



Upcountry Town Center

Pukalani, Maui, Hawai'i TMK (2) 2-3-07:8

Petition for State Land Use District Boundary Amendment

Accepting Authority:

State of Hawaii, Land Use Commission

July 2003



MAUI LAND & PINEAPPLE COMPANY, INC.

**PETITION FOR
STATE LAND USE BOUNDARY AMENDMENT**

**FOR THE PROPOSED
41-ACRE UPCOUNTRY TOWN CENTER DEVELOPMENT
PUKALANI, ISLAND OF MAUI
TMK: 2-3-07:8**

PETITIONER:

Maui Land & Pineapple Company, Inc.
120 Kane Street
Kahului, Maui, HI 96733

PREPARED BY:

Group 70 International, Inc.
925 Bethel Street, Fifth Floor
Honolulu, HI 96813-4307
Phone: (808) 523-5866

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BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of) DOCKET NO. A03-740
)
MAUI LAND & PINEAPPLE COMPANY, INC.)
)
To Amend the Agricultural Land Use District)
Boundary into the Urban Land Use District)
for approximately 40.6 acres at Pukalani,)
Island and County of Maui, State of Hawaii,)
Tax Map Key Nos. (2) 2-3-07:8)
_____)

PETITION FOR LAND USE DISTRICT BOUNDARY AMENDMENT

TO THE HONORABLE LAND USE COMMISSION OF THE STATE OF HAWAII:

COMES NOW MAUI LAND & PINEAPPLE COMPANY, INC., a Hawaii corporation, Petitioner herein, for an amendment to the land use district boundary to effect district reclassification of approximately 40.6 acres of land at Pukalani, Island and County of Maui, State of Hawaii, from the Agricultural to the Urban District, and for this purpose Petitioner alleges as follows:

I
JURISDICTION AND AUTHORITY FOR RELIEF SOUGHT

This petition is filed pursuant to Sections 205-3.1(e) and 205-4, Hawaii Revised Statutes, as amended, and Subchapter 6 of Title 15, Chapter 15, Hawaii Administrative Rules (Land Use Commission Rules); and the Commission is authorized to grant the relief sought herein pursuant to the provisions of Chapter 205, Hawaii Revised Statutes, and every other enabling authority applicable to this petition.

II
DESCRIPTION OF THE LAND AND PETITIONER’S PROPRIETARY INTEREST

A. The real property which is the subject of this Petition is described by metes and bounds in Exhibit 1 attached hereto and made a part hereof (hereinafter referred to as the “Property”). The Property described in Exhibit 1 consists of Tax Map Key (TMK) parcel 2-3-07:08. A map showing this parcel is contained in Exhibit 2 and made a part hereof.

The Property, consisting of the above parcel, contains 40.6 acres and is owned by Maui Land & Pineapple Company, Inc. Petitioner is the owner of the fee interest in the property. Appropriate documents evidencing the owner’s aforesaid fee interest are contained in Exhibit 3 attached hereto and made a part hereof.

B. Maui Land & Pineapple Company, Inc., the fee simple owner of the property, has authorized Petitioner to submit this petition as set forth in the letter contained in Exhibit 4 attached hereto and made a part hereof.

III
PLACE OF BUSINESS

Petitioner Maui Land & Pineapple Company, Inc. is a Hawaii corporation whose business address is 120 Kane Street, P.O. Box 187, Kahului, Hawaii 96733-6687.

IV
STATEMENT OF FINANCIAL CONDITION

The statement of financial condition of Petitioner is attached hereto as Exhibit 5 and made a part hereof.

V
COMMUNICATION AND SERVICE OF PROCESS

All correspondence, communications, notices, orders and other papers in this matter shall be addressed to and served upon Petitioner's attorney, Steven S. C. Lim, Carlsmith Ball LLP and the following named persons:

Randall H. Endo
Maui Land & Pineapple Company, Inc.
120 Kane Street, P.O. Box 187
Kahului, Hawaii 96733-6687

VI
LOCATION OF PROPERTY

The Property is located in the Pukalani area of Upcountry Maui on the windward slopes of Haleakala approximately 15 miles southeast of Wailuku and Kahului. The Property is a triangular-shaped property located at the intersection of Pukalani Bypass Highway, Old Haleakala Highway and Makawao Avenue. The Property is bounded on the north by the Pukalani residential community and commercial uses, with agricultural fields across roadways to the east and west. The Property rises in elevation from approximately 1610 feet at the intersection of Makawao Avenue and Haleakala Highway, to 1720 feet at its highest point. The Property will be accessed from the north by Makawao Road, Haleakala Highway to the east, and Old Haleakala Highway to the west. The location and other physical details of the Property are shown in Attachments 1 through 3 of Exhibit 7, entitled "Revised Draft Environmental Impact Statement, Upcountry Town Center, Pukalani, Maui, Hawaii" dated July 2 003, said Exhibit 7 being attached hereto and made a part hereof.

VII
EXISTING USE OF THE PROPERTY

The Property is currently vacant and undeveloped except for four former agricultural warehouse structures and a small horse stable, corral and feed outlet/tack shop.

VIII
REQUIRED FACTS, DATA AND INFORMATION

The facts, data and other information required by Sec. 15-15-50, Hawaii Land Use Commission Rules, are set forth in this Petition and in Exhibits 1 to 6 and all attachments and appendices hereto. The facts, data and other information contained in the exhibits and appendices are specifically incorporated herein by reference. The proposed Project constitutes an action for which an environmental impact statement is required under Sec. 343-5, Hawaii Revised Statutes. The Property does not fall within the Special Management Area ("SMA") delineated on the maps established by the County of Maui pursuant to Sec. 205A-23, Hawaii Revised Statutes.

IX
STANDARDS FOR URBAN BOUNDARIES

Based upon the evidence contained in said exhibits, and by the evidence adduced and to be adduced herein, the Property meets the standards applicable in establishing boundaries for the Urban District as such standards are set forth in Sec. 15-15-18, Hawaii Land Use Commission Rules, as the same or so much thereof may be applicable to the Property.

X
REASONABLENESS OF THE BOUNDARY AMENDMENT

Based upon the evidence contained in this Petition and upon the evidence adduced at the hearing on this matter, the boundary amendment requested herein is reasonable and does not violate Sec. 205-2, Hawaii Revised Statutes; and is consistent with the policies and criteria established pursuant to Sections 205-16, 205-17, and Chapters 205 and 205A, Hawaii Revised Statutes, and it is also consistent with the Hawaii State Plan set forth in Chapter 226, Hawaii Revised Statutes, as applicable.

