

SPECIAL PERMIT

Petition Received 9/19/78
Maps Time Extension
Action Span 9/19/78 - 11/3/78
Action Date 10/19/78
Recordation _____

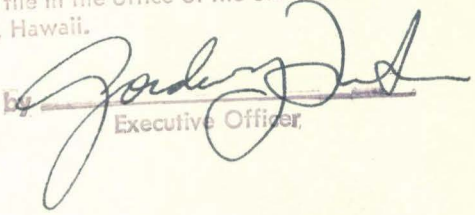
BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition)	SP76-255
of Stanley Shimizu for)	
Time Extension)	FINDINGS OF FACT, CONCLUSIONS
_____)	OF LAW AND DECISION AND ORDER

This is to certify that this is a true and correct copy of the
Decision and Order on file in the office of the State Land Use
Commission, Honolulu, Hawaii.

DEC 18 1978

Date

by  Executive Officer,

DECISION AND ORDER

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition)	SP76-255
of Stanley Shimizu for)	
Time Extension)	FINDINGS OF FACT, CONCLUSIONS
_____)	OF LAW AND DECISION AND ORDER

The Land Use Commission of the State of Hawaii, having duly considered the entire record in the above entitled matter, makes the following findings of fact and conclusions of law.

FINDINGS OF FACT

1. The Petitioner, Stanley Shimizu, is requesting a six (6) month time extension to allow the construction of a freezer/storage and office facility on approximately one (1) acre of land situated within the State Land Use Agricultural District at Ke'ei 2nd, South Kona, Hawaii, Tax Map Key 8-3-10: portion of 37.

2. Condition Number One (1) of Special Permit Number 76-255 issued on January 20, 1977, by the Land Use Commission required that construction of the freezer/storage and office facility commence by January 20, 1978.

3. By letter dated May 18, 1978, the Land Use Commission advised all county planning departments, including the Hawaii County Planning Department, that the Commission will not henceforth approve requests for time extension, if the request is filed after the commencement or expiration dates stipulated in the permit had lapsed.

4. The Petitioner filed for a time extension on July 31, 1978, a period of time nearly six (6) months after the expiration of the commencement date within the permit.

5. The Petitioner states that he was aware that the request for extension should have been applied for prior to the expiration date of January 20, 1978, but that he was unaware that the contractor failed to apply for an extension.

6. The Petitioner also stated that the reasons for non-compliance with the construction time condition was the result of various factors, including the necessity of revising construction plans, heavy work load of the contractor, and the delay in arrival of building materials from the mainland.

CONCLUSIONS OF LAW

1. Rule 9-3(1) of the Rules of Practice and Procedure of the Land Use Commission require that a reasonable time limit for establishing the use be imposed as a condition of the Special Permit.

2. The reasonable time limit for establishing the use as required in Special Permit Number 76-255 was not complied with.

3. The Petitioner failed to request a timely extension of the time condition within the permit.

4. Therefore, Special Permit Number 76-255 expired by operation of law.

5. The Land Use Commission of the State of Hawaii is, therefore, unable to approve the request for extension inasmuch as the permit has expired by operation of law.

6. The Commission's conclusions are not based upon any determination of the need, or the lack of need of the proposed facility.

DECISION AND ORDER

IT IS HEREBY ORDERED that Special Permit Number

76-255, requesting a six (6) month extension of the time condition for establishing the freezer/storage facility on approximately one (1) acre of land situated within the Land Use Agricultural District at Ke'ei 2nd, South Kona, Hawaii, Tax Map Key 8-3-10: portion of 37, be and is hereby denied approval for the foregoing reasons.

DATED: Honolulu, Hawaii December 13, 1978

LAND USE COMMISSION

By C. W. Duke
C. W. DUKE
Chairman and Commissioner

By Shinichi Nakagawa
SHINICHI NAKAGAWA
Vice Chairman and Commissioner

By James R. Carras
JAMES R. CARRAS
Commissioner

By Shinsei Miyasato
SHINSEI MIYASATO
Commissioner

By Mitsuo Oura
MITSUO OURA
Commissioner

By George R. Pascua
GEORGE R. PASCUA
Commissioner

By Carol B. Whitesell
CAROL B. WHITESELL
Commissioner

No. 179534

RECEIPT FOR CERTIFIED MAIL

NO INSURANCE COVERAGE PROVIDED—
NOT FOR INTERNATIONAL MAIL

(See Reverse)

SENT TO

Sidney Fuke

STREET AND NO.

25 Aupuni Street

P.O., STATE AND ZIP CODE

Hilo, Hawaii 96720

POSTAGE

\$.41

CERTIFIED FEE

.80 ¢

SPECIAL DELIVERY

¢

RESTRICTED DELIVERY

¢

OPTIONAL SERVICES

RETURN RECEIPT SERVICE

SHOW TO WHOM AND DATE
DELIVERED

.40 ¢

SHOW TO WHOM, DATE, AND
ADDRESS OF DELIVERY

¢

SHOW TO WHOM AND DATE
DELIVERED WITH RESTRICTED
DELIVERY

¢

SHOW TO WHOM, DATE AND
ADDRESS OF DELIVERY WITH
RESTRICTED DELIVERY

¢

TOTAL POSTAGE AND FEES

\$ 1.66

POSTMARK OR DATE



SP75-224 & SP76-255

PS Form 3800, Apr. 1976

- SENDER: Complete items 1, 2, and 3.
Add your address in the "RETURN TO" space on reverse.

1. The following service is requested (check one).

- ☒ Show to whom and date delivered.....\$
☐ Show to whom, date, and address of delivery.....\$
☐ RESTRICTED DELIVERY
 Show to whom and date delivered.....\$
☐ RESTRICTED DELIVERY
 Show to whom, date, and address of delivery. \$
 (CONSULT POSTMASTER FOR FEES)

2. ARTICLE ADDRESSED TO:

Sidney Fuke

3. ARTICLE DESCRIPTION:

REGISTERED NO.	CERTIFIED NO.	INSURED NO.
	179534	

(Always obtain signature of addressee or agent)

I have received the article described above.

SIGNATURE ☒ Addressee ☐ Authorized agent

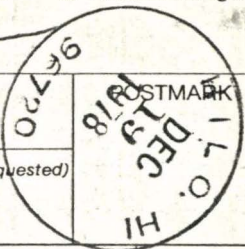
4. DATE OF DELIVERY

12/19/78

5. ADDRESS (Complete only if requested)

6. UNABLE TO DELIVER BECAUSE:

CLERK'S
INITIALS



No. 179535

RECEIPT FOR CERTIFIED MAIL

NO INSURANCE COVERAGE PROVIDED—
NOT FOR INTERNATIONAL MAIL

(See Reverse)

SENT TO

STANLEY S. SHIMIZU

STREET AND NO.

