Feb-22 - apr7 SP72-125 - CHRISTINE K. LINDSEY (WAIMEA)

## 3-19-12 Hi Indice Herald

## Land Use Panel OKs DHHL Move

The State Land Use Commission Friday approved an application by the Department of Hawaiian Home Lands (DHHL) to change the designation of 50 acres of land in Panaewa from agricultural to urban.

According to commission chairman Goro Inaba, no one appeared to oppose the action, but a letter requesting approval was received from Ann Nathaniel.

The decision opens the door for the department to subdivide the land into 120 lots for Hawaiian homesteads. Kwai Wah Lee has opposed the move on the grounds the opening of new lands would disperse the Keaukaha settlement.

But reports indicate there are approximately 200 persons on a DHHL waiting list in Hilo. According to the County Planning Department, the list does not include persons already in Keaukaha.

But Lee, a lessee on the DHHL's Keaukaha tract, has asked U.S. Attorney Robert Fukuda to investigate the possibility of Federal intervention to invalidate all DHHL powers granted in Act 271, by the 1965 State Legislature. According to Lee, the act would have to have been approved by the U.S. Congress and was not.

One of the powers Lee feels was illegally granted to the department was the power to initate rezoning such as has been done in Panaewa and Keaukaha.

Former Corporation Counsel Wendell Kimura wrote an

opinion in January which has been interpreted by County-Planning Director Raymond Suefuji to mean the County has no power to initiate rezoning of DHHL lands.

Although an opinion regarding the State's powers has not been made by Attorney General George Pai, Inaba has taken a stance similar to Suefuji's. But Inaba acknowledged that Federal court agreement with Lee's assertions could mean a reversal of Friday's action.

The commission denied two applications — one by Lydia Halas for a change in land use designation and the other by Christine K. Lindsey for a special permit to create a subdivision in an agricultural district.

The Halas application was for urban designation of 2.78 acres now designated agricultural in Honalo, Kuamoo, North Kona. According to Inaba, the denial was based on a County recommendation for denial and the lack of water and a sufficient right of way to the parcel.

Mrs. Lindsey's application was to permit a six-lot subdivision of a two-acre parcel in an agricultural district at Puukapu, South Kohala. Although the County Planning Commission had approved the move, Inaba said the Land Use Commission staff recommended denial.

"The intent of the law," Inaba said, "is to keep agricultural land in agricultural use."

Three public hearings, requiring no commission action;

were also held. They included:

—An application by the State Department of Transportation to change the designation of 289.5 acres in Waiakea, South Hilo from agricultural to urban. The application is a move toward the construction of a new overseas and inter-island terminal at General Lyman Field.

—An application by Hawaiian Real Estate Corp. to change the land usage designation of 18.57 acres at Waiakahiula, Puna from agricultural to urban. The County Planning Commission has recommended denial of the request. No other opposition was raised at the meeting.

—An application by Kona Senic Land, Inc. for a change of land use designation of 52 acres at Kealakekua, South Kona from agricultural to urban. Gold Coast Realty Co. realtor Richard Dennison and broker Harold Hasegawa testified in favor of the proposal.

The only other action on the commission's agenda was on an application by Ocean View Investment Co. seeking urban designation for 51.6 acres presently zoned agricultural in Ka'u.

A decision was deferred, however, on the applicant's request. Six of the eight commissioners were present at the meeting, Inaba said, and six votes are required for approval of a measure. That would make unanimous agreement necessary on any action passed, he explained.

March 20, 1972 Mrs. Christine K. Lindsey P. O. Box 9566 Honolulu, Hawaii 96820 Dear Mrs. Lindsey: The original of the attached letter disapproving your special permit request (SP72-125) to subdivide a 2-acre parcel into six residential lots, described as Tax Map Key 6-4-22: parcel 1, at Puukapu Homesteads, Waimea, South Kohala, Hawaii, is on file in the office of the Hawaii County Planning Department, 25 Aupuni Street, Hilo, Hawaii. Very truly yours, TATSUO FUJIMOTO Enclosure - 2 Executive Officer

March 20, 1972

Hawaii Planning Commission 25 Aupuni Street Hilo, Hawaii 96720

Attention: Mr. Raymond Suefuji, Planning Director Gentlemen:

This is to advise you that the special permit request by Christine K. Lindsey (SP72-125) to subdivide a 2-acre parcel into six residential lots, described as Tax Map Key 6-4-22: parcel 1, at Puukapu Homesteads, Waimea, South Kohala, Hawaii, was denied by the Land Use Commission at its meeting on March 17, 1972.

Prior to taking action on this request, the enclosed staff report was presented to the Commission.

Should you desire any further information, or have any questions, please feel free to contact us.

Very truly yours,

TATSUO PUJIMOTO Executive Officer cc: Mrs. Christine K. Lindsey

Mr. Tatsuo Fujimoto Page 2 March 13, 1972

Median annual rainfall is 50 inches, with a favorable year round distribution. The driest month receives 2 inches of rainfall while the wettest month has over 8 inches of rainfall.

These lands are suited for grazing or orchard uses.

SP72-125 Christine K. Lindsey South Kohala, Hawaii

The soils in this parcel are physically well suited for cropland uses. The foggy and cold climate prevents these lands from being classes as good. They are rated as Class C lands in their overall productivity rating.

Sincerely yours

Harold L. Baker

Director

## STATE OF HAWAII LAND USE COMMISSION

Minutes of Meeting

*APPROVED*JUN 2 1972

Alii Surf Room, Kona Hilton Hotel Kailua, Kona, Hawaii

March 17, 1972 - 10:45 a.m.

Commissioners Present: Goro Inaba, Chairman

Eddie Tangen, Vice Chairman

Sunao Kido Shelley Mark Leslie Wung

Stanley Sakahashi

Commissioners Absent:

Tanji Yamamura Alexander Napier

Staff Present:

Tatsuo Fujimoto, Executive Officer

Ah Sung Leong, Planner

Walton Hong, Deputy Attorney General Benjamin Matsubara, Dep. Atty. Gen.

Dora Horikawa, Stenographer

## ADOPTION OF MINUTES

It was moved by Commissioner Kido and seconded by Vice Chairman Tangen that the minutes of the meetings of January 7, 1972 and February 5, 1972 be approved as circulated. The motion was unanimously carried.

Chairman Inaba swore in persons wishing to testify before the Commission during today's proceedings.

## HEARINGS

PETITION BY DEPARTMENT OF TRANSPORTATION (A71-315) TO RECLASSIFY 289.5 ACRES FROM AGRICULTURAL TO URBAN AT WAIAKEA, SOUTH HILO, HAWAII

Mr. Tatsuo Fujimoto, Executive Officer, reported on the pertinent facts relative to the above petition and oriented the Commission to the subject site with the aid of the USGS map.