WHEREFORE, Petitioner requests that the Land Use Commission amend the land use district boundary of the Property in the manner proposed and requested by this petition.

DATED: Kahului, Maui, Hawaii, July 15, 2003

MAUI LAND & PINEAPPLE COMPANY, INC.
A Hawaii corporation

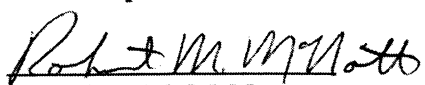
By 
Robert M. McNatt
Its Vice-President,
Land Planning & Development

EXHIBIT 1
Metes and Bounds Description

LAND DESCRIPTION

PARCEL FIRST

All that certain parcel of land known as a portion of Royal Patent Grant 964 to Kekaha and a portion of Royal Patent Grant 1468 to Daniel T. Conde.

Situate at
Kukuiaeo, Makawao, Maui, Hawaii
Tax Map Key: (2) 2-3-07: Portion of 08

Beginning at a ½ inch pipe (set) at the southerly corner of this parcel of land, being a point on the northeasterly right-of-way line of Old Haleakala Highway, the coordinates of said point of beginning are based on record information and referred to Government Survey Triangulation Station "PIIHOLO" being 8,196.61 feet south and 12,579.92 feet west and running by azimuths measured clockwise from true south; thence,

1. 140°46'26" 798.01 feet along the northeasterly right-of-way line of Old Haleakala Highway to a ½ inch pipe (set); thence,
2. Following along the same, along the arc of a curve concave to the right, having a radius of 1121.28 feet, the chord azimuth and distance being 141°54'18" for 44.27 feet to a spike (set); thence,
3. 230°24'00" 600.00 feet along the southeasterly property boundary line of a Portion of Royal Patent Grant 964 to Kekaha to a point; thence,
4. 148°50'00" 218.00 feet along the northeasterly property boundary line of a Portion of Royal Patent Grant 964 to Kekaha to a point; thence,
5. 50°24'00" 600.00 feet along the northwesterly property boundary line of a Portion of Royal Patent Grant 964 to Kekaha to a point; thence,
6. 150°55'26" 583.82 feet along the northeasterly right-of-way line of Old Haleakala Highway to a ½ inch pipe (set); thence,
7. 151°35'26" 84.91 feet along the same to a ½ inch pipe (set); thence,
8. Following along the southeasterly right-of-way line of Makawao Avenue along the arc of a curve concave to the right, having a radius of 70.00 feet, the chord azimuth and distance being 190°35'13" for 88.10 feet to a ½ inch pipe (set); thence,
9. 229°35'00" 222.15 feet along the same to a ½ inch pipe (set); thence,
10. Following along the same, along the arc of a curve concave to the right, having a radius of 1972.00 feet, the chord azimuth and distance being 231°33'00" for 135.35 feet to a ½ inch pipe (set); thence,

LAND DESCRIPTION (cont.)

Tax Map Key: (2) 2-3-07: Portion of 08

Page 2

11. 233°31'00" 224.30 feet along the southeasterly right-of-way line of Makawao Avenue to a ½ inch pipe (set); thence,
12. 236°00'00" 271.35 feet along the same to a ½ inch pipe (set); thence,
13. Following along the same, along the arc of a curve concave to the left, having a radius of 945.00 feet, the chord azimuth and distance being 230°23'30" for 184.71 feet to a ½ inch pipe (set); thence,
14. 224°47'00" 83.61 feet along the southeasterly right-of-way line of Makawao Avenue to a ½ inch pipe (set); thence,
15. Following along the remainder of Royal Grant 964 to Kekaha [Tax Map Key: (2) 2-3-07: 21], along the arc of a curve concave to the left, having a radius of 30.00 feet, the azimuth of a radial line passing through the beginning of this curve being 97°50'42", the chord azimuth and distance being 346°55'21" for 21.43 feet to a ¾ inch pipe (found); thence,
16. 326°00'00" 163.55 feet along the remainder of Royal Patent Grant 964 to Kekaha [Tax Map Key: (2) 2-3-07: 21] to a ½ inch pipe (set); thence,
17. 236°00'00" 110.00 feet along the same to a ¾ inch pipe (found); thence,
18. 146°00'00" 203.86 feet along the same to a ½ inch pipe (set); thence,
19. 224°47'00" 282.18 feet along the southeasterly right-of-way line of Makawao Avenue to a ½ inch pipe (set); thence,
20. Following along the same, along the arc of a curve concave to the right, having a radius of 50.00 feet, the chord azimuth and distance being 284°21'00" for 86.22 feet to a ½ inch pipe (set); thence,
21. Following along the westerly right-of-way line of Haleakala Highway (Pukalani Bypass), along the arc of a compound curve concave to the right, having a radius of 1890.00 feet, the azimuth of a radial line passing through the beginning of this curve being 253°55'00", the chord azimuth and distance being 348°04'30" for 274.10 feet to a ½ inch pipe (set); thence,
22. 14°10'00" 99.91 feet along the westerly right-of-way line of Haleakala Highway (Pukalani Bypass) to a ½ inch pipe (set); thence,

LAND DESCRIPTION (cont.)

Tax Map Key: (2) 2-3-07: Portion of 08

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23. 336°03'00" 99.94 feet along the same to a ½ inch pipe (set); thence,
24. 356°16'20" 287.05 feet along the same to a ½ inch pipe (set); thence,
25. 7°33'45" 232.79 feet along the same to a ½ inch pipe (found); thence,
26. 13°29'00" 668.72 feet along the same to a ½ inch pipe (set); thence,
27. Following along the same, along the arc of a curve concave to the left, having a radius of 4,570.00 feet, the chord azimuth and distance being 8°21'36" for 816.20 feet to a ½ inch pipe (set); thence,
28. Following along the westerly right-of-way line of Haleakala Highway (Pukalani Bypass), along the arc of a reverse curve concave to the right, having a radius of 40.00 feet, the azimuth of a radial line passing through the beginning of this curve being 273°14'12", the chord azimuth and distance being 72°00'19" for 74.57 feet to the point of beginning and containing an area of 37.608 acres.

PARCEL SECOND

All that certain parcel of land known as a Portion of Royal Patent Grant 964 to Kekaha.

Situate at

Makawao, Maui, Hawaii

Tax Map Key: (2) 2-3-07: Portion of 08

Beginning at a ½ inch pipe (set) at the northwesterly corner of this parcel of land and a westerly corner of the remainder of Royal Patent Grant 964 to Kekaha, being a point on the southeasterly right-of-way line of Old Haleakala Highway, the coordinates of said point of beginning are based on record information and referred to Government Survey Triangulation Station "PIIHOLO" being 7,357.05 feet south and 13,224.70 feet west and running by azimuths measured clockwise from true south; thence,

1. 230°24'00" 600.00 feet along the remainder of Royal Patent Grant 964 to Kekaha to a point; thence,
2. 328°50'00" 218.00 feet along the same to a point; thence,
3. 50°24'00" 600.00 feet along the same to a spike (set); thence,

LAND DESCRIPTION (cont.)

