

## CHRONOLOGY

### ALOHA ESTATES SUBDIVISION

April 11, 1960

P&T granted preliminary approval with conditions.

- 1) 50 ft. bldg. setback line along Volcano Road.
- 2) Deeding to the State of 15 ft. on each side of all Gov't. r.o.w. through this subdivision & construction of roads in the center of such r.o.w. according to specs approved by the County Engineer.
- 3) Retention of all other roadways in private ownership until improved to County standards.
- 4) to 12) - Read preliminary approval.

February 6, 1961

2 months prior to the expiration date of the preliminary approval a letter was received from Mr. Robert Wagner, indicating the purchase of 591 acres from Wm. J. Nobriga, requesting final approval, without posting of bonds or the commencement of road construction of 100 acres, a file plan of which shall be submitted by the March meeting. Honolulu Builders, Ltd., Mr. Yokochi's letter to the applicant was submitted, which indicated willingness to construct roads for subdivision of approximately 600 acres for residential purpose of 12,000 square foot lots. Requested prosecution of project in 6 months after signing of contract. Unit price of \$27,000 for trunk road (60 ft. R/W - 20 ft. pavement) and \$17,000 for secondary roads.

March 2, 1961

P&T voted to grant one year's extension to prepare file plan.

March 27, 1961

Wagner submitted road construction contract between applicant and Honolulu Builders agreeing to 60 ft. r.o.w. for construction of trunk or primary roads. The paved area shall be 20 ft. wide with

March 25, 1961

3 ft. shoulder on each side with 14" rock base, 4" select material and 1½" cold premix. Agreement was consummated for 17,000/mile for secondary roads & 27,000/mile for trunk road. Escrow Agreement regarding road construction was submitted to Planning Commission where subdivider agreed to deposit \$5.75 per month, per lot sold but not to exceed \$206.35 per lot. Funds to be administered by subdivider, contractor & County Attorney's office. Action would be by unanimous agreement. Document approved by all three.

March 13, 1961

letter of 4/10/61

P.C. granted final approval to Units I & II & with several modifications & conditions. Modification #1 was that roadways in Gov't. r.o.w. will be according to drawings filed & approved by Chief Engineer. All roadways shall be completed within 3 years, the new deadline therefore being March 13, 1964.

February 13, 1962

Applicant requested to amend escrow agreement to allow use of road maintenance funds for road construction.

February 19, 1962

P.C. denied use of road maintenance fund for purpose of road construction but suggested that subdivider collect an additional \$1.00/month per lot sold for road construction.

June 22, 1963

P.C. requested the subdivider for record of amount in road construction & maintenance escrow funds within subdivision & to submit a monthly statement on:

1. What lots are sold, or to be sold each month.
2. Amount deposited in escrow each month.
3. Running totals of the two funds.

(Record shows no information submitted on lots already sold or to be sold each month after April 23, 1962.)

January 22, 1963

Applicant submitted a letter indicating that road construction contract with Honolulu Builders, Ltd. was cancelled & that a new contract was consummated with Yamada & Sons, Inc. Road construction agreement between applicant & Yamada & Sons, Inc., have similar stipulation as that with Honolulu Builders, Ltd. - with respect to amount as well as road specs - namely \$27,000/mile for trunk road, the r.o.w. being 60 ft. & pavement with 20 ft.  $\frac{1}{3}$  ft. shoulders, the specs being same also.

At about same time, a verbal request was also made to P.C. for half streets. Suggested that applicant submit a written request and whatever design layout of said half street as he may have.

June 10, 1963

Applicant submitted letter requesting that Aloha Estates be allowed to construct half streets only plus 3 ft. shoulders in 2 Gov't. r.o.w. bordering project.

June 24, 1963

Applicant's letter plus Commission's request for a legal opinion was submitted to County Attorney's office.

August 6, 1963

County Attorney's reply was received.

August 19, 1963

P.C. denied request for half streets.

September 5, 1963

Letter sent to applicant.

October 29, 1963

P.C. approved 16 ft. roadway within 30' r.o.w.

March 23, 1964

P.C. told Wagner to install culverts or channels to divert rain-water from Volcano Road. C. Schuster reminded P.C. of drainage problem (2nd reminder from State).

April 18, 1964

Wagner asked 2-year extension for road construction which was due to be completed on March, 1964. P.C., in May 1964, deferred this request because of County Attorney's memo of May 5 that there were "peculiar goings on at the subdivision, regarding the road construction escrow."

June 3, 1964

P.C. asked County Attorney for advice & he replied suggesting a

meeting be held with Wagner present asking why provisions of constr. escrow agreement were not complied with.

