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**STATE OF HAWAII
LAND USE DISTRICTS
AND REGULATIONS REVIEW**

**Prepared for the
STATE OF HAWAII
LAND USE COMMISSION**

**By
ECKBO, DEAN, AUSTIN &
WILLIAMS**

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financed in part through an urban planning
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the provision of Section 701 of the
Housing Act of 1954, as amended.*

*August 15, 1969
Honolulu, Hawaii*

STATE OF HAWAII
John A. Burns, Governor

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*In memory of Keigo Murakami
former Commissioner from
Maui County*

ECKBO
DEAN
AUSTIN &
WILLIAMS

August 15, 1969

Mr. C. E. S. Burns, Jr., Chairman
Land Use Commission
State of Hawaii
State Capitol Building
Honolulu, Hawaii

Dear Mr. Burns:

We take great pleasure in transmitting this report to the Land Use Commission in the conclusion of our review of the Hawaii Land Use District Boundaries and Regulations. May we take the occasion to thank each member for the friendly and cooperative spirit which made possible the successful completion of this year of work.

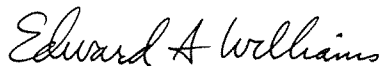
A great amount of the satisfaction we feel at this time is due to the fact that many good things have been accomplished during the review program. As a result of our mutual efforts, beneficial alterations have been made by the Commission in the Rules of Practice and Procedure, District Regulations and District Boundaries.

We hope that additional benefits will accrue from this study when, in the future, other recommendations contained herein receive consideration.

We wish to thank each Commissioner for our good fortune in being able to experience the most pleasurable working environment we have ever realized.

Respectfully submitted,

ECKBO, DEAN, AUSTIN & WILLIAMS



Edward A. Williams



Don B. Austin

does not materialize, the State and counties will be left with great areas of largely un-built subdivisions and the need for providing the usual maintenance, police, fire and educational services at the usual levels of quality demanded elsewhere without an adequate tax base to pick up the area's fair share of the bill—precisely what the Land Use Law was intended to help avoid.

While many findings have resulted in recommendations, two stand out as most important. Inspection of petitions for boundary changes and past actions of the Commission on very large petitions indicated that there should be a systematic method of zoning in increments. The purpose of establishing such a method would be twofold. First, it would protect the public interest against large rezonings for projects that might fail. Second, it would protect the interests of developers who have to make large advance investments and need some guarantee that they will not suffer because of administrative caprice or change.

It was also concluded that more attention should be given to the marketability and economic feasibility of projects, and that both incremental zoning provisions and special permits should have performance time limits attached.

I. Rural District Issues

The danger inherent in the Rural District is its potential for converting mile after mile of open farmland into low density residential use on one-half acre house lots mixed with small farms. Hawaii cannot afford such wasteful use of land. Fortunately Oahu, the most populated island, has no Rural Districts. The State General Plan Revision Program recommends their minimization, and we can see good reason for their elimination largely through rezoning to Agriculture and Urban Districts, thereby stopping low density sprawl and permitting more efficient land use under county guidance and control.

J. Rules of Practice and Procedure

The purpose of the Rules is to govern proceedings before the Commission in an orderly way to provide for prompt and fair processing of petitions for boundary changes. We found that the document was basically sound, but needed improvement in a number of technical areas. These are explained along with the recommendations in Chapter 3. In our opinion the most serious shortcoming in the Rules was the lack of a requirement that the Commission employ written majority opinions on all decisions.

K. District Regulations

The Regulations are intended to clarify and implement the Land Use Law. Our

findings indicated that rather large improvements could be made in both of these functions. We have recommended very extensive changes to make the criteria for establishing district boundaries more clear. Clarification of word and phrase meanings took many hours of preparation and discussion with the Land Use Commission.

The recommendations for implementing the Law included: better standards for economic feasibility reports; time limits on special permits and developments for which boundary changes are made; and, a system of incremental zoning for very large developments. All of these recommendations are explained in more detail in Chapter 3.

L. District Boundaries

The review of district boundaries was the most extensive phase of the study. All previous research was directed toward providing information that would be helpful in reviewing the rationale behind existing boundaries, in their substantiation, or to help determine where and how boundaries should be changed. Extensive mapping and field work on existing and proposed boundaries was carried on throughout the study. The assistance of many people intimately knowledgeable with various locales and land uses was also enlisted.