SPECIAL PERMIT APPLICATION BY CHRISTINE K. LINDSEY (SP72-125) FOR A SUBDIVISION AT PUUKAPU, SOUTH KOHALA, HAWAII

It was recommended by Mr. Leong, planner, that the special permit be disapproved based upon staff's findings (see copy of report on file).

Mr. Ronald Lindsey, husband of the petitioner, rebutted the adverse recommendation of the staff and submitted that the proposed use met all of the county requirements, all utilities were available, taxes on the agricultural lands have Deen assessed at residential rates, that this was not an application for a new subdivision but an extension of an existing 8-acre subdivision. He further testified that the subject 2-acre parcel was not suited for crops and there were no farms in the vicinity. Mr. Lindsey also spoke of the petitioner's obligation to maintain the residential character of the area to the people who had previously purchased the earlier subdivision.

Vice Chairman Tangen sympathized with the petitioner's plight. However, he emphasized that one of the prime responsibilities of the Land Use Commission is the preservation of agricultural lands and that it would be contrary to this objective for the Commission to approve a use that would remove the agricultural character of the land.

Commissioner Wung moved to approve the special permit request, which was seconded by Commissioner Sakahashi. The Commissioners were polled as follows:

Ayes: Commissioners Sakahashi, Wung, Chairman Inaba

Nays: Commissioners Mark, Tangen, Kido

The motion was not carried.

## TENTATIVE SCHEDULE

It was announced by the Executive Officer that a letter had been received from Mrs. Norma Carr, Chairman Pro tem, of PAUSE, OAHU, requesting that the April 7th meeting to discuss the Hawaiiloa Ridge development be held in the evening. It

## STATE OF HAWAII LAND USE COMMISSION

## VOTE RECORD

ITEM	SP72-125		CHRISTINE	K.	LINDSEY	DATE	March	17,	1972	
	3									
PLACE	Kona	Hil	ton Hotel			TIME	10:30	a.m.		
A. B. B. B. C.	Kona,	На	waii	-	Billion Construction Cons	Burketti-mark				

NAME	YES	МО	ABSTAIN	ABSENT
MARK, SHELLEY				
NAPIER, ALEXANDER		o g 5		/-
KIDO, SUNAO				
YAMAMURA, TANJI		š		
TANGEN, EDDIE				
SAKAHASHI, STAN	V.		•	
WUNG, LESLIE				
INABA, GORO	V	3		
8.				

Comments:

Motion pot carried for approval.

## STATE OF HAWAII LAND USE COMMISSION

Kona Hilton Hotel Kona, Hawaii March 17, 1972 10:30 a.m.

#### STAFF REPORT

SP72-125 - CHRISTINE K. LINDSEY

A special permit request to subdivide 2 acres of land situated within the Agricultural District at Puukapu Homesteads, Waimea, South Kohala, Hawaii, into 6 residential sized lots of 14,500 square feet each has been submitted by Christine K. Lindsey. The property is described as TMK 6-4-22: parcel 1.

The land under consideration fronts the north side of Mamalahoa Highway approximately 2.5 miles east of the Waimea Urban District in the Honokaa direction. A narrow roadway, part of which is paved, provides access to a "spur" subdivision containing 37 lots averaging 9,870 square feet in area. This subdivision was developed by the petitioner in 1963 and presently contains 6 homes. The subject property, as well as most of the surrounding areas, is presently used for pasture purposes. Generally, the few homes in the immediate area are located along the main highway. Land Study Bureau soil classification indicates that the soils are of the Nienie and Maile soil series. It is non-stony, well drained, dark brown in color, and well suited for

3-15-78 - sent appy to Luc

machine cultivation. The master productivity rating is "C" or fair for overall agricultural use; however, its potential for grazing use is "b" or good. Median annual rainfall is about 48 inches.

## County Recommendation

At its meeting on February 10, 1972, the Hawaii County Planning Commission voted unanimously to recommend approval of the request on the basis "that the proposed residential use is reasonable and would result in the best manner of development of the subject property in relation to the adjacent residential subdivision". It is noted that its decision was contrary to the recommendation of the Hawaii County Planning Department staff. The Hawaii County General Plan designates the area for intensive agriculture and the County zoning is Agriculture 1 acre.

Mr. Ronald Lindsey, petitioner's husband, submitted the following statements in support of the special permit request:

"1. We feel that the State of Hawaii has a moral obligation due to lease agreement made by the Hawaiian Home Commission with Mr. John Kahaikupuna (deceased). The lease stated that in exchange for an easement for a pipeline, he would receive a required amount of water. Somehow the Hawaiian Home Commission did not fulfill the lease. On numerous occasions, he found the livestock without water and had to cart them in barrels. Therefore, he resolved that at the termination of the lease, he would ask

the Hawaiian Home Commission to remove the pipes. Thus, at the time of the decision, he requested that the two-acre portion remain undivided. He passed away before his wishes were realized. His daughter, Christine K. Lindsey, willingly deeded a permanent easement to the State of Hawaii for which she was compensated the sum of \$99. I hereby state, if the Hawaiian Home Commission had carried out their part of the agreement, this property would have been completely subdivided leaving no necessity for this action.

- "2. All the lots in the approved subdivision have been sold and six houses have been built.
- "3. Since this is an agricultural area, the purchaser may use it for a hog farm or stock yard. Towards this event, we have a moral obligation to the purchasers of those 38 lots to do whatever we can to convert it to six residential lots so that the whole area remains residential."

## Analysis

It is recalled that a similar special permit request was made by the petitioner in December, 1966. During proceedings before the Land Use Commission, the Commission's staff noted that a significant portion of the vacant land in the area is taken up by non-conforming scattered subdivisions and that actual utilization of these lots for the purposes for which they were subdivided is practically nil. It was further noted that these residential subdivisions consisting of narrow straight spurs serve as prime examples of scattered subdivisions which shift agricultural lands into non-revenue

producing residential uses. Along a 2-mile section of
Mamalahoa Highway, 6 scattered spur subdivisions had been
platted before the effectuation of the Land Use Law.
The use proposed under this special permit would only add to
this urban scatter.

At the meeting of the Land Use Commission on January 13, 1967, the Land Use Commission staff recommended denial of the petition. A motion to approve the special permit contrary to the staff's recommendation failed to carry.

Since the denial of the original special permit request by the Land Use Commission on January 13, 1967, the staff can find no substantial new evidence in the petitioner's submittal to warrant a reversal of its recommendation made on January 13, 1967. It is noted that since that date, only one additional home was constructed in the subdivision developed by the petitioner in 1963.