June 17, 1964

P.C. write Wagner asking him to appear at their next meeting.

July 20, 1964

Wagner submitted a written statement on payments made to new contractor, Yamada & Sons, & itemized when and how much. Wagner also stated he doesn't intend to sell Unit II until 90% of Unit I was sold. Wagner said money paid Yamada was from an outside loan and not from escrow fund.

July 21, 1964

P.C. gave Wagner 11 months' extension provided he:

1. state in writing that <sup>an agreement</sup> no Unit II lots will be sold until Unit I lots are all sold.
2. amend road constr. escrow agreement naming new road builder.
3. get affidavit showing \$80,000 (road completion amount) loan was approved.
4. tell P.C. the starting date of road construction.
5. show P.C. audit of \$32,000 already spent for roads.
6. submit quarterly lot sales report.
7. submit quarterly maintenance escrow fund deposits.

These conditions should be met by Sept. 11, 1964; otherwise extension is null and void.

August 14, 1964

P.C. told Wagner that Agreement he submitted was not written the way P.C. wanted it - too many discrepancies (see C.A.'s letter of Aug. 13). Wagner did not answer this but instead wrote on Oct. 19 that he had placed \$31,500 into Bank of Hawaii escrow account.

December 28, 1964

P.C. told Wagner he has to show:

1. amended agreement to show moratorium of escrow construction fund deposits for 13 months as directed by the P.C.

(this, so that monies collected from sales instead of going into construction escrow, would go directly to <sup>PAY</sup> off loan of \$31,500 & after 13 months, would then revert to original escrow fund arrangement).

2. submit quarterly lot sales report.
3. submit audit of maintenance escrow fund.

By complying with above items, he could then be granted 11 months extension.

January 19, 1965

P.C. told Wagner, reminding him of Dec. 28 letter (above) with 3 conditions - that since has had not complied yet, to appear at Committee's Feb. 5 meeting.

February 2, 1965

Wagner submitted in writing, a report on maintenance fund showing

collections on accounts	\$5,382.
deposits in escrow	<u>2,049.</u>
account in arrears	\$3,333.

He also said that no roads are 100% complete; that no withdrawals have ever been made from this account in Bank of Hawaii. He appeared at Feb. 5 meeting explaining these items.

February 16, 1965

P.C. told Wagner in letter that they are deferring the 11 months extension, reminding him to comply with moratorium portion requested by P.C.

April 1, 1965

Since there was still no compliance by Wagner on moratorium portion P.C. at its March 31 meeting decided to give him 30 days to submit this. No answer to this

April 19, 1965

Wagner submitted another report on lot sales.

May 10, 1965

Attorney wrote Planning that documents (which Wagner finally submitted) were not entirely in order & suggested some corrections

in wording.

May 13, 1965

P.C. sent documents back to Wagner for corrections and rewording. He was further reminded by P.C. that an 11 months extension would be granted only if he submitted an acceptable document (amended construction escrow agreement).

June 4, 1965

P.C. wrote him again to resubmit documents with suggested amendments. He never responded to this nor did P.C. ever get back original escrow agreement (dated Nov. 1, 1964) & amendments (dated April 15, 1965).

Aug. 6, 1965

Aug. 20, 1965

NO FURTHER COMMUNICATION WAS RECEIVED FROM WAGNER TO DATE. He was phoned regarding this numerous times & never responded. County Engineer wrote Wagner that he was in violation on road construction - that no construction drawings were submitted but that they observed road building was underway anyway.

September 10, 1965

County Engineer wrote Attorney to pursue this matter since Wagner has not replied nor conformed. Copies of these were sent to Wagner.

Jan. 3 '66 With the County Attorney investigating subdivision for a reply by Wagner, DPW answers County Attorney inquiry as to lots sold, who is Wagner, what corporations involved.

Feb. 28 '66 State reg. division responds to a Californians inquiry on subdivision. cc copy.

July 28 '66 P.C. wrote to Hilo Salvage Co. that \$472.69 remains in Road Const. escrow account as of June 30 '66 and that County Attorney will settle issue of whether they can be assured to be paid as road construction builder.

Aug. 15 '66 P.C. sends requested documents to County Attorney.

Aug. 16 '66 County Attotney indicates to P.C. that "Agreement" referred in P.C. letter to Hilo Salvage was not in the materials that was sent.

Sept. 27 '66 County Attorney informs P.C. of civil action No. 1271. Indicates P.C. contended that over 500 lots were sold and Nobriga says 83. P.C. then informed County Attorney that:  
 \$8,992.00 - road maintenance fund required  
2,109.00 - already deposited  
 \$6,883.00 - balance needed to bring fund up to date

Dec. 27 '66 P.C. informs Nobriga that total lots sold as of Dec. 20 '66 - should be 94 per tax office records. Road Maintenance escrow fund deficiency now corrected to be \$3,531 - needed to be deposited with Bank of Hawaii.