It was found that the original boundaries had been established with extreme care. Our recommendation to more precisely establish the differences between Agriculture and Conservation Districts, as a result of clearer definitions in the Regulations, accounted for recommendations for some of the major changes. The desire to more clearly define the shoreline of the Conservation District at some point inland from the water's edge resulted in other substantial recommendations for boundary changes. Urban and Rural District Boundary changes were recommended on the basis of need for future growth, county recommendations, owner-developer intentions and the other criteria of the Law and Regulations.

Chapters 4 through 7 summarize the specific recommendations for boundary changes for each county. The maps included with these chapters show the boundaries as adopted by the Land Use Commission.

M. State and County Relations in Planning and Zoning

1. Communications

One of the goals of the 1967 General Plan Revision Program is, "Harmonize State and County planning". During our study we made great efforts to coordinate our activities with all State and County planning

agencies. We found that considerable conflict often exists between the various levels of government. The conflict between the Land Use Commission and the Land Board of the Department of Land and Natural Resources has been touched on briefly. State and county conflicts on plans and goals seem to exist mostly because of lack of understanding of roles and sometimes appear to be more of a feeling than an objective reality.

In our opinion, these conflicts could be eased by a conscious direct and vigorous attack on what we think is the main source — lack of face-to-face and frequent communication. The Land Use Commission is one of the best agencies to lead the way in improving communication because of its contact with all levels of government.

2. The Status of County Planning

The present study has suffered from a lack of up-to-date county planning as the basis for zoning decisions. Following is the status of County General Plans.

Honolulu County — General Plan, 1963. Detailed land use maps have been adopted since then for many areas of Oahu.

Hawaii County — Hilo Area Plan, 1961. Hilo Development Plan, 1968.

Kona District Plan, 1959.

Hamakua — Kohala District Plan, 1962.

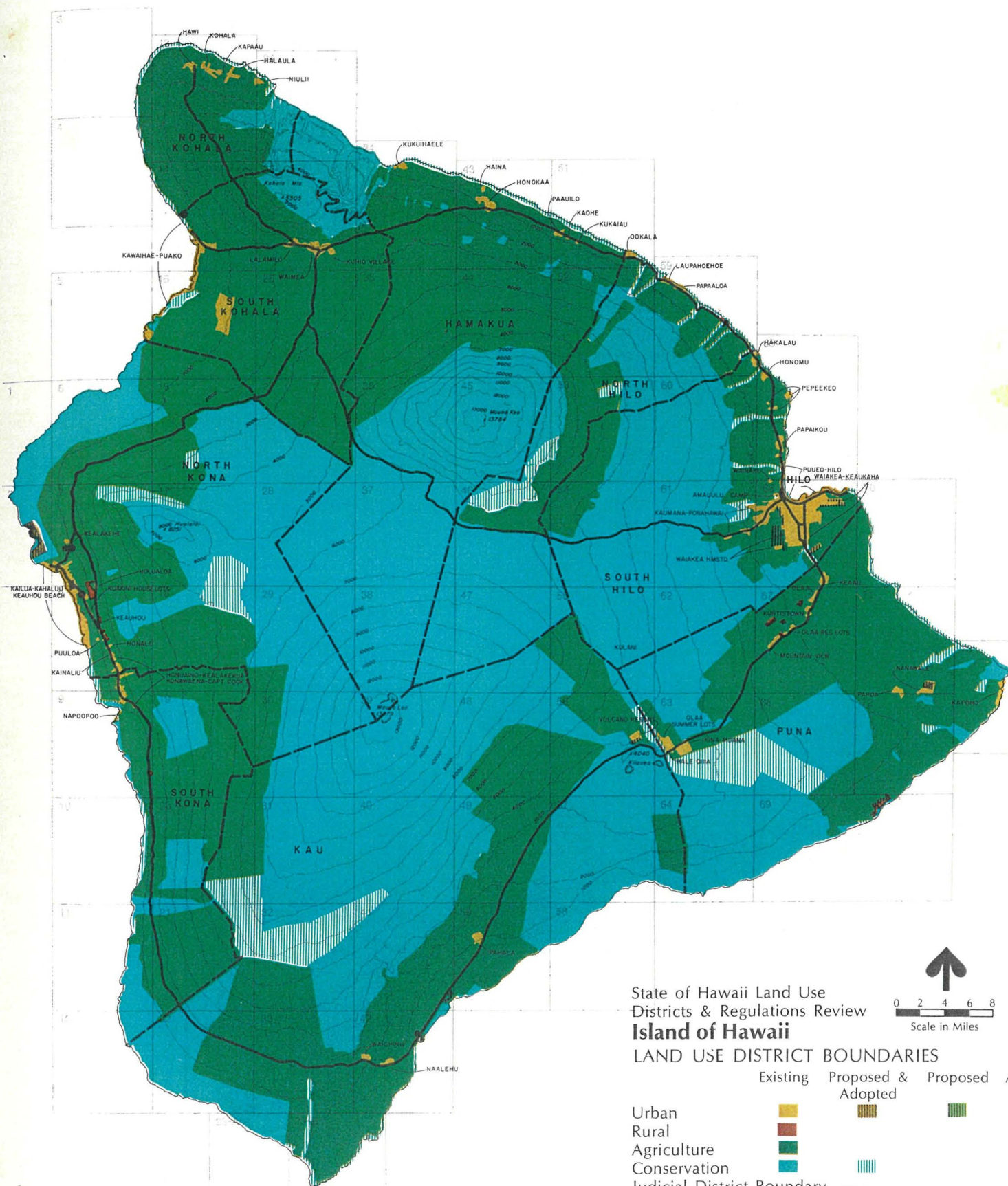
Kauai County, General Plan, 1961. A new one in process.