Therefore, based on the findings that:

- 1. the use sought cannot be classified as <u>unusual</u> and is contrary to the objectives sought to be accomplished by the Land Use Law and Regulations,
- 2. It would adversely affect surrounding property by imposing urban uses where agricultural uses are predominant,

- unusual conditions, trends and needs have not developed since establishment of the boundaries and regulations,
- 4. the land is suited for the uses permitted within the district (agricultural),
- 5. the proposed use will substantially alter the essential character of the land, and
- 6. the proposed use will not make the highest and best use of the land for the public welfare, it is recommended that the special permit be disapproved.

# LUC EVES POINCIEWO

RED O. REEDY

State Land Use sion (LUC) is do not Friday on a by the Department dian Home Lands to redesignate 50 n Panaewa from ral to urban.

mmission will meet to a.m. in the y Room of the Kona otel.

tion to the DHHL, has come from the a Panaewa Comassociation which, in Jan. 6 to Land Use to Chairman Goro Inaba, asked the request be denied.

"Before Hawaiian Home Lands requests additional acreage for further residential expansion at Panaewa," the letter said, "it should first consider filling the many available lots at Keaukaha and second, fill the somewhat 40 open lots at Panaewa."

The letter, signed by Kwai Wah Lee, former association president, also pointed out the possible illegality of County or State government determination of DHHL land usage.

Since that time, however,

Lee resigned as president in order to act on his own behalf in calling for Federal intervention into a number of issues concerning Hawaiian home lands. One of the issues he has asked U.S. Attorney Robert Fukuda to halt is the proposed Panaewa land use designation change.

Lee feels the opening of new residential lands outside Keaukaha, which presently has some 50 acres rezoned in 1968 from residential to industrial, would tend to disperse homesteaders and dilute the Keaukaha community.

The County Planning

Commission had initially supported keeping the Panaewa acreage in agricultural usage following a decision by former County Corporation Counsel Wendell Kimura that the County has no power over DHHL zoning.

An opinion regarding the State's designative powers has been expected from State Attorney General George Pai.

But the Planning Commission reversed its stand at a meeting Feb. 25 after Planning Director Raymond Suefuji said his interpretation of Kimura's opinion meant only that the County could not initiate zoning but "the powers that be," the DHHL, owners of the land, could.

Also scheduled for Land Use Commission action are two other usage designation requests—one by Ocean View Investment Co., Inc. which is seeking urban designation for 51.6 acres presently zoned agricultural in Ka'u. The other is on a request by Lydia Halas for urban designation of 2.78 acres, now designated

See PANAEWA, Page 10

## O PANAEWA

agricultural, at Honalo, Kuamoo, North Kona.

In addition, the commission will decide whether to grant a special permit to Christine K. Lindsey to subdivide a two-acre parcel at Puukapu, South Kohala into six residential lots.

The commission has also scheduled three hearings. They include:

—An application by the State Department of Transportation to change the designation of 289.5 acres in Waiakea, South Hilo from agricultural to urban. The

request is a move toward the construction of a new overseas and inter-island terminal at General Lyman Field.

—An application by Hawaiian Real Estate Corp. to change the land usage designation of 18.57 acres at From Page 1

Waiakahiula, Puna from agricultural to urban.

—An application by Kona Senic Land, Inc. for a change of land use designation of 52 acres at Kealakekua, South Kona from agricultural to urban.

March 7, 1972 Mrs. Christine K. Lindsey P. O. Box 9566 Honolulu, Hawaii 96820 Dear Mrs. Lindsey: The Land Use Commission next meets on March 17, 1972, at 10:30 a.m., in the Discovery Room, Kona Hilton Hotel, Kona, Hawaii. At that time your application (SP72-125) to allow the subdivision of a two-acre parcel into six residential lots at Puukapu, South Kohala, Hawaii, will be heard. If a deferral is necessary, notify the Land Use Commission any time before the matter is called for consideration by the Commission at the meeting. The Commission will evaluate the reasons and consider the request for a deferral. Should you have any questions regarding this matter, please feel free to contact us. Very truly yours, TATSUO FUJIMOTO Executive Officer Enclosure - Agenda

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

March 6, 1972

#### NOTIFICATION OF SPECIAL PERMIT APPLICATION

SP72-125 - Christine K. Lindsey (South Kohala, Hawaii)

Please be advised that a special permit application has been filed with the Land Use Commission to allow the subdivision of a two acre parcel into six residential lots. The land is described as parcel 1 of Tax Map Key 6-4-22 and is located within the Agricultural District at Puukapu, South Kohala, Hawaii. The Hawaii County Planning Commission approved this request on February 10, 1972.

An action meeting on this application is scheduled for March 17, 1972\*.

We would appreciate any written comments for or against this request, or you or your agent may appear at the public hearing. Please do not hesitate to call this matter to the attention of other interested parties.

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

Very truly yours,

TATSUO FUJIMOTO Executive Officer

\*See enclosed agenda

FEB 2 2 1972

PLANNING COMMISSION

Planning Department County of Hawaii

State of Hawaii LAND USE COMMISSION

February 10, 1972

The Planning Commission met in a special session at 1:30 p.m., in the Conference Room of the Planning Department, County Building, with Vice Chairman Mauricio Valera, Jr., presiding.

ABSENT:

PRESENT: Mauricio Valera, Jr.

> Masayuki Kai Shigeji Kawasaki Roy H. Nagata Anthony C. Veriato Ed C. Watt

Raymond H. Suefuji Glenn T. Miyao

Richard Masuda, Public Works

and approximately 45 persons in public attendance

MINUTES

The minutes of the regular meeting held on January 20, 1972 were approved as circulated on a motion by Mr. Veriato, seconded by Mr. Kawasaki and carried.

REPORTS

The following letters received by the Planning Department were read as follows:

O. W. Efurd, Jr.

Clara K. Kahumoku

Skippy T. Yasutake

Akira Fujimoto, Ex-officio

Edward Harada, Ex-officio

Member

Member

"January 17, 1972

"Mr. O. W. Efurd, Chairman Planning Commission

"Attached is a copy of a letter sent today by this Association to the Department of Planning and Economic Development, Land Use Commission of the State of Hawaii.

"We hope you will join us in urging a reconsideration of the denial of the request for variance submitted by Mr. Murray.

"He is a current resident and will actively participate in the operation of one or more of the businesses contemplated in the project."

/s/ WILL R. FORKER. Pres., Hawaiian Ocean View Community Association, Inc.

"January 17, 1972

"Land Use Commission

Application for variance permit for a shopping center in "In Re: Hawaiian Ocean View Estates, Kau, by Ernest Leo Murray. (SP 71-120)

being proposed which would permit single family, double family and multiple dwelling units within Resort-Hotel districts. The directive to study the possibility of permitting these uses has come from the County Council and the Planning Department has reviewed the request and will introduce an amendment to the ordinance at today's meeting.