Dec. 29 '66 Nobriga acknowledges P.C. letter and instructs Roy Nakamoto, Commissioner in Civil Action No. 1271 to make \$3,531 - available to Road Maintenance escrow fund.

Jan. 9 '67 P.C. is apprised by Lt. Colonel Walter French that he is unable to obtain deed to his prop. he bought in Aloha Estates Subdivision. Also French endorsed a copy of a letter he received from Reg. Agency.

Jan. 24 '67 P.C. responds to an inquiry by a lot buyer. This communication spells out requirements pending on subdivision

1. Unit I did not receive final approval yet
2. William Nobriga is new owner of subdivision
3. Points out that Aloha Dev. failed to satisfy conditions of P.C. and neither could they fulfill financial obligations
4. Should new owner meet P.C. conditions final approval for subdivision still possible.

Feb. 15 '67 CC of letter between Nobriga & Nakamoto saying that Nobriga asked Bank of Hawaii to:

1. Substitute his name for Aloha Dev. I, Bomac Hawaii, Inc. & Empac Inc.
  2. Provide copy of two escrow account documents now at bank
  3. Give report of balance now in each fund and give monthly report on the accounts
- Aug. 9 '67 P.C. asked County Attorney to take appropriate legal actions inasmuch as lots in Unit I & II are being offered for sale.
- Sept. 8 '67 A copy of a memo from Nobriga to the County Attorney stipulates the endeavors of Nobriga thus far for the subdivision's sake.
- Sept. 13 '67 County Attorney informs P.C. that no definite action will be taken to inquiry of alleged lots sold.
- Oct. 30 '67 A report submitted by the State Real Estate Commission is given to P.C. for information.
- Dec. 6 '67 JYS Corp. informs P.C. of possible take over of Aloha Estates. Indicated that they are willing to place \$30,000 in road escrow fund to complete road which is expected to cost \$100,000.
- Dec. 18 '67 Copy of a letter from Yamada & Sons - places road const. cost for remainder of Unit I & Unit 2 roads as \$125,000.
- Dec. 19 '67 Nobriga asks P.C. approval to sell lots in Unit I - 244 lots, Unit II - 396 lots and Unit III - 66 lots and informs of phasing of improvements.
- Dec. 21 '67 Nobriga acknowledges needed items per "meeting" apparently held Dec. 20 '67.
- Dec. 28 '67 P.C. informs Nobriga that in general they agree with proposal by Nobriga of Dec. 19 '67. The following needed to be done.
1. Submit const. plans with attention to drainage and flood concerns.
  2. Complete attached agreement & bond forms for required approval.
  3. Addendum to agreement in force required.
- Jan. 23 '68 DPW informs P.C. of comments for subdivision
1. Submit const. plans
  2. Revise subbase
  3. R/W of 45-feet ok.
  4. Cold mix okay
- Aug. 1 '68 JYS Corp. informs P.C. that they now own subdivision and subdivision now changes name to Anthurium Garden Estates.



Sept. 27 '68 P.C. informs Nobriga that const. dwgs of Unit I and Unit 2 & 3 were not yet approved.

Oct. 7 '68 Nobriga mentions that KIK & Assoc. will make const. engineering.

Dec. 5 '68 Masanori Kushi submits const. agreement & cash bond to P.C. \$50,000 - Acknowledgement by P.C. on Jan 3 '69 saying attorney must review documents.

Feb. 3 '69 Planning Department - (PD) informs JYS that const. plan approval needed before acceptance of bond documents can be made.

Feb. 14 '69 Nobriga submits const. plans for Units I, II & III for approval. Sent plans to DPW & State Hwys for processing.

Feb. 19 '69 PD asks Corp. Counsel approval of form & comments of road const. agreement documents. \$50,000 - on hand deemed sufficient. Corp. Counsel replied on Feb. 28 '69 - with comments:

1. All contracts need to be signed by Mayor
2. Ord. 62 says DPW & Planning Director signature sufficient in lieu of item 1
3. Wants to meet with Wendell Kimura before approving agreement
4. Bond if by check need to be certified.
5. No corporation seal of Yamada & Sons & JYS Corp.
6. Signature space not consistent with agreement text.

Mar. 28 '69 PD sanctions sales of Unit I lots. Unit II & III not granted sanction.

April 2 '69 Corp. Counsel approves agreements as to form.