Maui County — Wailuku — Kahului Planning and Development Study, 1962. Lahaina District General Plan, 1968. Maalaea, Kihei, Makua General Plan.

Molokai General Plan, 1967.

Even though general plans are usually formulated for twenty year periods of time, the rapidly increasing rate of development in the State has outdistanced these existing plans, resulting in general plan amendments that are little more than putting out local fires. All of the counties at the present time are involved in some sort of general or development plan revisions. However, the conclusions and results, with some exceptions, were not available to be of help in the Land Use Study.

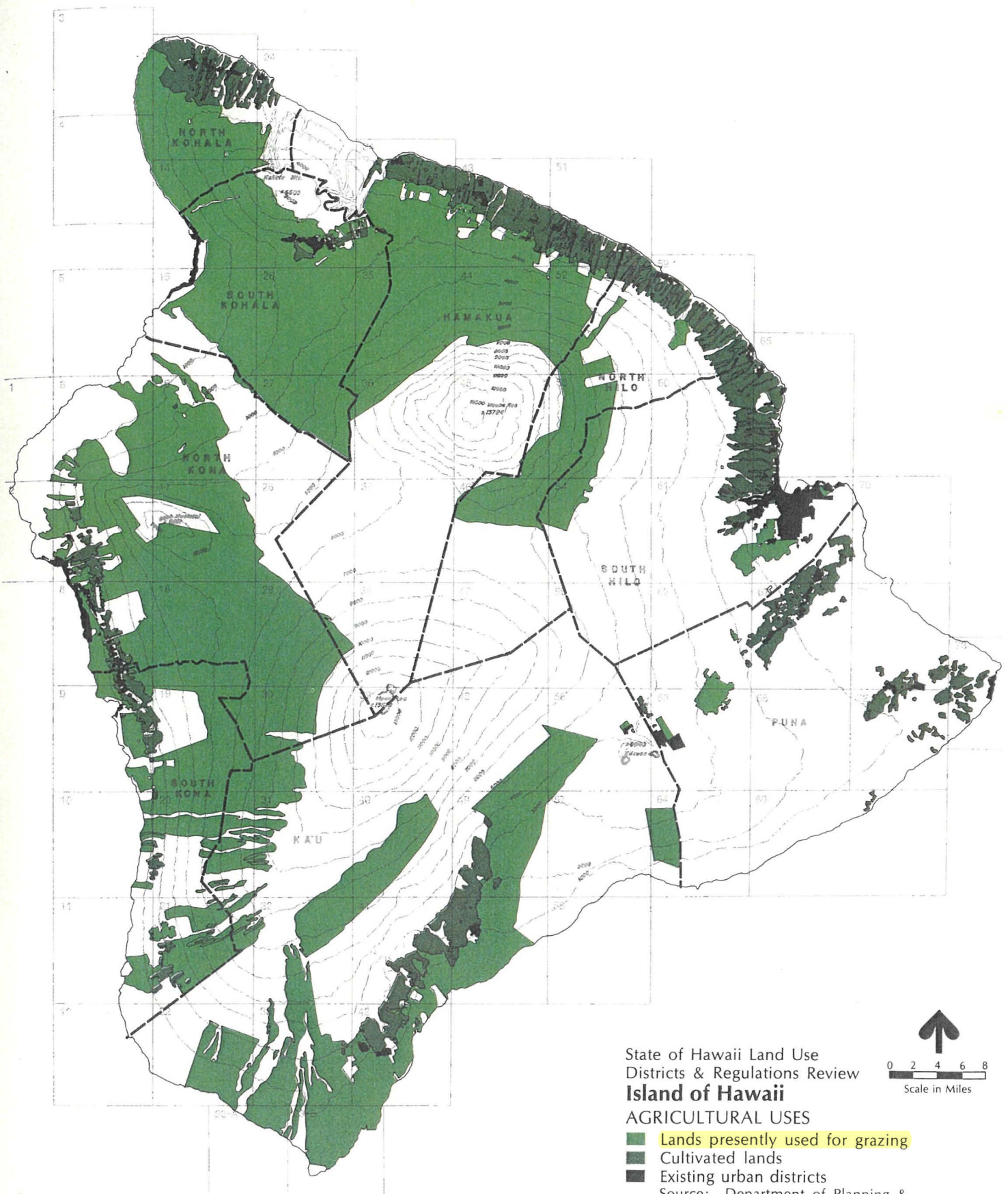
There is, therefore, no present way of easily finding out what the long and short range demands and recommendations for land utilization are.