Mr. Veriato moved to approve this application for a use permit based on the staff's recommendation. The motion was seconded by Mr. Watt and adopted unanimously.

## ANNOUNCEMENT

The Vice Chairman announced for the information of the audience that there/six Commissioners present but one member has not been confirmed by the Council although he has been reappointed; therefore, five votes will be necessary to pass any motion. He asked that if anyone wishes to defer their requests until the full membership is present, they will have a full vote.

LAND USE COMMISSION SPECIAL PERMIT CHRISTINE K. LINDSEY PUUKAPU, SOUTH KOHALA Special permit to allow the subdivision of a two (2) acre parcel into six (6) lots each of which is approximately 14,500 square feet The proposed subdivision is within in area. the one (1) acre minimum lot Agricultural

The proposed subdivision is situated on the north side of the Mamalahoa Highway approximately 2.5 miles outside of Waimea in the Honckaa direction in Puukapu Homesteads 2nd Series, Puukapu, South Kohala.

The Vice Chairman called for staff presentation.

Staff Planner Miyao gave a review of the background information as presented at the public hearing of the previous meeting.

Since there were no further questions to the staff, the Vice Chairman called on the representative for any statement he wished to make.

Mr. Ronald Lindsey, husband of the applicant, stated that he felt the special permit would allow some of the things the Land Use Commission has denied them. He explained that it was not a denial because he was at that meeting and they lacked two votes; and even if the staff was against them, a lot of the Land Use Commission members saw fit that they be granted. Since then, things have changed and he wondered whether this is a matter of the Planning Commission. He mentioned that they have conformed according to the regulations about that six lots from the original nine lots and that the water, power and road passes through each lot at present. There is a subsivision in the back of it and he stated that there is hardly anything more to add except the additional pole to that particular lot if granted.

Mr. Lindsey brought out the matter of tax assessment in which they are paying \$191.49 per year for the two acres. He felt that if it is agricultural it is way off base because the adjoining lot of 30 acres, they would be paying \$2,872.20 per year. He mentioned that on the other side of 40 acres, they would be paying \$3,829.60. He remarked that they are being assessed on a residential basis and then denied the use of it so therefore this gives them an argument on their side.

Mr. Lindsey stated that in the past five years, Waimea has changed a lot with the influx of population there and in view of all the other subjivisions coming up, he could see the need for it. He explained that this is not a new subdivision and that this is the remaining lot which they lest

undivided to satisfy the original owner. He is now dead and gone and they want to subdivide. Since that time, the easement proposal was brought up for a permanent easement and Mrs. Lindsey willingly signed for \$99.00 to give the State of Hawaii a permanent easement on that corner lot and also with the Hilo Electric Light Company they gave them an easement for \$1.00 years ago when they wanted to pass the land.

Mr. Veriato queried as to whether this is for sale on fee simple basis.

Mr. Lindsey replied that they would like to sell it. He stated that there are 38 house lots already sold and the people have made good investments in it with homes built there. They have had inquiries from people who wanted to buy those two lots for a hog farm. He felt it was their duty to do whatever they could to see that this does not become a hog farm in front. As long as it is in their hands, he stated that they won't do a thing like that with people who bought the land from them. The buyers wanted for a horse pen and display pen for hogs because it is right on the road side.

Mr. Watt requested for staff recommendation.

Staff Planner Miyao recommended that the request be denied inasmuch as the guidelines for granting of a special permit have not been adequately met, namely that:

- The proposed residential use of the subject land would be contrary to the objectives sought to be accomplished by the Land Use Law and regulations governing agricultural lands.
- 2. The land upon which the proposed use is sought is suitable for the uses permitted within the district as denoted by the productivity rating of "C" which denotes fair overall suitability for agricultural use.
- The proposed residential use will substantially alter the essential character of the land and the present use.
- 4. The request to subdivide land below the one acre minimum requirement is not looked upon as being an unusual and reasonable request within an Agricultural District.

Mr. Watt expressed that the applicant has a legitimate claim. He did not see where they are helping him by keeping it in one-acre agricultural.

Mr. Veriato commented that it is a reasonable request and there is some demand for housing in that area. If left vacant, it will remain vacant.

Mr. Watt stated that the two acres after all does not make anybody live on it nowadays. He felt it will just compound the problem of keeping that little area hanging.

Mr. Veriato believed it would be tying up some land on the highway which could be ideal for house lots.

It was moved by Mr. Watt, seconded by Mr. Veriato and adopted unanimously that this special permit be granted.

Staff Planner Miyao remarked that perhaps he should make one point cleand that is that the Planning Commission does not automatically grant this permit. It goes to the Land Use Commission.

REGEIVE

FEB 2 2 1972

PLANNING COMMISSION

State of Hawaii LAND USE COMMISSION

Planning Department County of Hawaii

January 20, 1972

The Planning Commission met in regular session at 1:35 p.m., in the County Council Room, County Building, with Vice Chairman Mauricio Valera, Jr., presiding.

PRESENT:

Mauricio Valera, Jr. O. W. Efurd, Jr. Masayuki Kai Shigeji Kawasaki Roy H. Nagata Anthony C. Veriato Ed C. Watt Raymond H. Suefuji Masayoshi Onuma Glenn T. Miyao Sidney M. Fuke

ABSENT: Clara K. Kahumoku Skippy T. Yasutake

Akira Fujimoto, Ex-officio

Member

Edward Harada, Ex-officio

Member

Richard Masuda, Public Works

and approximately 45 persons in public attendance

SWEARING-IN CEREMONY

The Honorable Mr. Shunichi Kimura, Mayor, officially swore in to office the reappointed Commissioner Mr. Efurd. The Mayor expressed his appreciation for the past services and the kind of continued services that the County needs.

The Vice Chairman extended his congratulations on behalf of the members for the next term of Commissioner Efurd.

MINUTES

The minutes of the special meeting held on December 10, 1971 and the minutes of the regular meeting held on December 22, 1971 were approved as circulated on a motion by Mr. Veriato, seconded by Mr. Nagata and carried.

REPORT

The Vice Chairman read the following letter received from the Land Use Commission:

"Planning Commission

"This is to advise you that the special permit request by Ernest Leo Murray to construct a shopping center complex on a 1.4-acre parcel described as TMK 9-2-85: 28, at Kahuku, Ka'u, Hawaii, was denied by the Land Use Commission at its meeting on January 7, 1972.

"Prior to taking action on this request, the enclosed staff report was presented to the Commission.

"Should you desire any further information, or have any questions, please feel free to contact us."