Tax Map Key: (2) 2-3-07: Portion of 08

Page 4

4. Following along the southeasterly right-of-way line of Old Haleakala Highway, along the arc of a curve concave to the right, having a radius of 1121.28 feet, the azimuth of a radial line passing through the beginning of this curve being 53°02'10", the chord azimuth and distance being 145°00'28" for 77.15 feet to a ½ inch pipe (set); thence,
5. 150°55'26" 141.11 feet along the southeasterly right-of-way line of Old Haleakala Highway to the point of beginning and containing an area of 2.984 acres.

RESERVING THEREFROM;

A nonexclusive chlorination plant and pipeline easement in favor of the County of Maui as recorded in Liber 14349 at Page 569, dated December 18, 1979, on file at the State of Hawaii Bureau of Conveyance.

RESERVING THEREFROM;

A roadway easement (44 feet wide) in favor of the County of Maui, as recorded in Liber 8684 at Page 406, dated June 11, 1970, on file at the State of Hawaii Bureau of Conveyance.

RESERVING THEREFROM;

An anchor easement in favor of Maui Electric Company, Limited, as recorded in Liber 12408 at Pages 409 thru 417, dated July 12, 1977, on file at the State of Hawaii Bureau of Conveyance.

RESERVING THEREFROM;

Right-of-way (25 feet wide) in favor of Maui Electric Company, Limited, and Verizon Hawaii, Inc., as recorded in Liber 4162 at Page 301, dated October 9, 1961, on file at the State of Hawaii Bureau of Conveyance.

RESERVING THEREFROM;

An ingress and egress water pipeline easement in favor of The Board of Water Supply of the County of Maui, as recorded in Liber 9585 at Page 510, dated October 29, 1973, on file at the State of Hawaii Bureau of Conveyance.

RESERVING THEREFROM;

A nonexclusive ingress and egress water pipeline easement in favor of The Board of Water Supply of the County of Maui, as recorded in Liber 9953 at Page 433, dated May 29, 1974, on file at the State of Hawaii Bureau of Conveyance.

LAND DESCRIPTION (cont.)

Tax Map Key: (2) 2-3-07: Portion of 08

Page 5

RESERVING THEREFROM;

A water pipeline easement as shown on map attached to instrument recorded as Document No. 99-192419, dated December 6, 1999, on file at the State of Hawaii Bureau of Conveyances.

RESERVING THEREFROM;

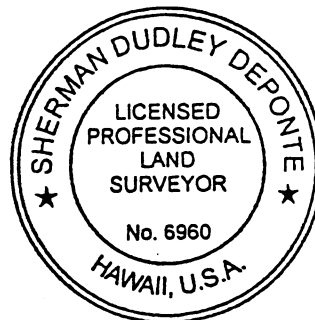
Restricted rights of vehicular access into and from Haleakala Highway Project No. 37C-01-90 as shown on NOTICE OF PENDENCY OF ACTION; AFFIDAVIT OF DAWN N. S. CHING; EXHIBIT "A", dated July 10, 1991, filed in the Circuit Court of the Second Circuit, State of Hawaii, Case No. 91-0437 (2) on July 12, 1991, recorded as Document No. 91-130846 on September 25, 1991; (Note: there is no Final Order of Condemnation of record at this time).

This work was done by me or
under my direct supervision.

AKAMAI LAND SURVEYING, INC.



Sherman Dudley DePonte
Licensed Professional Land Surveyor
State of Hawaii Certificate No. 6960



STATUS REPORT

Maximum liability limited to
\$2,500.00

This report (and any revisions thereto) is issued solely for the convenience of the titleholder, the titleholder's agent, counsel, purchaser or mortgagee, or the person ordering it.

SCHEDULE A

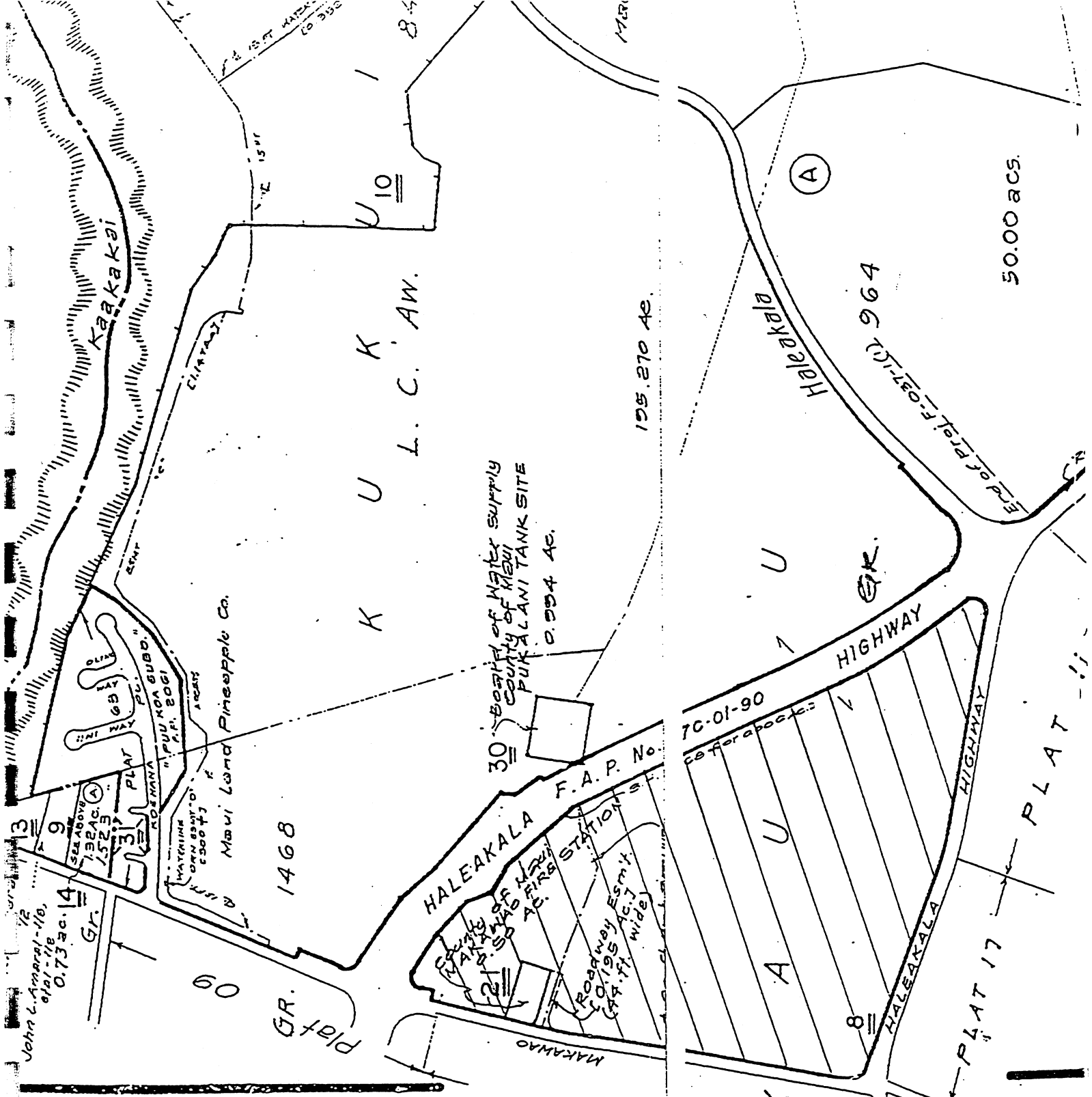
Title Guaranty of Hawaii, Incorporated, hereby reports that, subject to those matters set forth in Schedule "B" hereof, the title to the estate or interest to the land described in Schedule "C" hereof is vested in:

MAUI LAND & PINEAPPLE COMPANY, INC.,
a Hawaii corporation,
as Fee Owner

This report is dated as of July 20, 2001 at 8:00 a.m.

Inquiries concerning this report
should be directed to
ANGELA REIS.
Email areis@tghawaii.com
Fax (808) 533-5855
Telephone (808) 539-7789.
Refer to Order No. 200128553.

EXHIBIT 2
TMK (2) 2-3-07:8 Map

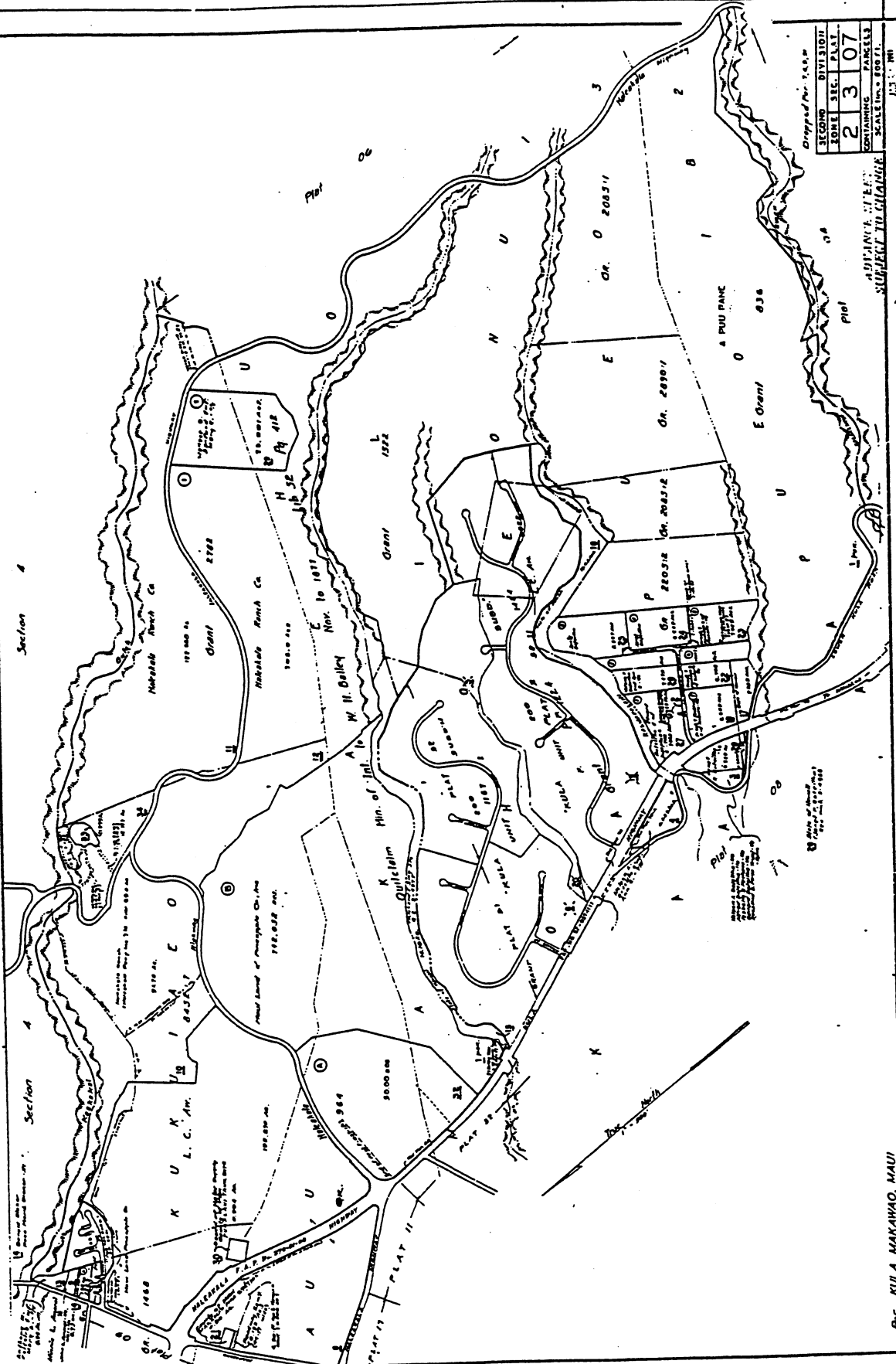


APR 21 1939
 APR 28 1939
 SEP 23 1940
 DEC 23 1940
 MAR 6 1943
 MAY 2 1945
 MAY 20 1946
 MAY 20 1947
 OCT 1 1947
 OCT 1 1947

NOV 24 1950
 SEP 17 1950

EXHIBIT "A"

MAR 15 1960
 MAR 15 1960
 MAR 15 1960
 SEP 19 1960
 OCT 24 1960
 SEP 19 1960
 SEP 19 1960



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SECOND DIVISION	2
ZONE	3
SEC.	07
CONTAINING PARCELS	3
SCALE (1" = 200 FT.)	