P. O. Box 117

P.O., STATE AND ZIP CODE

Honaunau, HI 96726

POSTAGE

\$.28

CERTIFIED FEE

.80 ¢

CONSULT POSTMASTER FOR FEES

OPTIONAL SERVICES

SPECIAL DELIVERY

¢

RESTRICTED DELIVERY

¢

RETURN RECEIPT SERVICE

SHOW TO WHOM AND DATE
DELIVERED

.45 ¢

SHOW TO WHOM, DATE, AND
ADDRESS OF DELIVERY

¢

SHOW TO WHOM AND DATE
DELIVERED WITH RESTRICTED
DELIVERY

¢

SHOW TO WHOM, DATE AND
ADDRESS OF DELIVERY WITH
RESTRICTED DELIVERY

¢

TOTAL POSTAGE AND FEES

\$1.53

POSTMARK OR DATE



SP76-255

**STICK POSTAGE STAMPS TO ARTICLE TO COVER FIRST CLASS POSTAGE,
CERTIFIED MAIL FEE, AND CHARGES FOR ANY SELECTED OPTIONAL SERVICES. (see front)**

1. If you want this receipt postmarked, stick the gummed stub on the left portion of the address side of the article, **leaving the receipt attached**, and present the article at a post office service window or hand it to your rural carrier. (no extra charge)
2. If you do not want this receipt postmarked, stick the gummed stub on the left portion of the address side of the article, date, detach and retain the receipt, and mail the article.
3. If you want a return receipt, write the certified-mail number and your name and address on a return receipt card, Form 3811, and attach it to the front of the article by means of the gummed ends if space permits. Otherwise, affix to back of article. Endorse front of article **RETURN RECEIPT REQUESTED** adjacent to the number.
4. If you want delivery restricted to the addressee, or to an authorized agent of the addressee, endorse **RESTRICTED DELIVERY** on the front of the article.
5. Enter fees for the services requested in the appropriate spaces on the front of this receipt. If return receipt is requested, check the applicable blocks in Item 1 of Form 3811.
6. Save this receipt and present it if you make inquiry.

- SENDER: Complete items 1, 2, and 3.
Add your address in the "RETURN TO" space on reverse.

1. The following service is requested (check one).

- ☒ Show to whom and date delivered.....\$
☐ Show to whom, date, and address of delivery.....\$
☐ RESTRICTED DELIVERY
 Show to whom and date delivered.....\$
☐ RESTRICTED DELIVERY
 Show to whom, date, and address of delivery.\$_____
 (CONSULT POSTMASTER FOR FEES)

2. ARTICLE ADDRESSED TO:

STANLEY S. SHIMIZU

3. ARTICLE DESCRIPTION:

REGISTERED NO.	CERTIFIED NO.	INSURED NO.
	179535	

(Always obtain signature of addressee or agent)

I have received the article described above.

SIGNATURE ☐ Addressee ☒ Authorized agent

4.

DATE OF DELIVERY

12-21-78

5. ADDRESS(Complete only if requested)

6. UNABLE TO DELIVER BECAUSE:

CLERK'S
INITIALS



UNITED STATES POSTAL SERVICE
OFFICIAL BUSINESS

SENDER INSTRUCTIONS

Print your name, address, and ZIP CODE in the space below.

- Complete items 1, 2, and 3 on the reverse.
- Moisten gummed ends and attach to front of article if space permits. Otherwise affix to back of article.
- Endorse article "Return Receipt Requested" adjacent to number.

PENALTY FOR PRIVATE
USE TO AVOID PAYMENT
OF POSTAGE, \$300



**RETURN
TO**



State of Hawaii
LAND USE COMMISSION
Suite 1795, Pacific Trade Center
190 South King Street

Honolulu, Hawaii 96813

(Name of Sender)

(Street or P.O. Box)

(City, State, and ZIP Code)

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition)	
of Stanley Shimizu for)	SP76-255
Time Extension)	STANLEY SHIMIZU
_____)	

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Land Use
Commission's Decision and Order was served upon the
following by certified mail:

Sidney Fuke, Planning Director
Hawaii Planning Department
25 Aupuni Street
Hilo, Hawaii 96720

Stanley S. Shimizu, President
Stan's Fishery
P. O. Box 117
Honaunau, Kona, Hawaii 96726

Dated: Honolulu, Hawaii, this 18th day of December, 1978.


GORDAN Y. FURUTANI
Executive Officer
Land Use Commission

PENDING BEFORE THE LAND USE COMMISSION

KAUAI

TIME SPAN

- | | |
|---|--|
| 1. A79-452 - Irving Jenkins (HEARING) | April 29, 1979 -
August 27, 1979 |
| 2. A79-453 - Land Use Commission (ACTION) | October 8, 1979 -
February 20, 1980 |
| 3. A79-456 - Lihue Plantation Company, Ltd. (HEARING) | July 6, 1979 - |

Irvinb JenkinsHawaii's

STATE OF HAWAII
LAND USE COMMISSION

Minutes of Meeting

October 19, 1978 - 9:30 a.m.

Senate Conference Room No. 5
2nd Floor, State Capitol
Honolulu, Hawaii

Approved
FEB 21 1979

COMMISSIONERS PRESENT: Charles Duke, Chairman
Shinichi Nakagawa, Vice Chairman
James Carras
Shinsei Miyasato
Mitsuo Oura
George Pascua
Carol Whitesell

COMMISSIONERS ABSENT: Colette Machado
Edward Yanai

STAFF PRESENT: Gordan Furutani, Executive Officer
Daniel Yasui, Planner
Allan Kawada, Deputy Attorney General
Dora Horikawa, Chief Clerk

Ray Russell, Court Reporter

ADDITION TO AGENDA

Upon motion by Commissioner Pascua, seconded by Commissioner Carras, it was unanimously agreed to add to the agenda a discussion of the archaeological study which had been submitted by the Moana Corporation, A76-418.

A76-418 - MOANA CORPORATION (Archaeological Study)

Mr. Walton Hong, representing the petitioner, noted that copies of the archaeological and biological surveys, prepared by the Archaeological Research of Hawaii, Inc., relative to the subject petition had been transmitted to the Commission. He recalled that the Commission, in approving the petition, had imposed a condition that archaeological and biological studies be conducted by the petitioner prior to development of the site. Thus, it was explained by Mr. Hong, he was appearing before the Commission to request a determination as to whether this condition had been satisfactorily met.

Following a lengthy discussion concerning Mr. Hong's request, Deputy Attorney General Allan Kawada counselled the

conditions that are imposed on the Special Permit, and that the Land Use Commission should take a firm position when time conditions are not met in timely fashion by the petitioner.

Commissioner Whitesell moved that the time extension request be denied, which was seconded by Commissioner Carras.

The Executive Officer requested a short recess to discuss possible alternatives to the problem.

11:50 a.m.

The Chairman called on the Executive Officer for a poll of the motion on the floor. The Commissioners voted as follows:

Ayes: Commissioners Pascua, Whitesell, Oura, Miyasato, Nakagawa, Carras, Chairman Duke

The motion was carried.

The Chairman directed the Deputy Attorney General to draw up a decision and order on the foregoing action of the Commission, clearly delineating the reasons for the denial of the extension request, and also indicating that the Commission was not denying the church the right to construct a building by this action.

✓ SP76-255 - STANLEY SHIMIZU
REQUEST FOR A 6-MONTH TIME EXTENSION TO COMMENCE CONSTRUCTION OF A FREEZER/STORAGE FACILITY AT SOUTH KONA, HAWAII

Mr. Yasui pointed out the location of the subject property on the maps. A resume of the subject request was also presented.

It was moved by Commissioner Carras and seconded by Vice Chairman Nakagawa to deny the extension request due to the failure of the petitioner to meet the time conditions set forth by the Planning Commission. The motion was unanimously carried.

SP78-319 - YAMADA AND SONS, INC.
SPECIAL PERMIT APPLICATION TO ALLOW THE ESTABLISHMENT OF A ROCK CRUSHER AT KAPULENA, HAMAKUA, HAWAII

A summary report was presented by the Planner relevant to the subject request and the area was located on the maps.

Upon motion by Commissioner Carras, seconded by Commissioner Oura, the Special Permit request was unanimously approved, subject to the conditions imposed by the Hawaii County Planning Commission.

STATE OF HAWAII
LAND USE COMMISSION

VOTE RECORD

SP76-255 - STANLEY SHIMIZU
ITEM (Extension Request)

DATE October 19, 1978

PLACE Senate Conf. Rm. #5
State Capitol, Honolulu

TIME 9:30 a.m.