/s/ TATSUO FUJIMOTO Executive Officer

CHANGE OF ZONE
NORTHRIDGE ESTATES, LTD.
KALOKO, NORTH KONA

Rezoning of approximately 10.666 acres of land located about 1,000 feet north of Palani junction and fronting the mauka side of the old Mamalahoa Highway in Kaloko mauka, North

Kona, from Agricultural - 3 Acre (A-3a) zone to Agricultural - 1 Acre (A-la) zone.

The Vice Chairman called for staff recommendation.

Staff Planner Onuma recommended approval based on the following reasons:

- 1. The change of zone would not entail unreasonable demand for governmental services. Adequate amenities are available.
- 2. Granting of the application would result in a more appropriate land use pattern inasmuch as adjacent properties are zoned for Agricultural 1 Acre use.

Condition of approval is that a subdivision application shall be submitted within one year of date of approval if the rezoning is approved by the County Council. If the condition is not complied with, the Planning Commission reserves the right to review the application for possible down-zoning.

Mr. Kawasaki moved to recommend to the Council for the change of zoning as requested with the stipulation as set forth by the staff. The motion was seconded by Mr. Watt and carried.

LAND USE COMMISSION
SPECIAL PERMIT
CHRISTINE K. LINDSEY
PUUKAPU, SOUTH KOHALA

Special permit to allow the subdivision of a two (2) acre parcel into six (6) lots each of which is approximately 14,500 square feet in area. The proposed subdivision is within the one (1) acre minimum lot Agricultural

District. The proposed subdivision is situated on the north side of the Mamalahoa Highway approximately 2.5 miles outside of Waimea in the Honokaa direction in Puukapu Homesteads, 2nd Series, Puukapu, South Kohala.

The action was deferred to a later meeting in February because the State Land Use Commission regulations prohibits decision on such a petition earlier than 15 days after the public hearing.

LAND USE COMMISSION SPECIAL PERMIT W. H. SHIPMAN, LTD. KEAAU, PUNA

Special permit to allow the consolidation and resubdivision of lots below the one (1) acre minimum lot size in an Agricultural District. The consolidation (8,945 square feet, 12,277 square feet and 20.40 acres)

and resubdivision would create lots of 15,277 square feet, 21,117 square feet and 20.170 acres of which two are below the one (1) acre minimum lot size requirement. The proposed subdivision is situated at the northeast corner of the Old Volcano Road and Milo Street intersection in Keaau Village, Keaau, Puna.

The action was deferred to the next meeting/February for the same reason as the foregoing item.

ELECTION OF CHAIRMAN & VICE CHAIRMAN

The Vice Chairman called for a report of the Nominating Committee.

County of Hawaii



FEB 2 2 1972

Applicant	Christine 1	K. Lind	lsey	
Date of Pu	blic Hearing	1/20/7	2	
Date of De	cision 2/10,	/72		
Meeting Pl	ace Planning	Dept.	Conf.	Room
Date Decis	ion and Findin 2/18/72	gs Forwa	rded	
<	P75 15			

State of Hawaii LAND USE COMMISSION

SPECIAL PERKIT

The Planning Commission of the County of Hawaii pursuant to consideration required by the provisions of act 204, SIH 1963, hereby transmits the decision and findings of the above special permit request to use the following described property:

A portion of Grant 7333 (Being a portion of Lot 105, Puukapu Homesteads) Waimea, South Kohala, Hawaii. TMK: 6-4-22:1

for the following purpose(s):

To allow the creation of urban-sized lots within the one (1) acre minimum lot size Agricultural district.

The Commission decided to: Recommend approval of the request. on the basis of the following findings:

that the proposed residential use is reasonable and would result in the best manner of development of the subject property in relation to the adjacent residential subdivision.

Mauricio Valera, Jr., Vice Char for O. W. Efurd, Jr., Chairman Vice Chairman

Copy for LUC



PLANNING COMMISSION

Planning Department County of Hawaii

January 20, 1972

FEB 2 2 1972

State of Hawaii
LAND USE COMMISSION

A regularly advertised public hearing, on the application of Christine K. Lindsey for a special permit, was called to order at 4:29 p.m., in the County Council Room, County Building, by Vice Chairman Mauricio Valera, Jr.

PRESENT: Mauricio Valera, Jr.
O. W. Efurd, Jr.
Masayuki Kai
Shigeji Kawasaki
Roy H. Nagata
Anthony C. Veriato
Ed C. Watt
Raymond H. Suefuji
Masayoshi Onuma
Glenn T. Miyao

Sidney M. Fuke

ABSENT: Clara K. Kahumoku
Skippy T. Yasutake
Akira Fujimoto, Ex-officio
Member
Edward Harada, Ex-officio
Member

Richard Masuda, Public Works

and approximately 15 persons in public attendance

NOTICE OF A PUBLIC HEARING

Special Permit: Puukapu, South Kohala, Hawaii

NOTICE IS HEREBY GIVEN of a public hearing to be held in the County Council room, County Building, Hilo, Hawaii, State of Hawaii, at 4:30 p.m., January 20, 1972 to consider the application of Christine K. Lindsey, owner, for a Special Permit within the County of Hawaii in accordance with the provision of Section 98H-6, Revised Laws of Hawaii 1955, as amended.

The Special Permit is for the purpose of allowing the subdivision of a two (2) acre parcel into six (6) lots each of which is approximately 14,500 square feet in area. The proposed subdivision is within the one (1) acre minimum lot size Agricultural District. The proposed subdivision is situated on the north side of the Mamalahoa Highway approximately 2.5 miles outside of Waimea in the Honokaa direction in Puukapu Homesteads, 2nd Series, South Kohala, Hawaii, under Tax Map Key 6-4-22:1.

Maps showing the area under consideration for Special Permit and the rules and regulations governing the application for Special Permit are on file in the office of the Planning Department in the County Building at 25 Aupuni Street and are open to inspection during office hours.

All written protests or comments regarding the above Special Permit application may be filed with the Planning Commission before the date of the public hearing or submitted in person at the public hearing or no later than fifteen (15) days following the public hearing.

PLANNING COMMISSION
OF THE COUNTY OF HAWAII
MAURICIO VALERA, JR., VICE CHAIRMAN
By: raymond H. Suefuji, Director

VICE CHAIRMAN: Under New Business, Notice of a public hearing, special permit, Puukapu, South Kohala, Hawaii. (The Vice Chairman read the public hearing notice in its entirety.)

Staff presentation please.

STAFF PLANNER ONUMA: The applicant, Christine Lindsey, is requesting a special permit as required within the State Land Use Agricultural District to create urban sized lots within the one (1) acre minimum lot size Agricultural District. The proposed subdivision is situated on the north side of the Mamalahoa Highway in the Puukapu Homesteads area approximately 2.5 miles outside of Waimea in the Honokaa direction.

