, etc.
3. The residential housing area for the plantation employees is situated in the area zoned for agricultural uses while the mill and the other nonresidential structures are located in the residential zoned area. The residential dwellings are gradually being phased out and the land put back into cane production.
4. A previous laboratory building was demolished and the applicant proposes to replace it with a new laboratory building but finds that he is unable to do so because of the residential zoning unless a variance is granted. The applicant also requires a variance to allow future additions and rebuilding of other existing structures within the same area. This particular area is designated for industrial uses on the General Plan.
5. As justifications for the request, the applicant cited the use of the area for various activities related to the sugar mill for 70 years. The site for the new laboratory building does not lend itself to residential uses because all buildings surrounding are used directly in connection with the sugar mill, such as an electrical substation, electrical and machine shops, tool sheds, etc.

Displayed were the zoning map showing the division of the land into the two uses and a site plan showing the location of the existing structures and the area of the proposed laboratory building.

The Board asked how controls were to be applied if a variance is granted for the entire industrial complex. It also asked about other sugar mill operations.

Mr. Gilliam believed that applicable conditions can be spelled out to permit specific types of uses including additions to or rebuilding of existing structures subject to the approval of the planning director. Also, any

2. The land is marshy and swampy, overgrown with brush and unimproved. The ground consists of fine sand topped by about one foot of brown clay soil.
3. Access to the site is over a 12-foot roadway with a 10-foot pavement also used by the City and County dump trucks.
4. The applicant proposes to operate a sand quarry and haul the sand to various construction projects and golf courses, and estimates that 3 to 5 years is sufficient time to complete the excavation.
5. The material being handled at this site is in a wet condition; therefore, the applicant feels that there should be no dust problem. Excavation will be done only during daylight hours and the limit of excavation will not go closer than 15 feet from the boundary lines. Loading operations may be done after dark since the area is away from the residential areas.
6. A unique situation exists because part of the land is within the Urban District and under the jurisdiction of the City and County zoning regulations which require a conditional use permit for the quarry operation. The Board's jurisdiction is confined to the area within the State's Agricultural District. A favorable decision by the Board is subject to further review and approval by the Land Use Commission and also the Planning Commission and the City Council for approval of a conditional use permit.
7. The applicable statutes mandate that a public hearing be held not less than 30 days nor more than 120 days from receipt of the petition. The petition was received on March 18, 1970.

Mr. Lincoln Ishida, attorney, representative of the applicant, was present.

Since a public hearing must be held to receive testimony from all interested parties, the Board decided to forego receiving a preliminary report from the applicant today.

ACTION: The Board set April 23, 1970, as the date of the public hearing to consider this Special Use Permit application upon the motion by Mr. Brown, seconded by Mr. Ting.

MISC.
HALAWA QUARRY

As a matter of information, Mr. Gilliam informed the Board that the operator of the Halawa Quarry was issued a violation notice relative to the noise requirements of the Comprehensive Zoning Code. The operator must somehow improve his operation to meet the minimum noise standards.

MISC.
FORMAT OF
STAFF'S REPORT

A brief discussion was held on the format used by the staff in preparing the written report on applications made to the Zoning Board of Appeals.

In making the staff's recommendation, the Board felt that the recommendation should be limited to either an approval or denial recommendation. If the staff mentions the specific hardships that were met, it should mention all three conditions of hardship rather than confining only to the intent and purpose of the zoning ordinance.

Mr. Gilliam stated that the staff's format will be changed to reflect either an approval or denial recommendation without a qualifying statement on meeting or not meeting the three conditions of hardship.

ADJOURNMENT:

The meeting was adjourned at 4:15 p.m.

Respectfully submitted,

Carole A. Kamishima
Carole A. Kamishima
Secretary-Reporter II

April 6, 1970

PETITION FOR A SPECIAL USE PERMIT PURSUANT TO CHAPTER 205.6, HAWAII
REVISED STATUTES, AS AMENDED.