	NAME	YES	NO	ABSTAIN	ABSENT
S	NAKAGAWA, SHINICHI	X			
	OURA, MITSUO	X			
	MIYASATO, SHINSEI	X			
M	CARRAS, JAMES	X			
	PASCUA, GEORGE R.	X			
	YANAI, EDWARD				X
	WHITESELL, CAROL	X			
	MACHADO, COLETTE				X
	DUKE, CHARLES	X			

Comments:

I move that this request be denied due to the failure to meet the time condition set forth by the Hawaii Planning Commission.

EAGLE-A
TYPE-B-ERASE
25% COTTON FIBER USA

November 6, 1978

Mr. Sidney Fuke, Planning Director
Hawaii County Planning Department
25 Aupuni Street
Hilo, Hawaii 96720

Re: Special Permit 76-255, Stanley Shimizu

Dear Mr. Fuke:

At its meeting on October 19, 1978, the State Land Use Commission found that SP76-255 had lapsed and was already in an expired status at the time the extension request was made. The time extension request was made on July 31, 1978, nearly six (6) months after the expiration of the stipulated time period allowed to start construction of the proposed facility. Therefore, the Land Use Commission is unable to approve this request because there is legally no permit for the Commission to act upon.

The record reveals that SP76-255 was originally approved by the State Land Use Commission on January 20, 1977. As a condition of approval on the original permit, it was required of the petitioner that "..... construction of the proposed facility shall commence within one (1) year from the effective date of approval of the Special Permit and be completed within two (2) years thereafter." Since the permit was approved on January 20, 1977, construction of the facility was to have commenced by January 20, 1978. In the present case, SP76-255 lapsed on January 20, 1978, inasmuch as the permittee failed to comply with the time requirements of the permit.

The action of the Land Use Commission is not predicated on any decision that the need for the proposed use is not warranted, but is instead based entirely upon the failure of the applicant to make a timely request for extension.

Sincerely,

GORDAN Y. FURUTANI
Executive Officer

GYF:yk

Enc.

cc: Mr. Stanley Shimizu
Department of Planning and
Economic Development
Department of Taxation - Hawaii
Tax Maps Recorder, Dept. of Taxation
Property Technical Office, Dept. of Taxation
Real Property Tax Assessor, Dept. of Taxation
Office of Environmental Quality Control
Division of Land Management, DLNR

STATE OF HAWAII
LAND USE COMMISSION

MEMORANDUM

TO: Land Use Commission October 19, 1978
FROM: Staff
SUBJECT: SP76-255 - Stanley Shimizu (Time Extension)

Condition No. 1 of this Special Permit required that construction of the freezer/storage and office facility commence by January 20, 1978. The petitioner filed for a time extension on July 31, 1978, nearly six (6) months after the expiration date. In a policy determination by the Land Use Commission regarding the expiration of time conditions, it was established that the Commission would not approve any requests for time extension which are filed after the stipulated commencement or expiration dates. The Commission also directed staff to advise the County Planning Directors of this policy. A copy of this follow-up letter is attached for your information. The pertinent information concerning this Special Permit includes the following:

The petitioner, Stanley Shimizu, is requesting a six (6) month time extension to allow the construction of a freezer/storage and office facility on approximately one (1) acre of land situated within the State Land Use Agricultural District at Ke'ei 2nd, South Kona, Hawaii, Tax Map Key 8-3-10: portion of 37. The subject property is located along the makai side of Mamalahoa Highway, approximately 300 feet north of Stan's Fishery Store at Ke'ei 2nd, South Kona.

Special Permit 76-255 was granted by the State Land Use Commission on January 20, 1977. Condition No. 1 of the permit stated:

"That construction of the proposed facility shall commence within one (1) year from the effective date of approval of the Special Permit and be completed within two (2) years thereafter."

Since the permit was granted on January 20, 1977, construction of the facility was to have commenced by January 20, 1978.

The petitioner is now requesting a six (6) month time extension for SP76-255, to be calculated from the date of

approval of the request, should it be granted. This request was filed with the Hawaii County Planning Department through a letter dated July 31, 1978, from the petitioner.

In support of the request, the petitioner has stated the following:

"I would like to request an extension on my freezer/plant and office. However, I am aware that the request should have been applied for prior to the expiration date of January 20, 1978. I also have been unaware that the contractor failed to apply for an extension.

"Due to the following reasons listed below, I have been unable to begin construction on my proposed facility.

- (1) Delay of mainland materials due to rescheduling of barge by the carrier.
- (2) Contractor's failure to notify myself of previous obligations and heavy construction schedule.
- (3) Construction of the proposed site has already been completed, however, because we would require a dual driveway to allow for the safety of the boats and trailers to enter and exit on the site without causing a traffic hazard, we presented a revised plan for your approval, thereby causing another delay.

"As of this date, all of my building materials are presently here and ready for construction. I would appreciate it if the Planning Department and the State Land Use Commission could give me some consideration for an extension of the above matter as I have already invested a good sum of my capital on the proposed property."

On August 31, 1978, the Hawaii County Planning Commission voted to recommend approval of the time extension request to the Land Use Commission based on the following findings:

"That the petitioner's reasons for the non-compliance with the construction time condition stipulated as a condition of approval of the Special Permit is the result of various factors, each attributing to the delay of the construction of the proposed freezer/storage and office facility. These factors include the need to revise the plans in order to improve the traffic circulation on the subject area; the contractor's inability to schedule the project because of a heavy work load; and the delay of the arrival

of the building materials from the mainland. However, the petitioner has made sincere and reasonable attempts to resolve these problems. The building materials have arrived from the mainland and are available for construction. Furthermore, the petitioner, on June 30, 1978, had submitted plans for Plan Approval. However, these plans were subsequently returned by the Planning Department because of the expiration of the commence construction time condition.

"Therefore, the Commission determined that the requested six-month extension is reasonable and warranted, given the above reasons for the non-compliance with the performance requirement and the subsequent attempts to rectify those problems. The requested six-month extension should provide the petitioner with sufficient time to secure the necessary permits and approvals and to commence construction."

For the Commission's information, the meeting minutes of August 31, 1978 have been attached (County Exhibit H).

The favorable recommendation was subject to the condition that all other conditions stipulated in the Special Permit be complied with. It was further stated by the Planning Commission that: "Should any of the conditions not be met, action may be initiated to nullify the Special Permit."

For the Commission's information, the other conditions originally imposed on the Special Permit included the following:

- "2. That a landscaping buffer which meets with the approval of the Planning Director shall be provided along the side property lines.
- "3. That all other applicable rules and regulations, including the Plan Approval Process, shall be complied with.
- "4. That the petitioner comply with the Department of Health's Regulations governing noise control."

State of Hawaii
LAND USE COMMISSION
Suite 1725, Pacific Trade Center
150 South King Street
Honolulu, Hawaii 96813

May 18, 1978

Mr. Sidney Fuke
Planning Director
Hawaii Planning Department
County of Hawaii
25 Aupuni Street
Hilo, Hawaii 96720

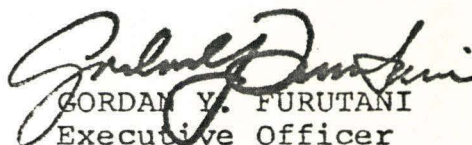
Dear Mr. Fuke: -----

Subject: Special Permit Conditions of Approval

At its May 11, 1978 meeting, the Land Use Commission directed its staff to advise all County Planning Departments and Commissions that henceforth failure to comply with any of the delineated conditions of approval, particularly those relating to time commencement and expiration shall be reason for termination of the Special Permit. Accordingly, the Land Use Commission will not approve requests for time extension which are filed after the stipulated commencement or expiration dates.