The development proposal is to subdivide a two (2) acre parcel into six (6) lots each of which is approximately 14,500 square feet in size. The two (2) acre parcel under consideration is part of thirty-eight (38) lot subdivision originally subdivided in 1963 prior to the adoption of the Land Use Law and the Subdivision Ordinance. The other thirty-seven (37) lots presently containing twelve (12) residences were subdivided into lots averaging 9,870 square feet in size.

The two (2) acre parcel was not further subdivided into urban sized lots in 1963 for the reason that John Kahaikupuna, the applicant's father, was dissatisfied with the Hawaiian Homes Commission. There was an understanding and agreement between Mr. Kahaikupuna and the Hawaiian Homes Commission that Mr. Kahaikupuna would be given the right to draw water free of charge in return for granting a twenty (20) foot water easement over the property under consideration. This was not done by the Hawaiian Homes Commission therefore the two (2) acre parcel was left undivided and in agricultural use.

This reasoning was presented when a similar application was brought before the County Planning Commission and the Land Use Commission in 1966-67.

The 1966 special permit application had requested that the two (2) acre parcel be allowed to be subdivided into nine (9) lots each averaging 9,280 square feet in size.

Approval of the special permit request was recommended by the County Planning Commission in November 1966 based on the following:

- 1. Proposed subdivision is in conformance with the Gounty General Plan.
- 2. Proposed use will not require additional governmental improvements.
- 3. Proposed use will not essentially change the character of the area as there are urban-sized lots adjacent to this area.

Conditions set by the County agency are:

- 1. The request to create nine (9) lots be modified to six (6) lots (approximately 14,500 square feet each).
- 2. The lot fronting the Mamalahoa Highway shall include the fifty (50) foot power line easement and twenty (20) foot pipe line easement. This lot shall remain in open space for the power and water line easements.
- 3. Subdivision be in conformance with County regulations.
- 4. Proposed subdivision be supplied to the Planning Commission within one year as of the date the Land Use Commission approves this special permit or deem the request null and void.

In January 1967, the Land Use Commission voted to deny the granting of a special permit based on the following: The use sought cannot be classified as unusual and is contrary to the objectives sought to be accomplished by the Land Use Law and Regulations. It would adversely affect surrounding property by imposing urban uses where agricultural uses are predominant. Unusual conditions, trends and needs have not developed since establishment of the boundaries and regulations. The land is suited for the uses permitted within the district 4. (Agricultural). 5. The proposed use will substantially alter the essential character of the land. The proposed/will not make the highest and best use of the land for the public welfare. For these reasons, the Land Use Commission voted to deny the request. The Land Study Bureau places soils of the subject property in the Nienie and Maile soil series. It is nonstony, well-drained, dark brown in color and well-suited for machine cultivation. The master productivity rating is "C," denoting fair overall suitability for agricultural use. Median annual rainfall approximates 48 inches in this area. With the exception of a few houses in the subdivided portion of petitioner's land and along the south side of Mamalahoa Highway, the surrounding area is predominantly in pasture. A sizable portion of vacant land in the area is taken up by nonconforming scattered subdivisions (a total of 554 lots in these subdivisions). Actual utilization of these lots for the purpose for which they were subdivided is practically nil, as evidenced by the number of actual homes constructed. These urban residential subdivisions, consisting of narrow straight spurs serve as prime examples of scattered subdivisions which shift agricultural lands into nonrevenue producing residential uses. Along a two-mile section of Mamalahoa Highway fronting the subject lands, six scattered spur subdivisions have been platted before the effectuation of the Land Use Law. proposed under this special plan would only add to this urban scatter. The General Plan redesignates the area for intensive agricultural use. The County zoning is A-la. VICE CHAIRMAN: Thank you. Any questions Commissioners? If not, is the applicant here to give further testimony? RONALD LINDSEY: My name is Ronald Lindsey. I am husband of Christine Lindsey who made the application. I would like to further state that there are some unwritten things involved in this and maybe you men are not aware First of all, John Kahaikupuna who owned the property then could hardly read or write; and at that time, the Hawaiian Homes Commission came to him with an easement. They explained to him in detail and he willingly signed and for that he was supposed to be drawing 100,000 gallon of water per month for his livestock. On many many occasions, the Hawaiian Homes Commission - 3 -

could not fulfill this. In fact, I think the ditch remained without water for 5 years or some odd years. Though he was a man who couldn't read or write, he was a man of high integrity. He said, "when I get through and when the lease expires, I am going to make the Hawaiian Homes Commission take that pipeline out, therefore, I don't want you to subdivide the front portion." Like an obedient daughter, Christine Lindsey obliged. That's why the front section remains undivided today; for who would divide the back and leave the front undivided. And so, since that time, we have sold every single parcel of land. There has been so many homes put up and I am standing here this afternoon for this reason alone. We have sold these lots to these people in good faith and paid good money for these lands. Somehow, we are going to sell this property; we are not going to maintain it. It is for resale. If it remains 2 acres and we've had several inquiries by people wanting to make stock display, pen for their livestock; because you know most of the ranches are hidden way back in the valleys or in the plains and that a place on the road side would be an ideal spot and also for hog farm. Now, in the best interest of the people who had bought these lots in the back in good faith, I believe I should do all I can to see that this part is subdivided so that six more houses could come up. I know you men of good judgment; I trust that you do accordingly.

VICE CHAIRMAN: Thank you. Any other person wishing to give testimony in favor of this application? Anyone here wishing to give testimony against this application?

If not, what is your pleasure gentlemen.

COMMISSIONER VERIATO: Mr. Chairman, I move to close this public hearing.

COMMISSIONER EFURD: Second.

VICE CHAIRMAN: It has been moved and seconded that the public hearing be closed. Any further discussion?

COMMISSIONER EFURD: Question.

VICE CHAIRMAN: All those in favor, say aye. .

COMMISSIONERS: Aye.

VICE CHAIRMAN: Opposed? Carried.

The public hearing was adjourned at 4:40 p.m.

Respectfully submitted,

Lei A. Tsuji, Secretary

ATTEST:

Mauricio Valera, Jr.

Vice Chairman

Planning Commission

Mr. Raymond Suefuji, Director Planning Commission County of Hawaii 25 Aupuni Street Hilo, Hawaii

Dear Mr. Suefuji:

Enclosed are seven copies of your official applications together with a check of \$100 as requested. In my letter of October 23, 1971, I stated various reasons why we felt a special permit should be granted. May I further state that during the past month some of the inquiries from prospective buyers were for the purpose of hog farms and cattle display pens. I sincerely feel that we have an obligation to those who purchased the 38 lots to do everything possible to keep this property from becoming a hog farm.

This is not a request for a new subdivision. Actually, this is an incomplete part of a subdivision. It is too small for agricultural purposes such as hog farming or cattle raising or truck farming.