APPLICANT : DUERKSEN LANDSCAPING COMPANY
AUTHORIZED AGENT : LINCOLN J. ISHIDA
LOCATION : LAIE, MAUKA OF KAMEHAMEHA HIGHWAY ADJOINING THE
CITY AND COUNTY DUMP SITE
TAX KEY : PORTIONS OF: 5-5-5 (ZONED FOR AGRICULTURAL USE)
5-5-9 (ZONED FOR AGRICULTURAL USE)
AREA: 18+ ACRES

Application:

The application is submitted by Duerksen Landscaping Company for a Special Use Permit pursuant to Chapter 205.6, Hawaii Revised Statutes, as amended, to permit the operation of sand quarry and excavation activities on the parcels of land designated for Agricultural use, being portions of Tax Map Keys 5-5-5 and 5-5-9, located in Laie, mauka of Kamehameha Highway adjoining the City and County dump site.

The subject site is designated for Agricultural use under the State Land Use Commission District Boundary Map.

Under the section of the State Land Use District regulations, a public hearing shall be conducted within a period of not less than 30 days nor more than 120 days from the receipt of the petition. The petition was received on March 18, 1970.

Findings of Fact:

1. Description of the Land:

The subject property adjoins the City and County rubbish dump site, situated on the Kahuku side and outer fringe of Laie Village. The property in question is marshy and swampy. There is a 2-acre sugar cane field in the area. Laiewai Stream runs along the south portion of the land. The access to the site is a 12-foot wide roadway with a 10-foot pavement. This access road is also used by the City and County dump trucks.

2. Zoning: AG-1 and AG-2 Agricultural Districts

3. General Plan:

a. Detailed Land Use Map: Light Industrial Use

b. Development Plan: No plan has been adopted for this area.

4. Existing Land Use:

The property is unimproved. The marshy and swampy land is overgrown with brush. The ground consists of fine sand topped by about one foot of brown clay soil.

5. Applicant's Proposal:

The applicant proposes to operate a sand quarry and haul the sand to various construction projects and golf courses. It is estimated that 3-5 years is sufficient time to complete the excavation of the site.

The applicant will not excavate closer than 15 feet from the boundary lines.

6. Applicant's Justification:

"Material being handled at this sight is in a wet condition causing no dust problem. Excavation of this ^{site}sight will be only during daylight hours. Loading operation which will be away from residential areas may be operated after dark."

7. Remarks: Section 21-401(c) of the Comprehensive Zoning Code allows for extractive industries including the removal of sand under a conditional use permit; said permit is within the jurisdiction of the Planning Commission and the City Council. Therefore, all decisions are subject to further approval by the State Land Use Commission and the City Council (relative to the conditional use permit).

Enclosures: Chapter 205.6, Hawaii Revised Statutes, as amended, and tentative Timetable.

MM:nt

"The planning commission, or the zoning board of appeals as the case may be, shall conduct a hearing within a period of not less than thirty nor more than one hundred twenty days from the receipt of the petition. The planning commission or the zoning board of appeals shall notify the land use commission and such persons and agencies that may have an interest in the subject matter of the time and place of the hearing.

"The planning commission or zoning board of appeals may, under such protective restrictions as may be deemed necessary, permit the desired use, but only when the use would promote the effectiveness and objectives of this chapter. The planning commission or the zoning board of appeals shall act on the petition not earlier than fifteen days after the public hearing. A decision in favor of the applicant shall require a majority vote of the total membership of the planning commission or of the zoning board of appeals, which shall be subject to the approval of the land use commission. A copy of the decision together with the findings shall be transmitted to the commission within ten days after the decision is rendered. Within forty-five days after receipt of the county agency's decision, the commission shall act to approve or deny. A denial either by the county agency or by the commission, as the case may be, of the desired use shall be appealable to the circuit court of the circuit in which the land is situated and shall be made pursuant to the Hawaii Rules of Civil Procedure."

Tentative timetable (subject to change)

The following timetable has been established relative to the application in accordance with the above section of the Hawaii Revised Statutes:

1. The petition was received on March 18, 1970. Because of the 15-day waiting period, a public hearing cannot be held prior to April 17, 1970.
2. This matter has been tentatively scheduled for public hearing on April 23, 1970.
3. Since action can not be taken earlier than 15 days after the public hearing, the Zoning Board of Appeals cannot act on the decision prior to May 8, 1970. The next scheduled meeting after May 8 is the meeting of May 21, 1970. This would be the date when decision can be rendered.
4. The decision shall be transmitted to the State Land Use Commission within ten days after the date of decision. Therefore, the State Land Use Commission should be notified no later than May 31, 1970.