Should you have any questions concerning this matter, please contact this office.

Sincerely,


GORDAN Y. FURUTANI
Executive Officer

GYF:jy

Also mailed same letter to:

Ramon Duran, DGP
Tosh Ishikawa, Maui Planning Dept.
Brian Nishimoto, Kauai Planning Dept.
Randall Kamiya, City Planning Com.
William Mielcke, Hawaii Planning Com.
Shiro Hokama, Maui Planning Commission
Reginald Doi, Kauai Planning Commission

PLANNING COMMISSION

Planning Department
County of Hawaii

MINUTES
August 31, 1978

EXHIBIT H

The Planning Commission met in regular session at 9:12 a.m. in the Conference Room, First Hawaiian Bank, Kailua, North Kona, Hawaii, and at 1:15 p.m. in the Kealakehe School Cafetorium, Kealakehe, North Kona, Hawaii, and at 4:30 p.m. in the Conference Room, Waimea Civic Center, Waimea, South Kohala, Hawaii, with Chairman William F. Mielcke presiding.

PRESENT: William F. Mielcke (Left
at 5:36 p.m.)

J. Walsh Hanley

Lorraine R. Jitchaku

Bert H. Nakano

Alfredo Orita

William J. Paris, Jr.

Charles H. Sakamoto (Left at 3:15 p.m.)

ABSENT: Shigeru Fujimoto
Haruo Murakami

Ex-officio Member
Akira Fujimoto

Sidney M. Fuke, Director

Ilima Piianaia, Planner

William Moore, Planner

Lionel Meyer, Deputy Corporation Counsel (Left at 5:36 p.m.)

David Murakami, representing Ex-officio Member Edward
Harada (Left at 5:36 p.m.)

And approximately 8 people at 9:12 a.m., 44 people at
1:15 p.m. 7 people at 4:30 p.m. and 6 people at 7:00
p.m.

Staff presented recommendation for approval with conditions on file.

The petitioner's representative, Glenn Morphis, stated that they are able to comply with the conditions as outlined.

It was moved by Commissioner Hanley and seconded by Commissioner Paris to send a favorable recommendation to the State Land Use Commission for the reasons and with the conditions as outlined by the staff. A roll call vote was taken and motion carried with seven ayes.

SPECIAL PERMIT
NO. 76-255
TIME EXTENSION
CHARLOTTE SHIMIZU
KE'EI 2ND, SOUTH
KONA

Request by Charlotte Shimizu for an extension of time to Special Permit 76-255 which allowed the establishment of a freezer/storage plant and office on approximately one acre of land situated within the State Land Use Agricultural District. The property involved is located along the makai side of the Mamalahoa Highway, approx-

imately 300 feet north of Stan's Fishery Store, Ke'ei, South Kona, TMK: 8-3-10:portion of 37.

Staff presented background and recommendation for approval with condition on file.

The petitioner, Charlotte Shimizu, stated she would be able to comply with the condition, and that if her request is granted she is able to start construction immediately.

It was moved by Commissioner Sakamoto and seconded by Commissioner Jitchaku to send a favorable recommendation to the SLUC with the condition outlined by the staff. A roll call vote was taken and motion carried with seven ayes.

SPECIAL PERMIT
NO. 75-224
TIME EXTENSION
CHURCH OF JESUS
CHRIST OF THE
LATTER DAY SAINTS
KEOPU 3RD, NORTH
KONA

Request by the Church of Jesus Christ of the Latter Day Saints for an extension of time to Special Permit 75-224 which allowed the construction of a church on approximately 7 acres of land situated within the State Land Use Agricultural District. The area involved is located adjacent to and immediately mauka of the Lono-Kona Subdivision, approximately 750 feet east of the Kalani Road-Lamaokeola Street

intersection, Keopu 3rd, North Kona, TMK: 7-5-3:2.

Staff presented background and recommendation for approval with condition on file.

The petitioner's representative, Alvin Chong, said he was able to comply with the condition outlined by the staff.

It was moved by Commissioner Orita and seconded by Commissioner Jitchaku to send a favorable recommendation to the State Land Use Commission for the reasons and with the condition outlined by the staff. A roll call vote was taken and motion carried with seven ayes.

At this time, 9:40 a.m. the Commission took up the public hearings scheduled for 9:30 a.m.

STATE OF HAWAII
LAND USE COMMISSION
Suite 1795
Pacific Trade Center
190 S. King Street
Honolulu, Hawaii 96813

October 6, 1978

Mr. Sidney Fuke, Planning Director
Hawaii County Planning Department
25 Aupuni Street
Hilo, Hawaii 96720

Dear Mr. Fuke:

Enclosed is a Notice of Land Use Commission meeting and the Agenda for the Meeting.

Please note that petitions

SP75-224 - Church of Jesus Christ of Latter-Day Saints (Time Extension)

✓ SP76-255 - Stanley Shimizu (Time Extension)

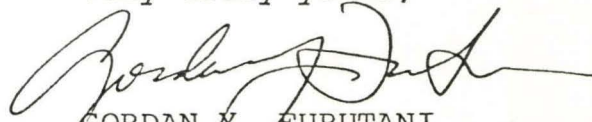
SP78-319 - Yamada and Sons, Inc.

SP78-320 - Kona Baptist Church

will be acted on at that time.

Should you have any question on these matters, please contact this office.

Very truly yours, ---


GORDAN Y. FURUTANI
Executive Officer

Enclosure - Agenda

STATE OF HAWAII
LAND USE COMMISSION
Suite 1795
Pacific Trade Center
190 S. King Street
Honolulu, Hawaii 96813

October 6, 1978

Mr. Stanley S. Shimizu, President
Stan's Fishery
P. O. Box 117
Honaunau, Kona, Hawaii 96726

Dear Mr. Shimizu:

Enclosed is a Notice of Land Use Commission meeting and the Agenda for the Meeting.

Please note that petition

SP76-255 - STANLEY SHIMIZU (TIME EXTENSION)

will be considered at that time.

Should you have any questions on this matter, please contact this office.

Very truly yours,



GORDAN FURUTANI
Executive Officer

Enclosure - Agenda

STATE OF HAWAII
LAND USE COMMISSION

NOTIFICATION OF LAND USE COMMISSION MEETING

DATE, TIME & PLACE

October 19, 1978 - 9:30 a.m.
Senate Conference Room No. 5
2nd Floor, State Capitol
Honolulu, Hawaii

A G E N D A

I. ACTION

1. SP75-224 - Church of Jesus Christ of Latter-Day Saints (Time Extension) (Hawaii)

To allow a six (6) month time extension to commence construction of a church on approximately seven (7) acres of land situated within the State Land Use Agricultural District at Keopu 3rd, North Kona, Hawaii.

2. SP76-255 - Stanley Shimizu (Time Extension) (Hawaii)

To allow a six (6) month time extension to commence construction of a freezer/storage and office facility on approximately one (1) acre of land situated within the State Land Use Agricultural District at Ke'ei 2nd, South Kona, Hawaii.

3. SP78-319 - Yamada and Sons, Inc. (Hawaii)

To allow the establishment of a rock crusher on approximately 20 acres of land situated within the State Land Use Agricultural District at Kapulena, Hamakua, Hawaii.

4. SP78-320 - Kona Baptist Church (Hawaii)

To allow the construction of a classroom building on approximately 2.4 acres of land situated within the State Land Use Agricultural District at Keauhou 1st, North Kona, Hawaii.

5. A78-438 - Grove Farm Company, Inc. (Kauai)

To reclassify approximately 61 acres of land from the Agricultural District to the Urban District at Lihue, Kauai, for the development of a multi-phase regional, mall-type shopping center.