State of Hawaii Land Use
Districts & Regulations Review
Island of Hawaii

LAND USE DISTRICT BOUNDARIES

- Existing Proposed & Proposed Adopted
- Urban
Rural
Agriculture
Conservation
Judicial District Boundary
Principal Highway
District Boundary Map Key
See Appendix D
Eckbo, Dean, Austin & Williams
August 1969
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Scale in Miles
- 1/2



State of Hawaii Land Use
Districts & Regulations Review

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AGRICULTURAL USES

■ Lands presently used for grazing

■ Cultivated lands

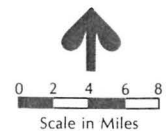
■ Existing urban districts

Source: Department of Planning &
Economic Development and EDAW

† District Boundary Map Key

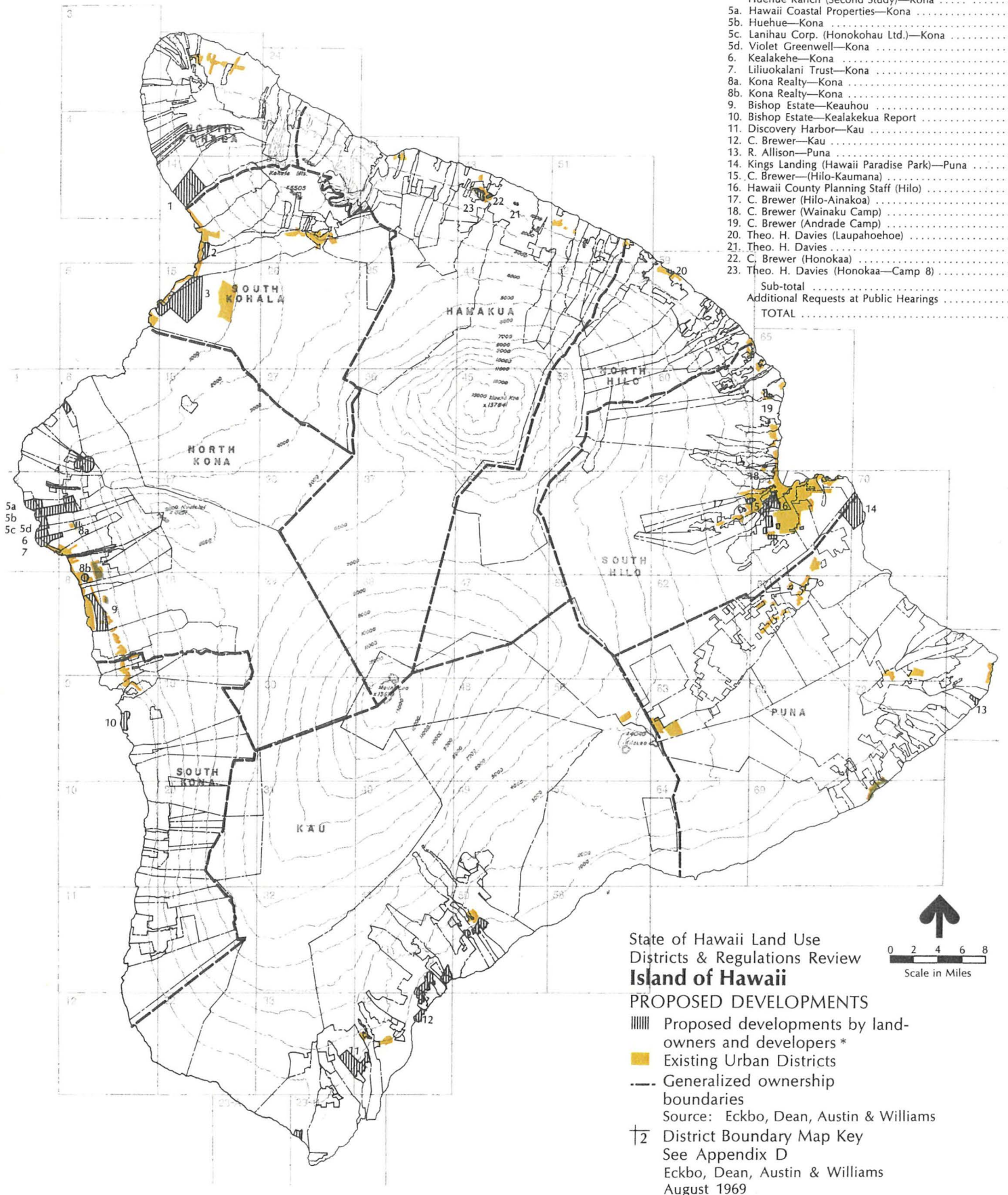
See Appendix D

Eckbo, Dean, Austin & Williams
August 1969



HAWAII COUNTY

1. Kahua Ranch—Kawaihae	5,00
2. Dilrock-Eastern—Kawaihae	55
3. Signal Oil—Kawaihae	8,00
4. Huehue Ranch (First Study)—Kona	2,50
Huehue Ranch (Second Study)—Kona	(23)
5a. Hawaii Coastal Properties—Kona	46
5b. Huehue—Kona	(59)
5c. Lanikai Corp. (Honokohau Ltd.)—Kona	32
5d. Violet Greenwell—Kona	8
6. Kealahou—Kona	36
7. Liliuokalani Trust—Kona	1,50
8a. Kona Realty—Kona	14
8b. Kona Realty—Kona	16
9. Bishop Estate—Keauhou	1,45
10. Bishop Estate—Kealahou Report	65
11. Discovery Harbor—Kau	1,30
12. C. Brewer—Kau	2,86
13. R. Allison—Puna	20
14. Kings Landing (Hawaii Paradise Park)—Puna	2,12
15. C. Brewer (Hilo-Kaunama)	21
16. Hawaii County Planning Staff (Hilo)	80
17. C. Brewer (Hilo-Ainakoa)	15