May 21 '69 PD informs JYS of Unit I lots consistency. Also Units II & III which were not cleared for sale.

Sept. 3 '69 PD informs JYS that street names does not come under purview of County since private roads involved. Street names were submitted August 4 '69.

Sept. 10 '69 JYS submits street names for duplication check. PD replied on Sept. 17 '69 that Anthurium Street is duplicate.

Oct. 15 '69 Nobriga submits certified copies of const. plans for Units I, II & III acknowledged by PD on Nov. 4 '69.

Oct. 28 '69 JYS asks PD for confirmation of \$50,000 on deposit for Cash Bond Agreement dated Oct. 1 '68.

Nov. 7 '69 PD informs Nobriga that if Unit II & III are hoped to be sanctioned for sale \$45,000 - per increment needed and \$50,000 - already deposited for Unit I.

Jan 21 '70 Nobriga acknowledges PD letter and states that he understands if \$45,000 as cash bond is made lots in inc. II & III can be sold.

Mar. 18 '70 JYS submits certified check for \$90,000 for cash bond for Units II & III, and requests PD confirmation that lots in Units II & III can be sold. PD acknowledge \$90,000 - deposit and approves sale of lots in Inc. II & III on April 3 '70.

Feb. 24 '71 Robert A Stringer Jr. becomes contact for outgoing Joseph Y. Sotomura. Letter from Joe Sotomura.

Series of memorandums listing lots deeded by JYS Corp. & Nobriga: by Nobriga dated Nov. 5 '71

As of Oct. 21 '71 - 71 lots deeded - memo points out that:

1. 71 lots are in addition to 94 lots confirmed by P.C. dated 12/27/66
2. Of 138 lots acquired by JYS from Nobriga on Sept. 18 '68 - 8 lots were sold (as of Oct. 21 '71) in Unit I, and 16 lots sold in Unit II
3. Confirmation of 94 lots previously reported
4. Total to be deposited is \$5,220

Total to be deposited in Road Maintenance Escrow Fund

Already in #50-103	\$ 5,640	94 lots
Nobriga need	480	8 lots
JYS need	960	16 lots
Nobriga need	<u>4,270</u>	

Should be in fund total \$11,350

Jan. 10 '72 Stringer asks PD of confirmation of road const. escrow balance - \$102,200. No acknowledgement found in files.

Feb. 11 '72 PD informs Nobriga of conditions for road improvements - (see thermofax copy of letter)

Nov. 3 '72 PD sends Touche Ross & Co. of Arizona confirmation that \$93,947 remains in road construction fund.

June 25 '73 Aina Hale Realtors asks PD if conditions of Feb. 11 '72 letter will apply to prospective purchaser to Unit 3, 4 & 5 of subdivision.

July 6 '73 Memo from Sid to Director - that

1. Aina Hale Realtors be informed of conditions
2. Stipulate a time limit for performance & informing of possible nullification
3. Confirmation on this from Cliff Lum

Aug. 31 '73 Jack Sims of RSM asks PD of validity of subdivision - of File Plans #728, 729 & 730.

Aug. 21 '73 Touche & Ross of Arizona asks PD for verification of \$93,947 in road const. fund.

Nov. 12 '73 Corp. Counsel rendered opinion on what to do next in status of subdivision. Nullity declaration for subdivision is possible.

Jan. 21 '74 William Nobriga informed by PD of conditions as stated earlier in Feb. '72. Gave Nobriga one year to comply with conditions as stated.

Feb. 7 '74 Similar letter was sent to Aina Hale Realtors from PD on conditions mentioned to Nobriga on Feb. '72.

Feb. 19 '74 Matsukage ask PD of release for road const. payment to Yamada & Sons for \$36,068.48. PD responded with letter telling him we are seeking advice from Corp. Counsel on this.

April 4 '74 Matsukage is informed that a new surety needed. Attorneys from Kidwell, Goodsill et al submits documents of new surety to Corp. Counsel as per County requests on June 3 '74.

June 24 '74 Corp. Counsel advises PD on the naming of cash bond document & if funds can be transferred to Royal Pacific Land Co. Inc. (RPLC) - Answer to this:

1. RPLC & P-PC substituted as the new subdividers and new date stated for completion
2. Not to accept letter of credit
3. A new cash bond agreement needed.

CHRONOLOGY

A L O H A   E S T A T E S   S U B D I V I S I O N

April 11, 1960 - P&T granted preliminary approval w/conditions. 1) 50 ft. bldg. setback line along Volcano Road. 2) Deeding to the State of 15 ft. on each side of all Gov't. r.o.w. through this subdivision and construction of roads in the center of such r.o.w. according to specs approved by the County Engineer. 3) Retention of all other roadways in private ownership until improved to County standards. 4) (Read preliminary approval.)