II. MISCELLANEOUS

1. Preview of Draft Slide-Tape Presentation on the State Land Use Law
2. Discussion of Defective Filing Guidelines and Special Permit procedures
3. Adoption of Minutes AUG 15 1978
4. Meeting Schedule

10/6/78 - A COPY OF THIS AGENDA WAS MAILED TO ALL PERSONS AND ORGANIZATIONS ON THE ATTACHED MAILING LISTS:

- | | | | |
|--------------|------------|-----------|----------|
| 1. STATEWIDE | 2. OAHU | 3. HAWAII | 4. KAUAI |
| 5. MAUI | 6. MOLOKAI | | |



PLANNING DEPARTMENT

25 AUPUNI STREET • HILO, HAWAII 96720

COUNTY OF
HAWAII

HERBERT T. MATAYOSHI
Mayor

SIDNEY M. FUKU
Director

DUANE KANUHA
Deputy Director

SEP 14 1978

SEP 19 11 01 AM '78
LAND USE COMMISSION
STATE OF HAWAII

Mr. Gordan Furutani
Executive Officer
Land Use Commission
190 South King Street
Suite 1795
Honolulu, Hawaii 96813

Dear Mr. Furutani:

Extension of Time Condition
Special Permit No. 76-255 (LUC 351)
Petitioner: Charlotte Shimizu
Tax Map Key 8-3-10:portion of 37

The Planning Commission at its regular meeting of August 31, 1978 considered the request by Charlotte Shimizu for a six (6) month time extension to Condition No. 1 of Special Permit 76-255 from the date of approval of this request in order to allow the construction of the proposed freezer/storage and office facility which was granted by the State Land Use Commission. The property involved is located along the makai side of the Mamalahoa Highway, approximately 300 feet north of Stan's Fishery Store, Ke'ei 2nd, South Kona, TMK: 8-3-10:portion of 37.

The Commission voted to send a favorable recommendation to the State Land Use Commission based on the following findings:

That the petitioner's reasons for the non-compliance with the construction time condition stipulated as a condition of approval of the Special Permit is the result of various factors, each attributing to the delay of the construction of the proposed freezer/storage and office facility. These factors include the need to revise the plans in order to improve the traffic circulation on the subject area; the contractor's inability to schedule the project because of a heavy work load; and the delay of the arrival of the building materials from the mainland. However, the petitioner has

Mr. Gordan Furutani
Page 2

made sincere and reasonable attempts to resolve these problems. The building materials have arrived from the mainland and are available for construction. Furthermore, the petitioner, on June 30, 1978, had submitted plans for Plan Approval. However these plans were subsequently returned by the Planning Department because of the expiration of the commence construction time condition.

Therefore, the Commission determined that the requested six-month extension is reasonable and warranted, given the above reasons for the non-compliance with the performance requirement and the subsequent attempts to rectify those problems. The requested six-month extension should provide the petitioner with sufficient time to secure the necessary permits and approvals and to commence construction.

The Commission further recommended that the time extension be granted subject to the condition that all other conditions stipulated in the Special Permit be complied with. Should any of the conditions not be met, action may be initiated to nullify the Special Permit.

Enclosed are copies of the Exhibits from the subject docket.

Sincerely,



WILLIAM F. MIELCKE
Chairman, Planning Commission

lgv
Enclosures
cc Mrs. Charlotte Shimizu
Land Use Division, DPED
Kona Services Office

COPY

PLANNING DEPARTMENT

25 AUPUNI STREET

COUNTY OF HAWAII

HILO, HAWAII 96720

September 1, 1978

SEP 11 7 36 AM '78
LAND USE COMMISSION
STATE OF HAWAII

Mrs. Charlotte Shimizu
P. O. Box 117
Honaunau, Hawaii 96726

Dear Mrs. Shimizu:

Extension of Time Condition
Special Permit No. 76-255 (LUC 351)
Tax Map Key 8-3-10:portion of 37

The Planning Commission at its regular meeting of August 31, 1978 considered your request for a six (6) month time extension to Condition No. 1 of Special Permit 76-255 from the date of approval of this request in order to allow the construction of the proposed freezer/storage and office facility on approximately one acre of land situated within the State Land Use Agricultural District at Ke'ei 2nd, South Kona, Hawaii.

The Commission voted to forward a favorable recommendation for a six (6) month time extension to Condition No. 1 of Special Permit 76-255 to the Land Use Commission subject to the condition that all other conditions stipulated in the Special Permit be complied with. Should any of the conditions not be met, action may be initiated to nullify the Special Permit.

Should you have any questions, please feel free to contact the Planning Department at 961-8288.

Sincerely,



WILLIAM F. MIELCKE
Chairman, Planning Commission

lgv
cc

Land Use Division, DPED
State Land Use Commission
Kona Services Office

LIST OF EXHIBITS - CHARLOTTE SHIMIZU - TIME EXTENSION REQUEST
SPECIAL PERMIT 76-255

- A. Letter from petitioner 7/31/78
- B. Departmental acknowledgement letter to petitioner 8/7/78
- C. Letter to petitioner 8/17/78
- D. Memo from staff for the files 8/28/78
- E. Staff Background
- F. Staff Recommendation
- G. Voting Sheet
- H. Minutes 8/31/78



STAN'S FISHERY

P. O. BOX 117
HONAUNAU, KONA, HAWAII 96726

July 31, 1978

Mr. Sidney M. Fuke, Director
Planning Department
25 Aupuni Street
Hilo, Hawaii 96720

Dear Mr. Fuke:

Request for Extension on Special Permit No. 76-255
Establishment of Freezer/Storage Plant and Office
TMK 8-3-10 portion of 37

I would like to request an extension on my Freezer/Plant and Office. However, I am aware that the request should have been applied for prior to the expiration date of January 20, 1978. I also have been unaware that the contractor failed to apply for an extension.

Due to the following reasons listed below, I have been unable to begin construction on my proposed facility.

- (1) Delay of mainland materials due to rescheduling of barge by the carrier.
- (2) Contractor's failure to notify myself of previous obligations and heavy construction schedule.
- (3) Construction of the proposed site has already been completed, however, because we would require a dual drive way to allow for the safety of the boats and trailers to enter and exit on the site without causing a traffic hazard, we presented a revised plan for your approval, thereby causing another delay.

As of this date, all of my building materials are presently here and ready for construction.

EXHIBIT A

Mr. Sidney M. Fuke, Director

-2-

July 31, 1978

I would appreciate it if the Planning Department and the State Land Use Commission could give me some consideration for an extension of the above matter as I have already invested a good sum of my capital on the proposed property.

Sincerely yours,

STAN'S FISHERY, INC.

Stanley S. Shimizu
by Charlotte Shimizu

STANLEY S. SHIMIZU
President

SSS:cs

August 7, 1978

Mr. Stanley S. Shimizu
Stan's Fishery
P. O. Box 117
Honaunau, Kona, HI 96726

Dear Mr. Shimizu:

Request for Extension of Time
Special Permit 76-255
TMK: 8-3-10:por. of 37

We have received your request for a time extension to a condition of approval of the subject Special Permit, regarding the commencement of construction of the proposed improvements. In order for us to evaluate your request, we need to know how long an extension is being requested.

Your request will be placed on the Planning Commission's agenda. We will notify you of the time and place when they are determined. If the Planning Commission finds that an extension is warranted, they will send a favorable recommendation to the State Land Use Commission which has the authority to approve or deny your request. If, on the other hand, the Planning Commission finds that there is not reasonable cause to grant your request, they may deny it. Such a denial would be appealable to the Third Circuit Court.

We would appreciate hearing from you at your earliest convenience regarding the length of the time extension being requested. We will not place your request on the Planning Commission agenda until we hear from you.