STATE OF HAWAII
LAND USE COMMISSION

426 Queen Street
Honolulu, Hawaii

This space for official use

Date Application and Fee
received by LUC _____

APPLICATION FOR SPECIAL PERMIT

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

for Commercial Sand Mining

Description of property:

5-5-05
5-5-09 as shown in Exhibit A

Petitioner's interest in subject property:

Leasehold from Zions Securities Corp.

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

Commercial Sand Mining is prohibited in Agricultural land use designated areas.

Signature(s) _____

George L. Durham

Address: _____

Telephone: _____

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) _____

STATE OF HAWAII
LAND USE COMMISSION

426 Queen Street
Honolulu, Hawaii

This space for official use

Date Application and Fee
received by LUC _____

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Leasehold from Zions Securities Corp.

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

Commercial Sand Mining is prohibited in Agricultural land use designated areas.

Signature(s) _____

George L. Durbach

Address: _____

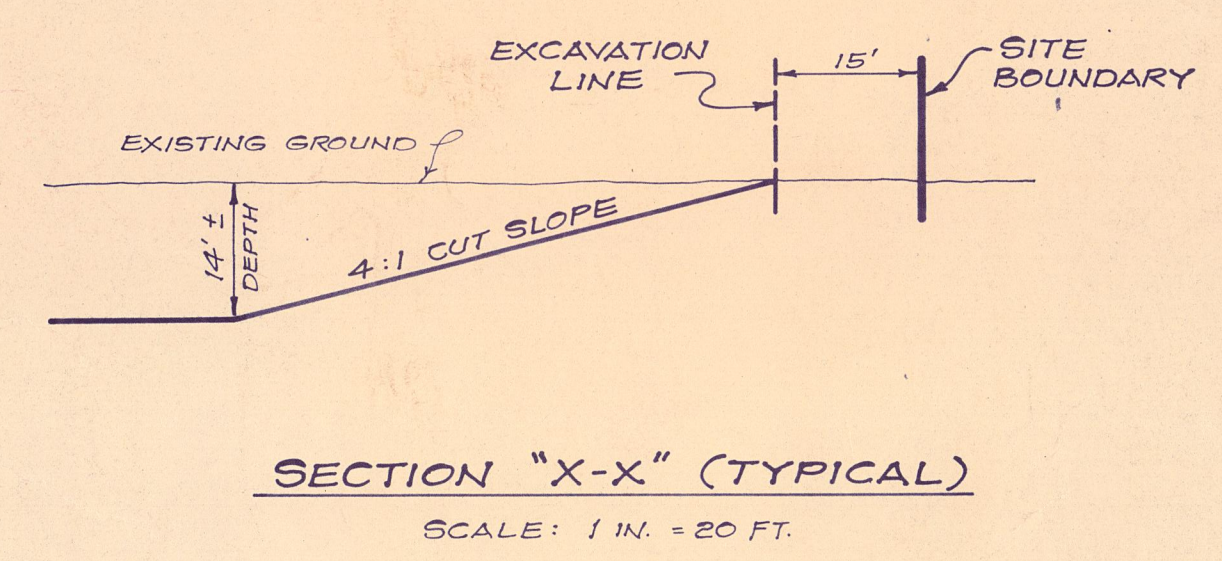
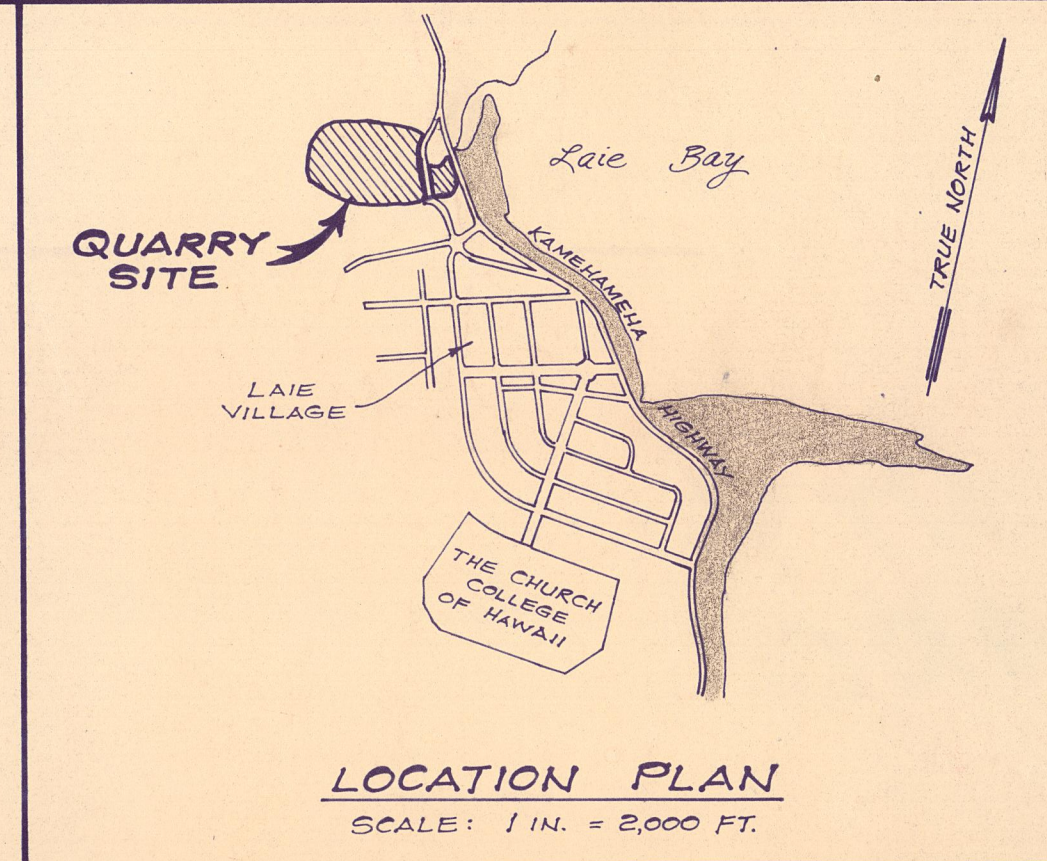
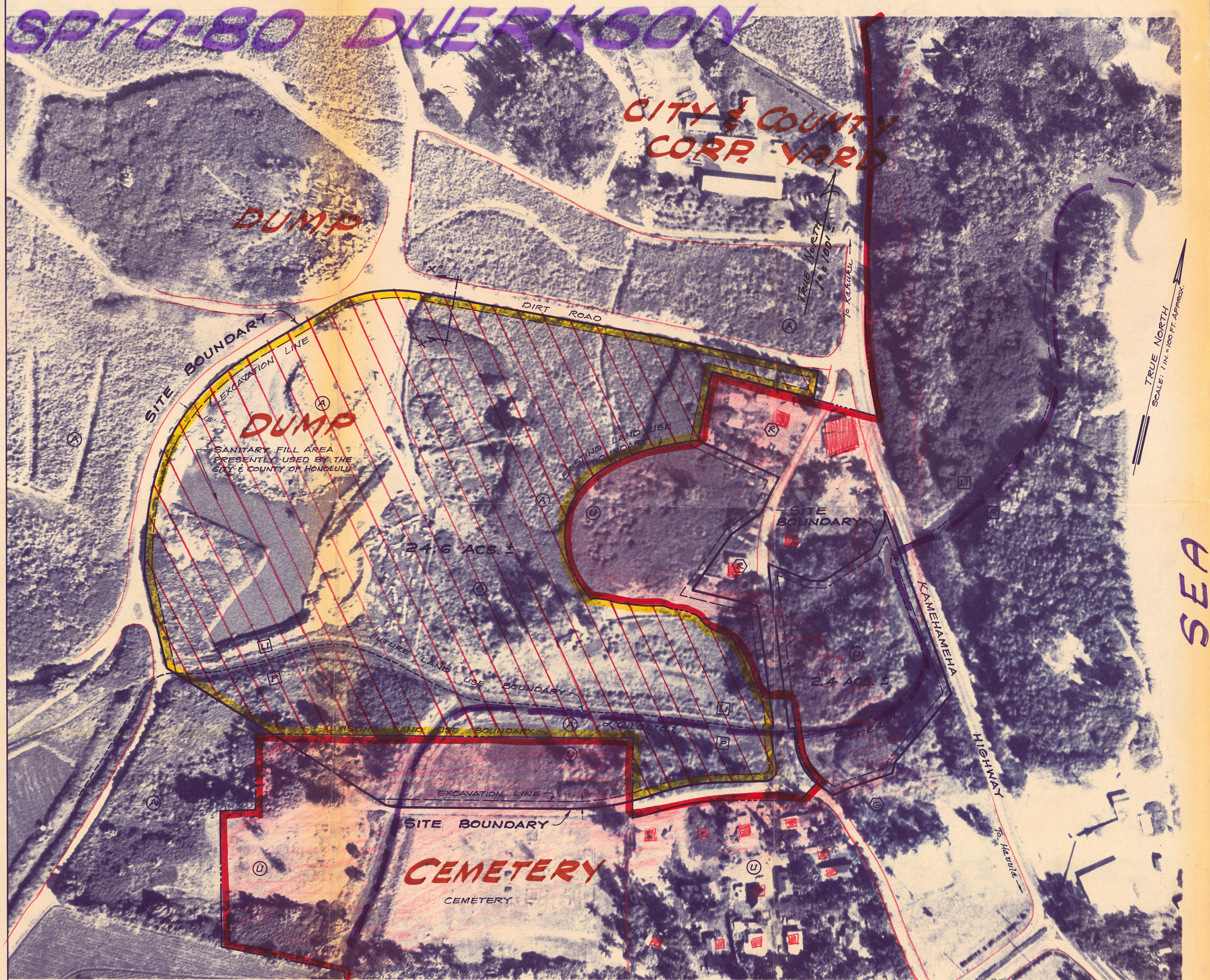
Telephone: _____