Hoping our request be granted as you have done in 1967.

Yours truly,

Ronald Lindsey

for Christine Lindsey

COUNTY OF HAWAII

COUNTY PLANNING DEPARTMENT

FOR OFFICIAL USE ONLY

Date	petition and fee received by Commission
Date	petition is scheduled for public hearing
Date	Commission took action and its ruling

## APPLICATION FOR SPECIAL PERMIT

(I) (We) hereby request approval for a Special Permit to use certain property located at <u>Puukapu Homesteads</u>, <u>Waimea</u>, <u>So. Kohala</u>, <u>HI (por. of Lot 105 in accordance with provisions of Section 98H-6, Act 205, SLH 1963 for the following described purpose.</u>

Subdivide into six residential lots

## Description of Property:

As shown in tax map key 6-4-22:1 Area 2.00 acres

Petitioner's interest in subject property:

The property is situated in a(n)

REMARKS:

Sole owner

Petitioner's reason(s) for requesting Special Permit:

NOTE: The applicant must show that all of the following conditions exist:

1) that there are unusual or exceptional circumstances applying to the subject property, building or use which do not generally apply to surrounding property or improvements in the same zone district; 2) that the unusual or exceptional circumstances which apply to the subject property, building or use are reasonable and proper and will not be materially detrimental to public health, safety, morals, and general welfare; nor will it be injurious to improvements or property rights related to property in the surrounding area; 3) that the strict enforcement of the zoning regulation would result in practical difficulties and unnecessary hardship inconsistent with the intent and purpose of Act 205; and 4) that the granting of a special permit will not be contrary to the objectives of the Master Plan or Plans of the State and/or County Government.

As explained in the attached letter and also in the letter dated--October 23, 1971

will be accompanied with a deposit of \$100.00 to cover administrative costs and a map of the area proposed for	
Address P.O. Box 9566, Honolulu, H1 9685	10
Telephone 841-0883	20
This space for official use	

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PLANNING DEPT.
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# 380 Units Before

# Commission

The County Planning Commission Thursday will consider an application by HSC, Inc. for a zoning change which would allow that firm to develop a 380-unit housing complex on a 37-acre parcel on the makai side of Kemohana Street on the Puna side of Kukuau Street.

Presently zoned single family residential, 7,500 square feet minimum lot size, the developers are seeking multiple family residential designation.

The proposed development would consist of 32 single family units, a 128-unit townhouse complex and a 220-unit apartment complex.

The commission will meet at 1:30 p.m. in the Planning

Department's conference room. Also on the agenda are one other preliminary hearing, three public hearings, action on three applications, one for a variance and two for special permits, consideration of two State Land Use requests for recommendations and an application for a zoning change.

A preliminary hearing is scheduled on the application of the Wainaku Congregation of Jehovah's Witnesses for a variance to allow an addition to its existing church consisting of a storage building, foyer and service area.

The hearing was deferred at the commission's last meeting Jan. 20 in order that

a survey could be made of the 645 Wainaku Avenue lot.

The public hearings are scheduled to begin at 3 p.m. with the application of Dothrae L. Victorine for a variance to allow the construction of a 40-foot wide cul-de-sac in lieu of the 50-foot requirement for County dedicable cul-de-sacs in Kaumana, Ponahawai, South Hilo.

Other public hearings include:

—Application by the Highways Division, State Department of Transportation for variances to create lots below the minimum size requirements and which do not conform to setback requirements

resulting from proposed improvements to the Mahukona-Hawi road project which involves the acquisition of portions of properties in North Kohala.

—Application by Hilo Coast Processing Co. for a variance from the minimum lot sizes in conjunction with a move to acquire leases for 25,980 acres of cane land in North and South Hilo.

The three applications up for action are:

—Henry K. Kikuda's application for a variance to allow the construction of a duplex residential unit in lieu of a minimum four-unit apartment requirement on the makai side of Alii Drive in Kahului, North Kona.

Christine K. Lindsey's request for a special permit to allow the subdivision of a two-acre parcel into six lots of approximately 14,500 square feet.

The proposed subdivision is in an agricultural, one-acre minimum lot size zone in Puukapu Homesteads, South Kohala.

—Application by W. H. Shipman, Ltd. for a special permit to consolidate and resubdivide lots below the one-acre minimum lot size in an Agricultural district in Keaau, Puna.

Lots of 8,945 and 12,277 square feet and 20.4 acres will, if approved by the Planning Commission, be resubdivided into lots of 15,277 and 21,117 square feet and 20.17 acres.

The State Land Use Commission requests for comments and recommendations are:

—A petition by Hawaiian Real Estate Corp., representing Hawaiian Beaches, Inc. and Hawaiian Parks, Inc. for a change of land use boundaries from agricultural to urban district for land in Waiakahiula, Puna.

—A petition by WLT
Management Co., agents for
North American Acceptance
Corp., for a change of land
use boundaries from
agricultural to urban district
for a 3,875 acre area
southeast of the South Kona

forest reserve in the vicinity of the Kaapuna Lava Flow of 1950.

Also scheduled is consideration of an application by Kealakekua Ranch, Ltd. for a change in zoning of approximately 73.5 acres from agricultural, one and five-acre minimum to single family residential, 10,000

square foot and a 3.1-acre area from an agricultural, one-acre zone to neighborhood commercial, 7,500 square foot zone.

The land in question is located between the Mamalahoa Highway and the lower government road leading to Kealakekua Bay in South Kona.

Mr. Raymond Suefuji, Director Planning Commission County of Hawaii 25 Aupuni Street Hilo, Hawaii

Mr. Suefuji:

In January 1967, we submitted an application for a special permit to subdivide a two-acre parcel districted to agricultural use (SP66-38), Christine K. Lindsey, subdivider; being a portion of Lot 105, Puukapu Homestead, Waimea, South Kohala, Hawaii. Tax map 6-4-22:1.