In the meantime, please contact Ilima Piianaia or Keith Kato of our department at 961-8288.

Sincerely,

Sidney Fuke
SIDNEY FUCE
Director

IP:ak
cc: State Land Use Commission

EXHIBIT B

AUG 8 1978

August 17, 1978

Ms. Charlotte Shimizu
P. O. Box 117
Honaunau, HI 96726

Dear Ms. Shimizu:

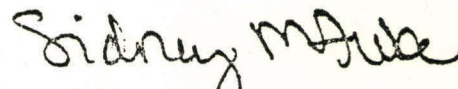
Special Permit 76-255
Time Extension Request
Tax Map Key 8-3-10:
portion of 37

Your application will be discussed on Thursday, August 31, 1978, by the Planning Commission. The meeting will be held in the Conference Room, First Hawaiian Bank, Kailua, North Kona, Hawaii, and is scheduled to begin at 9:00 a.m.

The presence of a representative will be appreciated in order that all questions relative to the request may be clarified.

A copy of the agenda is enclosed for your information.

Sincerely,



Sidney M. Fuke
Planning Director

smh

Enclosure

cc: State Land Use Commission
Land Use Division, DPED

EXHIBIT C

AUG 17 1978

MEMORANDUM:

PLANNING DEPARTMENT — County of Hawaii, Hilo, Hawaii 96720

To: FILE

Date: August 28, 1978

From: WIM

Subject: Charlotte Shimizu
Special Permit 76-255
Time Extension
TMK: 8-3-10: por. 37

I spoke to Charlotte Shimizu regarding the Time Extension. She indicated that six (6) months would be adequate to comply with the commencement of construction condition should the request be granted. She also stated that she would submit a letter to that effect.

EXHIBIT D

TIME EXTENSION: CHARLOTTE SHIMIZU

Charlotte Shimizu is requesting an extension of time to Special Permit 76-255 which allowed the establishment of a freezer/storage plant and office on approximately one acre of land situated within the State Land Use Agricultural District. The property involved is located along the makai side of the Mamalahoa Highway, approximately 300 feet north of Stan's Fishery Store, Ke'ei 2nd, South Kona (TMK: 8-3-10:portion of 37).

Special Permit 76-255 was originally approved on January 20, 1977, by the State Land Use Commission (SLUC). Condition No. 1 of this Special Permit stated:

"That construction of the proposed facility shall commence within one (1) year from the effective date of approval of the Special Permit and be completed within two (2) years thereafter."

The petitioner submitted plans for "Plan Approval" on June 30, 1978. Review of these plans showed that the date imposed to commence construction of the facility had expired on January 20, 1978. Consequently, the petitioner is requesting a six (6) month time extension from the date of approval of this request in order to allow the construction of the proposed freezer/storage and office facility.

In support of this request, the petitioner submitted the following:

"Due to the following reasons listed below, I have been unable to begin construction of my proposed facility.

EXHIBIT E

- (1) Delay of mainland materials due to rescheduling of barge by the carrier.
- (2) Contractor's failure to notify myself of previous obligations and heavy construction schedule.
- (3) Construction of the proposed site has already been completed, however, because we would require a dual drive way to allow for the safety of the boats and trailers to enter and exit on the site without causing a traffic hazard, we presented a revised plan for your approval, thereby causing another delay.

As of this date, all of my building materials are presently here and ready for construction."

RECOMMENDATION: CHARLOTTE SHIMIZU

Upon review of the subject request for an extension of time to Condition No. 1 of Special Permit 76-255, the staff recommends that it be approved based on the following findings:

That the petitioner's reasons for the non-compliance with the construction time condition stipulated as a condition of approval of the Special Permit is the result of various factors, each attributing to the delay of the construction of the proposed freezer/storage and office facility. These factors include the need to revise the plans in order to improve the traffic circulation on the subject area; the contractor's inability to schedule the project because of a heavy work load; and the delay of the arrival of the building materials from the mainland. However, the petitioner has made sincere and reasonable attempts to resolve these problems. The building materials have arrived from the mainland and are available for construction. Furthermore, the petitioner, on June 30, 1978, had submitted plans for Plan Approval. However these plans were subsequently returned by the Planning Department because of the expiration of the commence construction time condition.

Therefore, it is determined that the requested six-month extension is reasonable and warranted, given the above reasons for the non-compliance with the performance requirement and

the subsequent attempts to rectify those problems. The requested six-month extension should provide the petitioner with sufficient time to secure the necessary permits and approvals and to commence construction.

It is further recommended that the time extension be granted subject to the condition that all other conditions stipulated in the Special Permit be complied with. Should any of the conditions not be met, action may be initiated to nullify the Special Permit.

RECORD OF VOTING
PLANNING COMMISSION
County of Hawaii

Date August 31, 1978

Petitioner CHARLOTTE SHIMIZU - Extension of time to Special
Permit 76-255

 Preliminary hearing Public hearing Request ✓ Action

ACTION: ✓ Approve

 Deny

 Defer

 Continue

 Schedule for public hearing

Other: _____

Commissioners	Aye	No	Excused	Abstain
FUJIMOTO, Shigeru			✓	
HANLEY, J. Walsh	✓			
JITCHAKU, Lorraine R. 2 nd	✓			
MURAKAMI, Haruo			✓	
NAKANO, Bert H.	✓			
ORITA, Alfredo	✓			
PARIS, William Jr.	✓			
SAKAMOTO, Charles M	✓			
MIELCKE, William F.	✓			

EXHIBIT G

PLANNING COMMISSION

Planning Department
County of Hawaii

MINUTES
August 31, 1978

EXHIBIT H

The Planning Commission met in regular session at 9:12 a.m. in the Conference Room, First Hawaiian Bank, Kailua, North Kona, Hawaii, and at 1:15 p.m. in the Kealakehe School Cafetorium, Kealakehe, North Kona, Hawaii, and at 4:30 p.m. in the Conference Room, Waimea Civic Center, Waimea, South Kohala, Hawaii, with Chairman William F. Mielcke presiding.

PRESENT:	William F. Mielcke (Left at 5:36 p.m.)	ABSENT:	Shigeru Fujimoto
	J. Walsh Hanley		Haruo Murakami
	Lorraine R. Jitchaku		Ex-officio Member
	Bert H. Nakano		Akira Fujimoto
	Alfredo Orita		
	William J. Paris, Jr.		
	Charles H. Sakamoto (Left at 3:15 p.m.)		

Sidney M. Fuke, Director
Ilima Piianaia, Planner
William Moore, Planner

Lionel Meyer, Deputy Corporation Counsel (Left at 5:36 p.m.)
David Murakami, representing Ex-officio Member Edward
Harada (Left at 5:36 p.m.)

And approximately 8 people at 9:12 a.m., 44 people at
1:15 p.m. 7 people at 4:30 p.m. and 6 people at 7:00
p.m.

Staff presented recommendation for approval with conditions on file.

The petitioner's representative, Glenn Morphis, stated that they are able to comply with the conditions as outlined.

It was moved by Commissioner Hanley and seconded by Commissioner Paris to send a favorable recommendation to the State Land Use Commission for the reasons and with the conditions as outlined by the staff. A roll call vote was taken and motion carried with seven ayes.

SPECIAL PERMIT

NO. 76-255

TIME EXTENSION

CHARLOTTE SHIMIZU

KE'EI 2ND, SOUTH

KONA

Request by Charlotte Shimizu for an extension of time to Special Permit 76-255 which allowed the establishment of a freezer/storage plant and office on approximately one acre of land situated within the State Land Use Agricultural District. The property involved is located along the makai side of the Mamalahoa Highway, approx-

imately 300 feet north of Stan's Fishery Store, Ke'ei, South Kona, TMK: 8-3-10:portion of 37.