Feb. 6, 1961 - 2 months prior to the expiration date of the preliminary approval a letter was received from Mr. Robert Wagner, indicating the purchase of 591 acres from Wm. J. Nobriga, request final approval, without posting of bonds or the commencement of road construction of 100 acres, a file plan of which shall be submitted by the March meeting. Honolulu Builders, Limited, Mr. Yokochi's letter to the applicant was submitted, which indicated willingness to construct roads for subdivision of approximately 600 acres for residential purpose of 12,000 square foot lots. Request prosecution of project in 6 months after signing of contract. Unit price of \$27,000 for trunk road (60 ft. R/W - 20 ft. pavement) and \$17,000 for secondary roads.

March 2, 1961 - P&T voted to grant one year's extension to prepare the file plan.

March 27, 1961 - Submitted road construction contract between applicant and Honolulu Builders agreeing to the 60 ft. right-of-way for the construction of the trunk or primary roads. The paved area shall be 20 ft wide with 3 ft shoulder on each side with 14" rock base, 4" select material and 1 1/2" cold premix. Agreement was consummated for 17,000/mile for the secondary roads and 27,000/mile for trunk road.

March 25, 1961 - Escrow Agreement regarding road construction was submitted where the subdivider agreed to deposit \$5.75 per month, per lot sold but not to exceed \$206.35 per lot. The funds to be administered by the subdivider, contractor and the County Attorney's office. <sup>Must act on unanimous agreement.</sup> It was signed by the subdivider, contractor, and County Attorney.

March 13, 1961 - <sup>PC</sup> Granted final approval to Units I and II - with several modifications and conditions. Modification #1 was that roadways in Gov't. r.o.w. will be according to the drawings filed and approved by the Chief Engineer. All roadways shall be completed within 3 years ~~as of March 13, 1964.~~ <sup>being March 13, next year. 1964.</sup> The deadline ~~being~~ <sup>was</sup>

Feb. 13, 1962 - Applicant requested to amend the escrow agreement to allow the use of road maintenance funds for road construction.

Feb. 19, 1962 - Commission denied the use of road maintenance fund for the purpose of road construction but suggest subdivider to collect an additional \$1.00/month per lot sold for road construction.

June 22, 1963 - Commission requested the subdivider for the record of amount in road construction and maintenance escrow funds within subdivision and to submit a monthly statement on:

1. What lots are sold, or to be sold each month.
2. Amount deposited in escrow each month.
3. Running totals of the two funds.

To date we only have record up to April 23, 1962. Our record shows no information was submitted on lots already sold or to be sold each month.

Jan. 22, 1963 - The applicant submitted a letter indicating that road construction contract with Honolulu Builders, Ltd., was canceled and that new contract was consummated with Yamada & Sons, Inc. The road construction agreement between applicant and Yamada & Sons, Inc., have similar stipulation as that with Honolulu Builders, Ltd. - with respect to the amount as well as the road specs - namely \$27,000/mile for trunk road, the r.o.w. being 60-ft. and pavement with 20 ft w/3 ft. shoulders, the specs being the same also.

At about the same time, a verbal request was also made to the Commission for half streets. This was prior to my appointment to office. There was no record in our file for half street request. Consequently, I suggested that the applicant submit a written request and whatever design layout of said half street as he may have.

- June 10, 1963 - The applicant submitted letter requesting that Aloha Estates be allowed to construct half streets only plus 3-ft. shoulders in the two Government r.o.w. bordering our project.
- June 24, 1963 - The applicant's letter plus the Commission's request for a legal opinion was submitted to the County Attorney's office.
- August 6, 1963 - County Attorney's reply was received.
- August 19, 1963 - Commission denied the request for half streets.
- Sept. 5, 1963 - A letter was sent to the applicant.

The road construction escrow agreement was the basis of Commission granting final approval prior to posting of bond or completion of roadways. Now that the third party, namely, Honolulu Builders is ~~no~~<sup>not</sup> more included as the third party, the escrow agreement is not valid until a new escrow agreement is consummated with Yamada & Sons, Ltd., as the third party.

Construction drawing as well as escrow agreement submitted on the basis of 60-ft. r.o.w. with 20 ft. pavement and 3-ft. shoulder. These plans and documents were submitted by the applicant, agreed to by the applicant and directly related to the applicant's subdivision and no other. To allow half streets on the applicants subdivision would be setting an extremely detrimental precedent; - no where in our subdivision ordinance, ever hints or makes reference to half streets.

E. F. AMASA