ADJACENT SHEETS
 SUBJECT TO CHANGE

P.O. BOX 1500
 KULA, MAUI, HAWAII

EXHIBIT 3
Evidence of Owner's Fee Interest

STATUS REPORT

Maximum liability limited to
\$2,500.00

This report (and any revisions thereto) is issued solely for the convenience of the titleholder, the titleholder's agent, counsel, purchaser or mortgagee, or the person ordering it.

SCHEDULE A

Title Guaranty of Hawaii, Incorporated, hereby reports that, subject to those matters set forth in Schedule "B" hereof, the title to the estate or interest to the land described in Schedule "C" hereof is vested in:

MAUI LAND & PINEAPPLE COMPANY, INC.,
a Hawaii corporation,
as Fee Owner

This report is dated as of July 20, 2001 at 8:00 a.m.

Inquiries concerning this report
should be directed to
ANGELA REIS.
Email areis@tghawaii.com
Fax (808) 533-5855
Telephone (808) 539-7789.
Refer to Order No. 200128553.

**SCHEDULE B
EXCEPTIONS**

1. Real Property Taxes have been fully paid up to and including June 30, 2002. (see tax statement attached)

Tax Key: (2) 2-3-007-008 Area Assessed: 195.270 ACRES

Land Classification: AGRICULTURAL

-Note:- Attention is invited to the fact that the premises covered herein may be subject to possible rollback or retroactive property taxes.

2. Reservation in favor of the State of Hawaii of all mineral and metallic mines.
3. Right of the Native Tenants as contained in Royal Patent Grant Number 964 and 1468.
4. LEASE OF RIGHT OF WAY in favor of MAUI ELECTRIC COMPANY, LIMITED, a Hawaii corporation and HAWAIIAN TELEPHONE COMPANY, a Hawaii corporation now known as VERIZON HAWAII, INC. dated October 9, 1961, recorded in Liber 4162 at Page 301, leasing rights-of-way, each 25 feet wide, over, across and under the land described herein.
5. Easement for roadway purposes in favor of the COUNTY OF MAUI, a political subdivision of the State of Hawaii as granted in instrument dated June 11, 1970, recorded in Liber 8684 at Page 406 and being more particularly described as follows:

Beginning at a point at the northwest corner of this easement on the southeasterly side of Makawao Avenue, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU PANE" being 11347.31 feet north and 5052.58 feet west, thence running by azimuths measured clockwise from true South:

SCHEDULE B CONTINUED

1. 224° 47' 105.43 feet along the southeasterly side of Makawao Avenue to a pipe;
2. Thence along course 4 of the above-described lot on a curve to the left with a radius of 30.00 feet, the chord azimuth and distance being 5° 23' 30" 38.08 feet to a pipe;
3. 326° 00' 163.55 feet along course 3 of the above-described lot to a pipe;
4. 56° 00' 44.00 feet along the remainder of Grant 964 to Kekaha;
5. 146° 00' 143.52 feet along same;
6. Thence along same on a curve to the left with a radius of 29.51 feet, the chord azimuth and distance being: 95° 23' 30" 45.61 feet to the point of beginning and containing an area of 0.195 acre, more or less.

6. GRANT

TO : BOARD OF WATER SUPPLY OF THE COUNTY OF MAUI, a board duly created and existing under the laws of the State of Hawaii

DATED : October 29, 1973

RECORDED : Liber 9585 Page 510

GRANTING : an easement to construct, reconstruct, maintain, operate, repair and remove a water pipeline or pipelines, etc., together with ingress and egress, etc.

SCHEDULE B CONTINUED

7. GRANT

TO : BOARD OF WATER SUPPLY OF THE COUNTY OF MAUI, a board duly created and existing under the laws of the State of Hawaii

DATED : May 29, 1974
RECORDED : Liber 9953 Page 433
GRANTING : a nonexclusive easement to construct, reconstruct, maintain, operate, repair and remove a water pipeline or pipelines, pressure break tanks, pressure reducers and regulators and manholes, with equipment and appurtenances, together with the right of ingress and egress, etc.

8. GRANT

TO : MAUI ELECTRIC COMPANY, LIMITED, a Hawaii corporation, and HAWAIIAN TELEPHONE COMPANY, a Hawaii corporation now known as VERIZON HAWAII, INC.

DATED : July 12, 1977
RECORDED : Liber 12408 Page 409
GRANTING : a perpetual right and easement to build, construct, reconstruct, rebuild, repair, maintain and operate pole and wire lines and underground power lines, etc., for the transmission of electricity, etc., including the non-exclusive right to use all roads or future roads that may be constructed leading to the easement area being described thereto.

9. GRANT

TO : COUNTY OF MAUI, a political subdivision of the State of Hawaii

DATED : December 18, 1979
RECORDED : Liber 14349 Page 569
GRANTING : a nonexclusive easement and right-of-way to construct, reconstruct, maintain, operate, repair and remove a chlorinator plant, piping and valves, etc., over and across the easement area more particularly described thereto.

SCHEDULE B CONTINUED

10. Restricted rights of vehicular access into and from Haleakala Highway Project No. 37C-01-90 as shown on NOTICE OF PENDENCY OF ACTION; AFFIDAVIT OF DAWN N. S. CHING; EXHIBIT "A", dated July 10, 1991, filed in the Circuit Court of the Second Circuit, State of Hawaii, Case No. 91-0437(2) on July 12, 1991, recorded as Document No. 91-130846 on September 25, 1991; (Note: there is no Final Order of Condemnation of record at this time)
11. Water pipeline easement as shown on map attached to instrument dated December 6, 1999, recorded as Document No. 99-192419.
12. Any lien (or claim of lien) for services, labor or material arising from an improvement or work related to the land described in Schedule C herein.
13. Any unrecorded leases and matters arising from or affecting the same.
14. Discrepancies, conflicts in boundary lines, shortage in area, encroachments or any other matters which a correct survey or archaeological study would disclose.

-Note:- A current survey, with metes and bounds description, should be made of said premises.

END OF SCHEDULE B

SCHEDULE C

All of that certain parcel of land (being portion(s) of the land(s) described in and covered by Royal Patent Grant Number 1468 to Daniel T. Conde, and Royal Patent Grant Number 964 to Kekaha) situate, lying and being at Kula, District of Makawao, Island and County of Maui, State of Hawaii, as shown hatch marked on map attached hereto as Exhibit "A" bearing Tax Key (2) 2-3-007-008.

BEING THE PREMISES ACQUIRED BY DEED

GRANTOR : HALEAKALA PINEAPPLE COMPANY, LIMITED, a Hawaii corporation

GRANTEE : MAUI PINEAPPLE COMPANY, LIMITED, a Hawaii corporation

DATED : May 3, 1932

RECORDED : Liber 1161. Page 262.