18. C. Brewer (Wainaku Camp)	14
19. C. Brewer (Andrade Camp)	8
20. Theo. H. Davies (Laupahoehoe)	18
21. Theo. H. Davies	1
22. C. Brewer (Honokaa)	45
23. Theo. H. Davies (Honokaa—Camp 8)	9
Sub-total	28,136
Additional Requests at Public Hearings	4,551
TOTAL	32,687



*Prior to public hearing

of the waterfront should be planned together."

One of the accomplishments of the current study was the recommendation and subsequent inclusion of a new and uniquely Hawaiian definition of the shoreline in the Land Use District Regulations. Another was the clear-cut action of the Land Use Commission in reaffirming that all fishponds are to be in the Conservation District.

Recognition that the shoreline is a zone rather than a line has been the basis for recommending that the designation of the Conservation District be inland from the "line of wave action" at varying distances relating to topography and other use factors. A number of criteria have been developed as the result of a search for physical boundaries that more easily and better designate shoreline conditions from adjacent agricultural uses and districts. Similar problems do not exist in relation to Urban or Rural Districts along the sea because the Land Use Commission has designated shorelines in these situations as part of the Urban or Rural Districts and these areas are therefore under county control.

Four major conditions have been recognized and recommendations based upon these conditions have been made for the new Conservation District boundaries.