At this time, we have received your approval providing certain changes were made as recommended. But final approval was denied by the Land Use Commission. See attached copies. We are again submitting an application with changes made as recommended. See attached map. Listed below are the reasons:

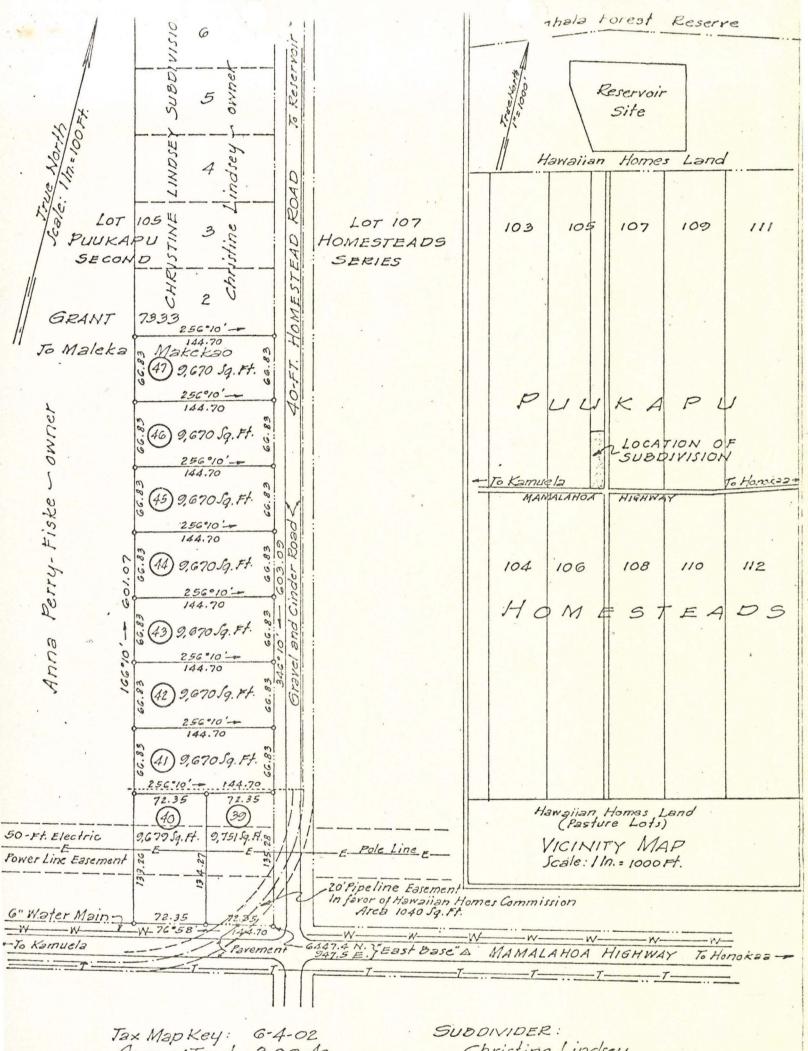
- 1. We feel that the state of Hawaii has a moral obligation due to lease agreement made by the Hawaiian Home Commission with Mr. John Kahaikupuna (deceased). The lease stated that in exchange for an easement for a pipeline, he would receive a required amount of water. Somehow the Hawaiian Home Commission did not fulfill the lease. On numerous occasions, he found the livestock without water and had to cart them in barrels. Therefore, he resolved that at the termination of the lease, he would ask the Hawaiian Home Commission to remove the pipes. Thus, at the time of the decision, he requested that the two-acre portion remain undivided. He passed away before his wishes were realized. His daughter, Christine K. Lindsey, willingly deeded a permanent easement to the state of Hawaii for which she was compensated the sum of \$99. I hereby state, if the Hawaiian Home Commission had carried out their part of the agreement, this property would have been completely subdivided leaving no necessity for this action.
- 2. All the lots in the approved subdivision have been sold and six houses have been built.
- 3. Since this is an agricultural area, the purchaser may use if for a nog farm or stock yard. Towards this event, we have a moral obligation to the purchasers of those 38 lots to do whatever we can to convert it to six residential lots so that the whole area remains residential.

Hoping for a favorable decision I remain.

Yours truly,

By Ronald Lindsey For Christine Lindsey

Encl.

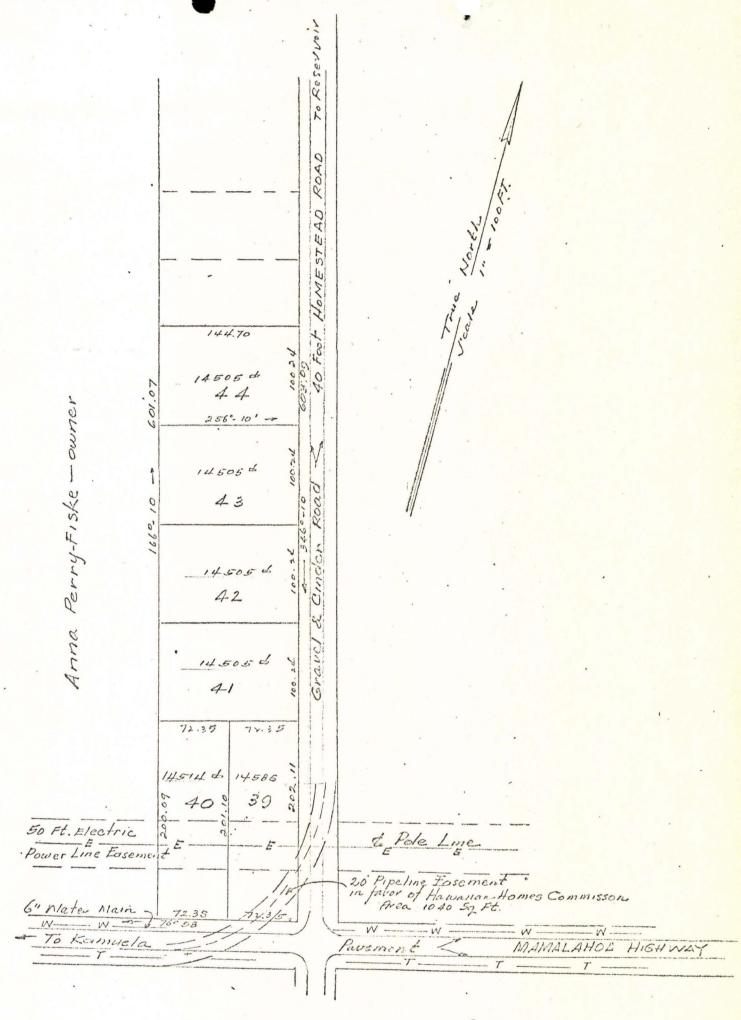


Tax Map Key: 6-4-02 Area of Tract 2.00 Ac. Number of Lots - 9

Subdivider:
Christine Lindsey
P.O. Box 23, Honolulu, Hawaii



Suppivision of
A Portion of Grant 7333 to Maleka Makekao
(Being a portion of Lot 105, Puukapu Homesteads)
Waimea, South Kohala, Hawaii
Scale: I Inch= 100Feet
Plan by Murray, Smith & Associates, Ltd. ~ July, 1963
P.O. Box 863, Hilo, Hawaii



Tax Map Key 6 4.02 Area of Tract 2.00 Ac. Number of Lois - 6

SUBDIVIOER: Christine Lindsoy P.O. Box 23. Honoluly, Hawrin

A Portion of Grant 1333 to Maleka Mokekac (Being a portion of Lot 105, Punkapu Homesteachs Waimea, South Kohala Hawaii Scale IInch: 100 Feet