END OF SCHEDULE C

GENERAL NOTES

1. There is hereby omitted from any covenants, conditions and reservations contained herein any covenant or restriction based on race, color, religion, sex, handicap, familial status or national origin, unless and only to the extent that said covenant (i) is exempt under Chapter 42, Section 3607 of the United States Code or (ii) relates to handicap but does not discriminate against handicapped persons.

2. MAUI PINEAPPLE COMPANY, LIMITED, was merged with and into HALEAKALA PINEAPPLE COMPANY, LIMITED, by instrument dated November 19, 1962, recorded in Liber 4412 at Page 67.

3. HALEAKALA PINEAPPLE COMPANY, LIMITED was changed to MAUI PINEAPPLE COMPANY, LIMITED by instrument dated December 12, 1962, recorded in Liber 4423 at Page 245.

4. The name of MAUI PINEAPPLE COMPANY, LIMITED was change to MAUI LAND & PINEAPPLE COMPANY, INC. by instrument dated September 12, 1989, recorded in Liber 6682 at Page 237.

GUIDELINES FOR THE ISSUANCE OF INSURANCE

- A. Taxes shown in Schedule B are as of the date such information is available from the taxing authority. Evidence of payment of all taxes and assessments subsequent to such date must be provided prior to recordation.
- B. Evidence of authority regarding the execution of all documents pertaining to the transaction is required prior to recordation. This includes corporate resolutions, copies of partnership agreements, powers of attorney and trust instruments.
- C. If an entity (corporation, partnership, limited liability company, etc.) is not registered in Hawaii, evidence of its formation and existence under the laws where such entity is formed must be presented prior to recordation.
- D. If the transaction involves a construction loan, the following is required:
 - (1) a letter confirming that there is no construction prior to recordation; or
 - (2) if there is such construction, appropriate indemnity agreements, financial statements and other relevant information from the owner, developer, general contractor and major sub-contractors must be submitted to the Title Company for approval at least one week prior to the anticipated date of recordation.

Forms are available upon request from Title Guaranty of Hawaii.

- E. Chapter 669, Hawaii Revised Statutes, sets forth acceptable tolerances for discrepancies in structures or improvements relative to private property boundaries for various classes of real property. If your survey map shows a position discrepancy that falls within the tolerances of Chapter 669, call your title officer as affirmative coverage may be available to insured lenders.
- F. The right is reserved to make additional exceptions and/or requirements upon examination of all documents submitted in connection with this transaction.
- G. If a policy of title insurance is issued, it will exclude from coverage all matters set forth in Schedule B of this report and in the printed Exclusions from Coverage of the policy. Copies of the policy forms are available upon request from Title Guaranty of Hawaii.

DATE PRINTED: 7/31/2001

STATEMENT OF ASSESSED VALUES AND REAL PROPERTY TAXES DUE

NAME OF OWNER: MAUI LAND & PINEAPPLE CO
LEASED TO :

TAX MAP KEY

DIVISION ZONE SECTION PLAT PARCEL HPR NO.
(2) 2 3 007 008 0000

CLASS: 5 AREA ASSESSED: 195.270 AC

ASSESSED VALUES FOR CURRENT YEAR TAXES: 2000

This certifies that the records of this division show the assessed values and taxes on the property designated by Tax Key shown above are as follows:

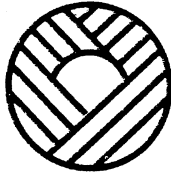
BUILDING	\$	67,300
EXEMPTION	\$	0
NET VALUE	\$	67,300
LAND	\$	97,800
EXEMPTION	\$	0
NET VALUE	\$	97,800
TOTAL NET VALUE	\$	165,100

CURRENT YEAR TAXES:	AMOUNT DUE	CREDIT
1ST INSTALLMENT (DUE 8-20-2000)	\$ 416.05	\$ 416.05
2ND INSTALLMENT (DUE 2-20-2001)	\$ 416.05	\$ 416.05
TOTAL TAXES:	\$ 832.10	

PRIOR YEAR TAXES: NONE

1ST INSTALLMENT (DUE 8-20-1999)	\$ 397.10	\$ 397.10
2ND INSTALLMENT (DUE 2-20-2000)	\$ 397.10	\$ 397.10
TOTAL TAXES:	\$ 794.20	

EXHIBIT 4
Letter of Authorization



MAUI LAND & PINEAPPLE COMPANY, INC.

June 11, 2003

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

Re: Petition by Maui Land & Pineapple Company, Inc. for a State Land Use District Boundary Amendment Reclassifying Approximately 40.6 acres of land from the Agricultural District to the Urban District at Pukalani, Maui, State of Hawaii

Dear Chairman Ing and Commissioners:

Maui Land & Pineapple Company, Inc. ("ML&P"), a Hawaii corporation, is applying for a land use district boundary amendment for the property described herein. ML&P is the fee simple owner of the land bearing Tax Map Key No. (2) 2-3-7: 8, located in Pukalani and bounded by Makawao Avenue, Old Haleakala Highway and the Pukalani Bypass Highway, consisting of approximately 40.6 acres of land which is the subject of the petition and identified herein as the "Property."

ML&P does hereby authorize Group 70 International, Inc., a Hawaii corporation and Carlsmith Ball LLP to submit a petition to reclassify the Property from the Agricultural District to the Urban District under Chapter 205 of the Hawaii Revised Statutes and to do all things necessary and proper thereunder to effect the purposes of said petition.

Sincerely,

MAUI LAND & PINEAPPLE COMPANY, INC.

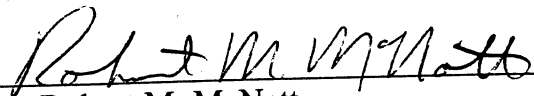
by 
Robert M. McNatt
Its Vice-President,
Land Planning & Development

EXHIBIT 5
Statement of Financial Condition

CONSOLIDATED BALANCE SHEETS

December 31, 2002 and 2001

	2002	2001
	(Dollars in Thousands)	
ASSETS		
Current Assets		
Cash and cash equivalents	\$ 658	\$ 2,173
Accounts and notes receivable, less allowance of \$572 and \$689 for doubtful accounts	22,315	15,992
Refundable income taxes	3,031	322
Inventories		
Pineapple products	14,488	15,822
Real estate held for sale	2,134	3,709
Merchandise, materials and supplies	6,743	6,894
Prepaid expenses and other assets	5,354	4,188
Total Current Assets	54,723	49,100
Other Assets	17,274	14,287
Property		
Land	6,411	5,384
Land improvements	60,214	59,503
Buildings	59,852	59,244
Machinery and equipment	130,337	125,573
Construction in progress	7,833	5,602
Total Property	264,647	255,306
Less accumulated depreciation	152,449	142,260
Net Property	112,198	113,046
Total	\$184,195	\$176,433