Staff presented background and recommendation for approval with condition on file.

The petitioner, Charlotte Shimizu, stated she would be able to comply with the condition, and that if her request is granted she is able to start construction immediately.

It was moved by Commissioner Sakamoto and seconded by Commissioner Jitchaku to send a favorable recommendation to the SLUC with the condition outlined by the staff. A roll call vote was taken and motion carried with seven ayes.

SPECIAL PERMIT

NO. 75-224

TIME EXTENSION

CHURCH OF JESUS

CHRIST OF THE

LATTER DAY SAINTS

KEOPU 3RD, NORTH

KONA

Request by the Church of Jesus Christ of the Latter Day Saints for an extension of time to Special Permit 75-224 which allowed the construction of a church on approximately 7 acres of land situated within the State Land Use Agricultural District. The area involved is located adjacent to and immediately mauka of the Lono-Kona Subdivision, approximately 750 feet east of the Kalani Road-Lamaokeola Street

intersection, Keopu 3rd, North Kona, TMK: 7-5-3:2.

Staff presented background and recommendation for approval with condition on file.

The petitioner's representative, Alvin Chong, said he was able to comply with the condition outlined by the staff.

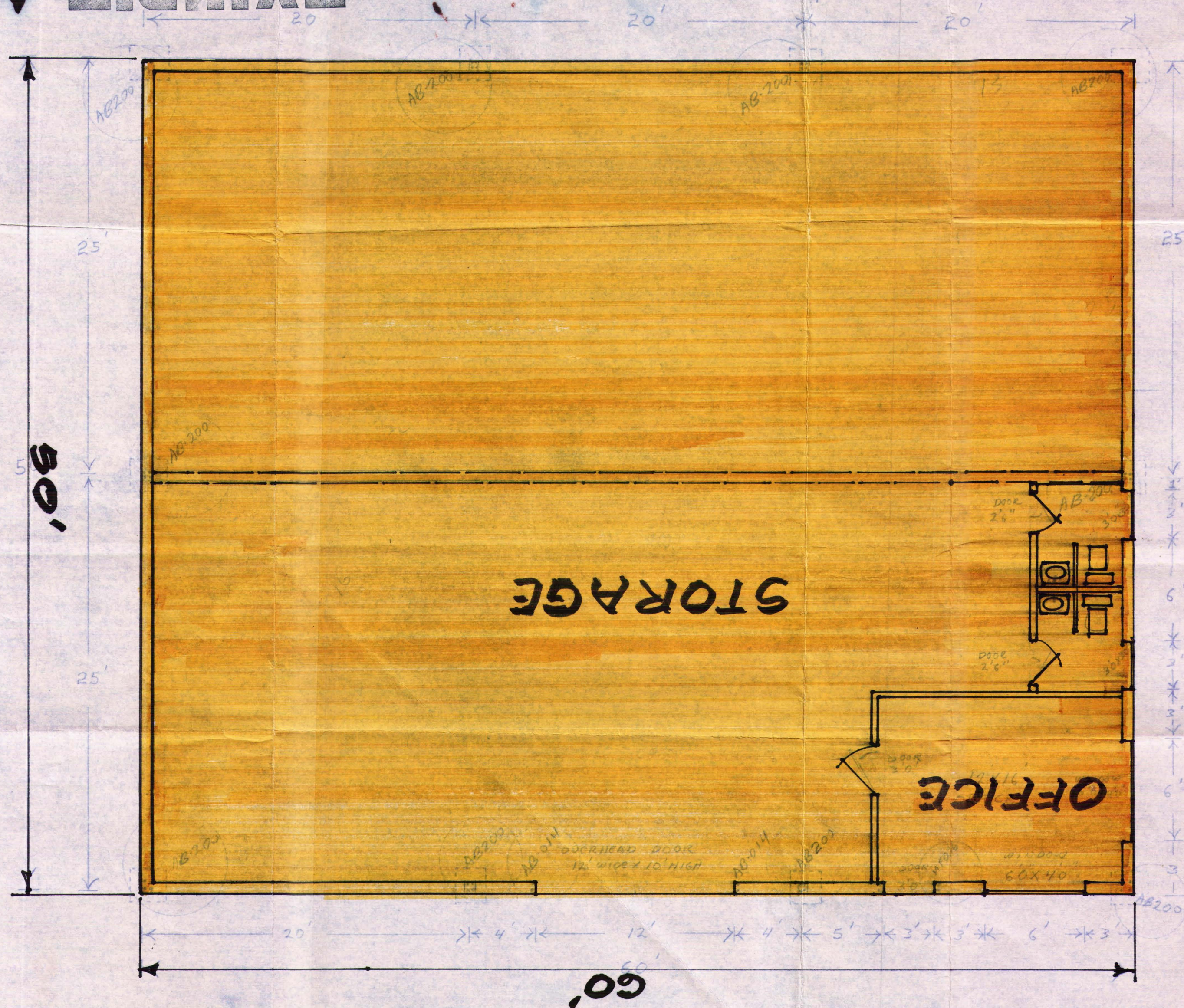
It was moved by Commissioner Orita and seconded by Commissioner Jitchaku to send a favorable recommendation to the State Land Use Commission for the reasons and with the condition outlined by the staff. A roll call vote was taken and motion carried with seven ayes.

At this time, 9:40 a.m. the Commission took up the public hearings scheduled for 9:30 a.m.

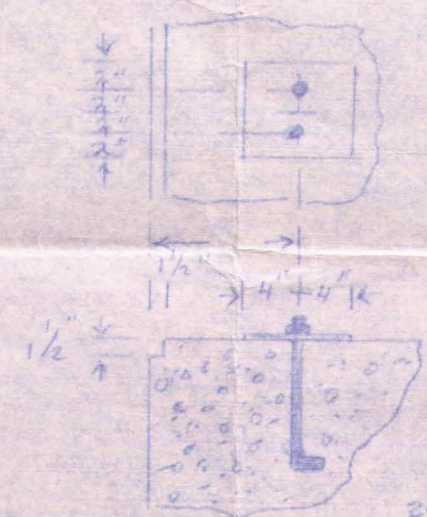
SP 76-255 LUC
MAPS

SP 76-255 LUC
MAPS

EXHIBIT A-4



TYPICAL SECTION THRU ENDWALL COLUMNS



2" x 1/2" ANCHOR BOLTS W/ 3" HOOK
AB200 7" x 1/2" x 3/16"
AB201 WELDED ON
AB200

ANCHOR BOLT REQUIREMENTS:

- AB200 7/8" WELDED ANCH. BOLT ASSEMBLES
- AB014 5/8" ANCH. BOLTS
- MFO16 1/2" x 5" MACHINE BOLTS



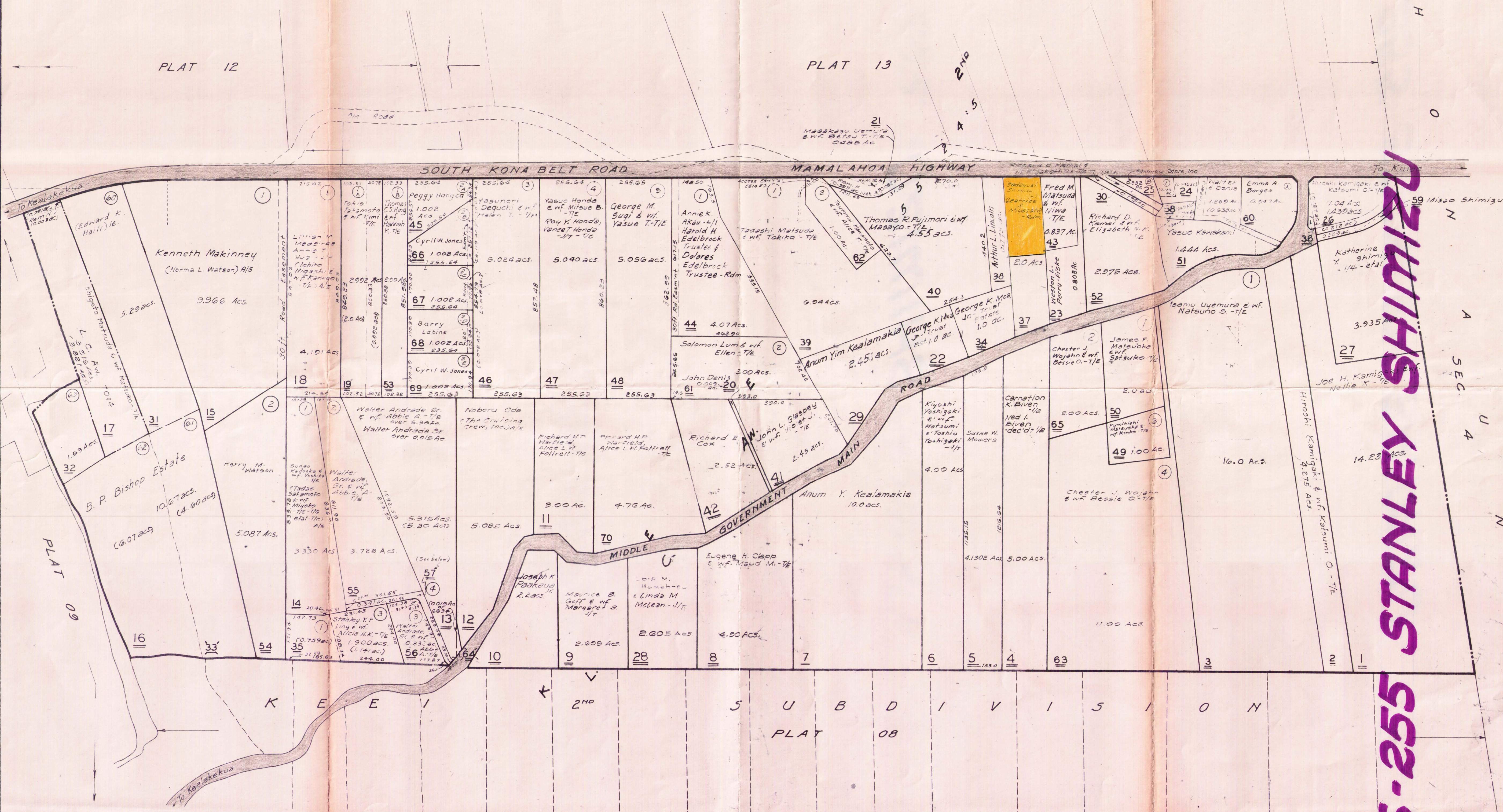
STANS FISHERY		
SCALE: 1" = 5'	APPROVED BY:	DRAWN BY: JE
DATE:		REVISED:
60 X 50 STORAGE		
BOLT SETTING PLAN		DRAWING NUMBER: 2-H-03

58 Sasae Murakami &
Mervin A. Murakami - J/T

True North
1" = 200'

PLAT 12

PLAT 13



PARCEL 57:
Walter Andrade, Sr. & Wf. Abbie A. T/E - 1/2
Sunao Kadooka & Wf. Yoshiko - 1/2

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

Pers Dropped - 36

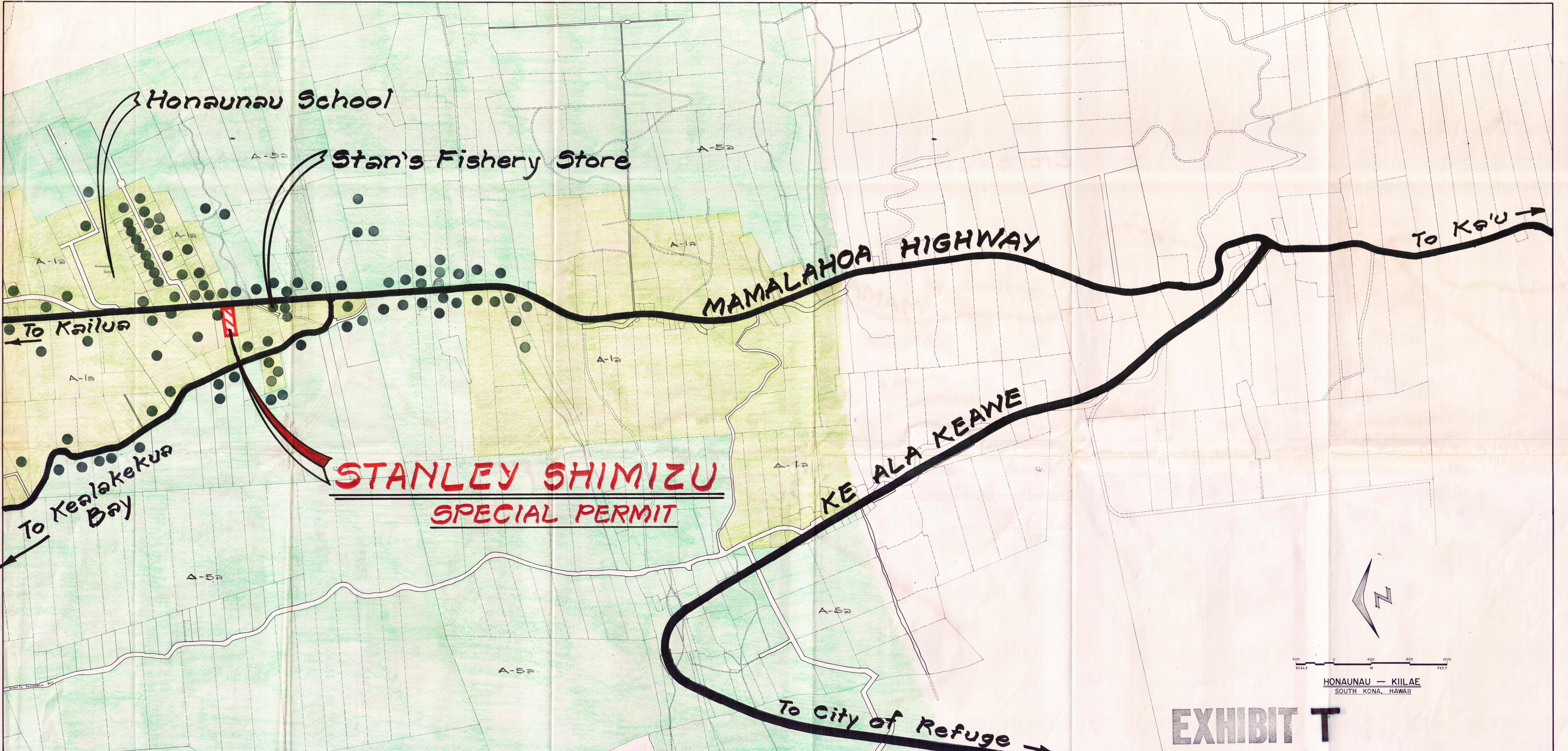
THIRD DIVISION		
ZONE	SEC.	PLAT
8	3	10
CONTAINING PARCELS		
SCALE: 1 in. = 200 ft.		

PRINTED JAN 03 1977

Dwg. No. 27
Source: Tax Maps Bureau & Bishop Estate
By: J.K.H. H.N. June 1966

POR. OF KEEI 2ND SOUTH KONA, HAWAII.





STANLEY SHIMIZU
SPECIAL PERMIT

EXHIBIT T