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.

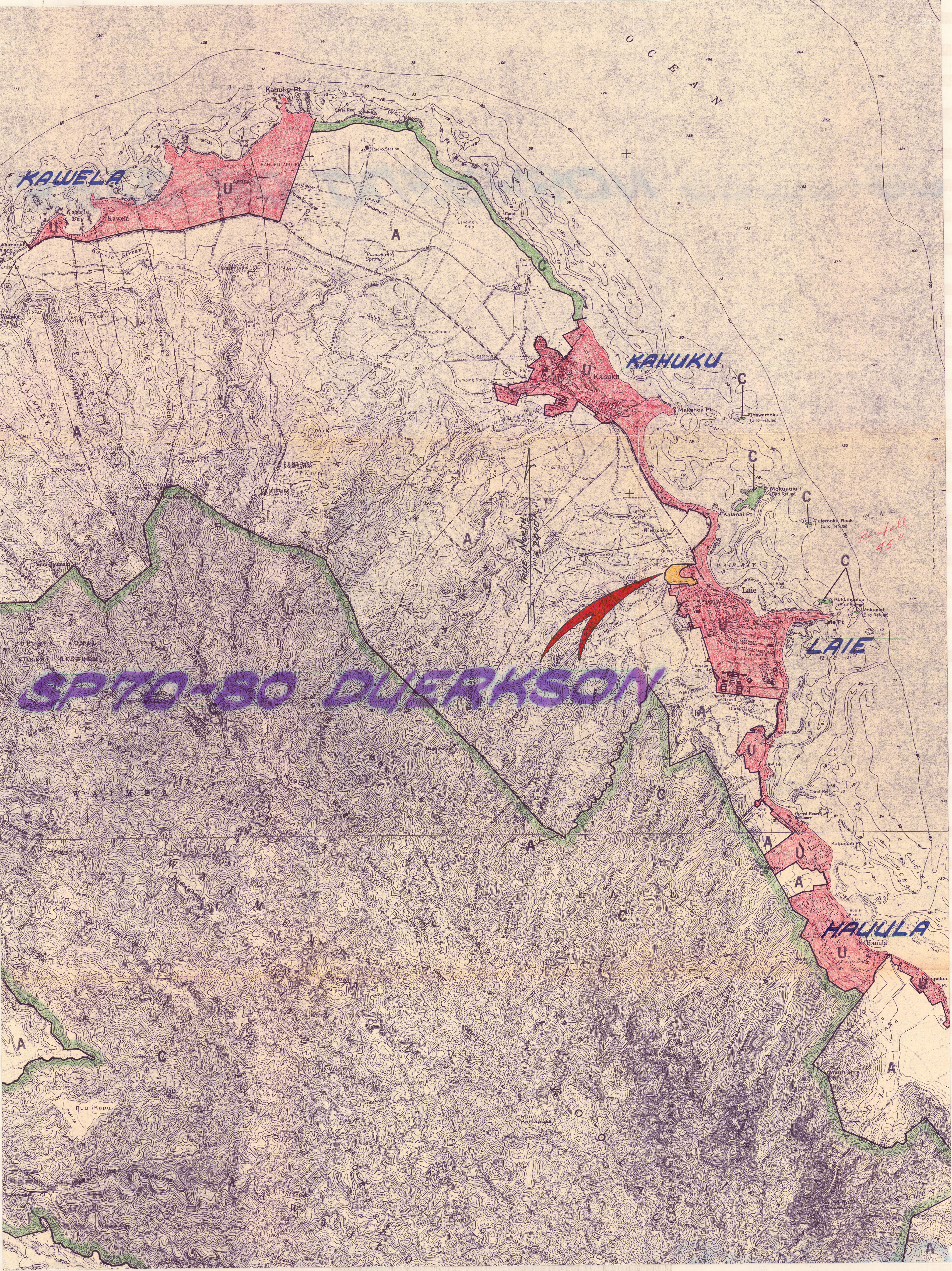
Signature(s) _____

For (agency) _____



- LEGEND**
- EXISTING LAND USE ZONING
 - FUTURE LAND USE ZONING
 - ◻ PRESENT USE
- ABBREVIATIONS**
- A = AGRICULTURAL
 - U = URBAN
 - P = PARKS
 - LI = LIGHT INDUSTRIAL
 - R = RESIDENTIAL
 - G = GRAZING

REVISION	DATE	DESCRIPTION	BY	APPROVED
R. M. TOWILL CORPORATION CIVIL ENGINEERS - SURVEYORS				
SAND QUARRY				
AT LAIE, KOOLAULOA, OAHU, HAWAII				
OWNER: ZIONS SECURITIES CORPORATION				
CONTRACTOR: DUEKSEN LANDSCAPING COMPANY				
TAX MAP KEYS: 5-5-05: POR. 1 & 18 5-5-09: 10, 45, POR. 23				
SITE PLAN WITH LAND USE ZONING				
THIS WORK WAS PREPARED BY ME OR UNDER MY SUPERVISION.				
 WILLIAM T. COLEMAN, JR. REGISTERED PROFESSIONAL ENGINEER No. 2374 HAWAII, U.S.A. 10/31/69				



NOTICE: Owner's, lessee's and vendee's names recorded on this tax map print may not be current.
Administrative Directive 24,68 (Rev.) dated November 21, 1968

FEB 15 1933
JUN 8 1934
APR 16 1935
FEB 1 1936
FEB 13 1943
MAY 1 1944
APR 1 1945
NOV 7 1945
JUN 8 1946
JUN 10 1947
JUN 8 1948
JUN 21 1949

UN 12 1953

*Return to
Land Use Commission Office*

SP70-80 DUERksen

Div. No: 1738
By: D.S.C. & L.H. Nov. 1933
Source: Tax Maps Bureau of A. & B. also
Survey Department

LAIE, KOOLAULO, OAHU.

NOTICE: Owner's, lessee's and vendee's
names recorded on this tax map print
may not be current.
Administrative Directive 24-68 (Rev.)
dated November 21, 1968.

FIRST DIVISION		
ZONE	SEC.	PLAT
5	5	05
CONTAINING PARCELS		
SCALE: 1 in. = 400 ft.		

ADVANCE SHEET
SUBJECT TO CHANGE

PRINTED JUN 8 1970



Dropped parcels: 15, 12, 16