	2002	2001
	(Dollars in Thousands)	
LIABILITIES & STOCKHOLDERS' EQUITY		
Current Liabilities		
Notes payable and current portion of long-term debt	\$ 6,579	\$ 3,287
Current portion of capital lease obligations	267	472
Trade accounts payable	13,057	10,534
Payroll and employee benefits	4,241	4,640
Income taxes payable	418	1,635
Customers' deposits	1,213	1,240
Other accrued liabilities	3,446	1,829
Total Current Liabilities	29,221	23,637
Long-Term Liabilities		
Long-term debt	42,256	38,295
Capital lease obligations	996	1,286
Accrued retirement benefits	33,089	24,072
Accumulated losses of joint venture in excess of investment	12,840	11,518
Other noncurrent liabilities	1,867	3,636
Total Long-Term Liabilities	91,048	78,807
Minority Interest in Subsidiary	1,187	570
Contingencies and Commitments		
Stockholders' Equity		
Common stock—no par value, 7,200,000 shares authorized, 7,195,800 shares issued and outstanding	12,455	12,455
Retained earnings	55,357	61,066
Accumulated other comprehensive loss	(5,073)	(102)
Stockholders' Equity	62,739	73,419
Total	\$184,195	\$176,433

See Notes to Consolidated Financial Statements.

EXHIBIT 6
Notification of Petition of Filing, Mailing List

July 2003

Notification of Petition of Filing

This is to advise you that a petition to amend the State Land Use District Boundaries with the following general information has been submitted to the State of Hawaii Land Use Commission:

Docket No.: A03-740
Petitioner/Address: Maui Land & Pineapple Company, Inc.
P.O. Box 187
Kahului, HI 96733-6687
Landowner: Maui Land & Pineapple Company, Inc.
Tax Map Key: (2) 2-3-07:08
Location: Pukalani, Island of Maui
Requested Reclassification: Agricultural to Urban
Acreage: approx. 40.6 acres
Proposed Uses: Upcountry Town Center
Date Submitted: July __, 2003

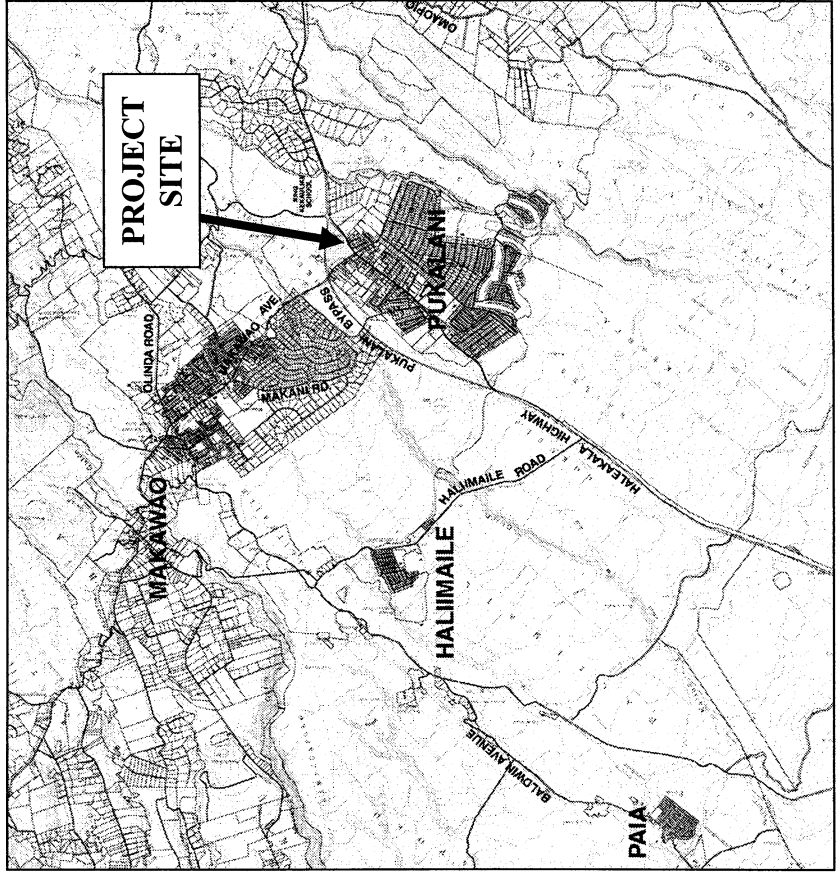
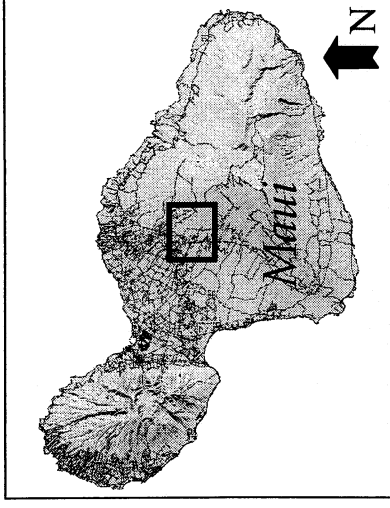
You may review detailed information regarding the petition at the Land Use Commission Office or the County of Maui Planning Department.

The Land Use Commission Office is located at 235 S. Beretania Street, Room 406, Honolulu, Hawaii. Office hours are from 7:45 a.m. to 4:30 p.m., Mondays through Fridays.

A hearing on this petition will be scheduled at a future date. If you are interested in participating in the hearing as a public witness, please write or call the Commission office at P.O. Box 2359, Honolulu, Hawaii 96804-2359; Phone: (808) 587-3822.

If you intend to participate in the hearing as an intervener, pursuant to §15-15-52, Hawaii Administrative Rules, you should file a Notice of Intent to Intervene with the Commission within 30 days of the date of this notice. Please contact the Commission office for further information.