1. Where a plantation road, farm road, access way or public road exists at the edge of the agricultural use within reasonable proximity to the shoreline, it was used as the boundary between the Agriculture and Conservation Districts.
2. Where a vegetation line such as a windbreak or row of trees more clearly marks the edge of the agricultural practice, this was used.
3. In cases where the shoreline is bounded by steep cliffs or a pali, the top of the ridge was used.
4. Where no readily identifiable physical boundary such as any of the above could be determined, a line 300 feet inland of the line of wave action was used.

It has become increasingly clear during the course of this study that an action plan should be prepared for the conservation and development of the Hawaii shoreline. This is an agreement with the conclusions of the State General Plan Revision Program, Part 5, page 48, where it is stated:

"This is an appropriate field for the preparation of an 'independent functional plan' (as defined in the Summary Volume, Part 1, of these documents). Such a plan can help to reduce conflict and ensure proper and satisfying use of this resource. The plan would not

only serve as a heuristic device, but as an important part of long-range comprehensive physical planning for the State. 'Hawaii's Shoreline; prepared by the Department of Planning and Economic Development in 1964, is the first step in functional planning for this area."

VI. THE CONFLICT BETWEEN AGRICULTURE AND CONSERVATION DISTRICT DESIGNATIONS

In applying the criteria of the Land Use Law and District Regulations, many areas of land fit well in both or neither of the Conservation or Agriculture Districts. This was difficult in the original boundary review and presented difficulties in this review. It has been a source of puzzlement and ridicule when lava flows with little or no grazing potential have been placed in Agriculture Districts, and it provides part of the public confusion. It is recognized that the Law does not specifically provide for these marginal lands which have been called wastelands, residual areas and a number of other names for lack of better definition. If the subzones of the Conservation District were designed to allow for these kinds of areas, the problem could be resolved administratively. The Law would not have to be changed.

When such situations arose in determining boundaries under the present review, they were resolved by establishing priorities. Where agricultural practices were intensive and not destructive to natural resources, they received priority for Agriculture Districts. Where agricultural uses were marginal, such as in the case of a forested area partially grazed, and where the conservation values were highly significant, then these received priority for Conservation Districts. Where this system worked, it was fine, but where there was vague definition and where areas suitable for urban development were classified Conservation, or lava flows were classified Agriculture, it became obvious that a gap existed. When the values or lack of values were equal or there were other factors present, difficult and sometimes inconsistent choices had to be made.

In addition to the above conflict arising from loose criteria, one of the principal "other factors present" was a conflict arising from a "choice" of controlling agencies. With the Department of Land and Natural Resources in complete control of land uses in Conservation Districts, and the Land Use Commission's sharing control with the counties over Agricultural Districts, many owners and officials found their judgment being conditioned by what they thought the various potentials might be, not by what they were. To make the

situation more complex to judge, one can speculate about how the tax administrator might judge the differences between the zoning and permitted uses of the two districts. At a joint work session with State and County planning officials and representatives of the Department of Taxation, this provided subject matter for one of the more frustrating discussions because of the absence of a ready solution.

VII. ANALYSIS OF REGULATION NO. 4 OF THE DEPARTMENT OF LAND AND NATURAL RESOURCES

A. History

Regulation No. 4 is the instrument under which land uses are regulated in the Conservation Districts. The Regulation was authorized by Act 234 (Section 19-70 R.L.H.) in 1957 and adopted by the Board of Land and Natural Resources seven years later. The sections of the Act pertaining thereto are as follows:

1. "The (department) as soon as feasible after (July 1, 1957), shall undertake to review the boundaries of all forest and water reserve zones within each county with the view of making necessary corrections and establishing subzones within such zones, and fixing permissible uses therein. The (department) shall, after such review, prepare a proposed set of regulations, complete with necessary maps, establishing zone and subzone boundaries, and designating permitted uses therein."
2. "Scope of zoning regulations. The (department) shall, after notice and hearing as provided herein, adopt such regulations governing the use of land within the boundaries of the forest and water reserve zones as will not be detrimental to the conservation of necessary forest growth and the conservation and development of water resources adequate for present and future needs. The (department) by means of such regulations may establish subzones within any forest and future needs. The (department) by means of such regulations may establish subzones within any forest and water reserve zone and specify the land uses permitted therein which may include, but are not limited to, farming, flower gardening, operation of nurseries or orchards, growth of commercial timber, grazing, recreational or hunting pursuits, or residential use."

Adoption of Regulation No. 4 came one month before the Conservation District boundaries were established by the Land

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