Location and Vicinity Map



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Honolulu HI 96822

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Maui Island Center
1977 Kaohu Street
Wailuku HI 96793

Attn: Mr. Edmund Pedro
Alu Like, Inc. - Molokai
P. O. Box 392
Kaunakakai HI 96748

Amfac Land Company, Limited
700 Bishop Street, Suite 501
Honolulu HI 96813

Mr. Perry Artates
Hawaii Operating Engineers
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Director
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Corporation of Hawaii
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Senator Brian Kanno
State Capitol
Honolulu HI 96813

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Department of Planning & Permitting
City & County of Honolulu
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Office of Hawaiian Affairs
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Adjutant General
Department of Defense
3949 Diamond Head Road
Honolulu HI 96816

Dept. of Land & Natural Resources
Chairperson's Office
State of Hawaii
1151 Punchbowl Street, Room 130
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Commission on Water Resource Management
Dept. of Land & Natural Resources
State of Hawaii
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Administrator
Land Management Division
Dept. of Land & Natural Resources
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1428 South King Street
Honolulu HI 96814

The Honorable Linda Lingle
Governor, State of Hawaii
State Capitol
Honolulu HI 96813

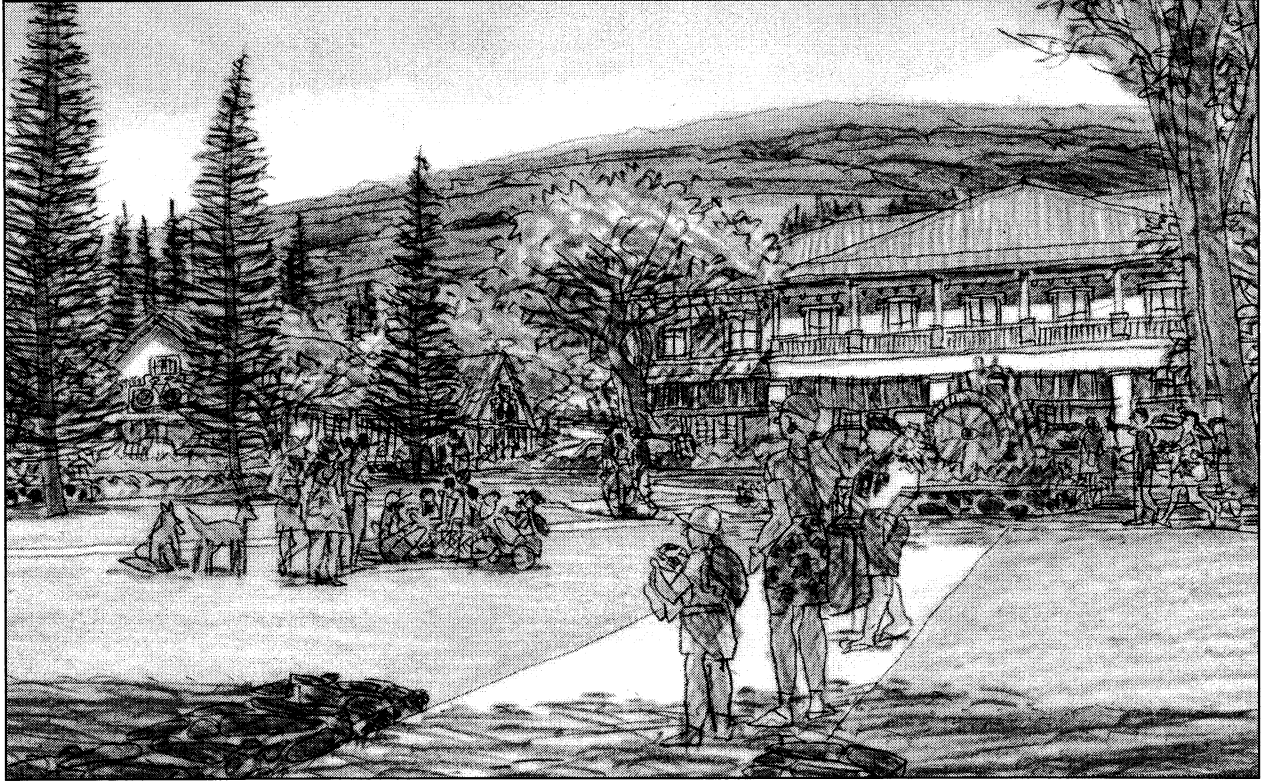
Mr. Dan Davidson, Deputy Director
Department of Land and Natural Resources
P.O. Box 621
Honolulu, Hawaii 96809

EXHIBIT 7
Environmental Impact Statement
Upcountry Town Center, Pukalani, Maui

See Attached

R-DEIS Submitted Separately





Upcountry Town Center

Pukalani, Maui, Hawai'i

Revised Draft Environmental Impact Statement

Accepting Authority:

State of Hawaii Land Use Commission

July 2003



MAUI LAND & PINEAPPLE COMPANY, INC.

EXHIBIT 8
April 16, 2003 Circuit Court Order

ISAAC HALL #2238
2087 Wells Street
Wailuku, Maui, HI 96793
Telephone: (808) 244-9017
Facsimile: (808) 244-6775

2003 APR 16 AM 9:00

N. YOTSUYA, CLERK
SECOND CIRCUIT COURT
STATE OF HAWAII

Attorney for Plaintiff
Malama Maui

IN THE CIRCUIT COURT OF THE SECOND CIRCUIT

STATE OF HAWAII

MALAMA MAUI, an unincorporated
association;)

Plaintiff,)

vs.)

PLANNING DEPARTMENT, COUNTY OF)
MAUI; JOHN MIN, in his capacity as)
Director of the Planning Department,)
County of Maui; MAUI LAND AND)
PINEAPPLE COMPANY, INC., and JOHN)
DOES 1-100;)

Defendants.)

Civil No. 02-1-0500(1)

(Declaratory Judgment and
Other Civil Action)

ORDERS ON MOTION FOR
SUMMARY JUDGMENT
FILED BY DEFENDANT MAUI
LAND & PINEAPPLE
COMPANY, INC.

Hearing Date: 1/7/03
Hearing Time: 8:15 a.m.
Judge: Hon. Joel E. August

No Trial Date Set Yet

malamamaui/order

ORDERS ON MOTION FOR SUMMARY JUDGMENT FILED
BY DEFENDANT MAUI LAND & PINEAPPLE COMPANY, INC.

The Motion for Summary Judgment of Defendant Maui Land & Pineapple
Company, Inc. came on for initial hearing on Tuesday, November 26, 2002, at
8:15 a.m. and was continued until Tuesday, January 7, 2003 at 8:15 a.m. in
the Second Circuit Court before the Honorable Joel E. August. Plaintiff

Malama Maui was represented by Isaac Hall, Esq. Defendant Maui Land & Pineapple Company, Inc. was represented by Randall H. Endo, Esq. The County of Maui Defendants were represented by Deputy Corporation Counsel Lauren L. Martin, Esq. Based upon the record and file to date, the memoranda submitted by the parties, the argument of counsel and good cause appearing,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

A. Summary Judgment on Count I of the Complaint, as Amended, is Awarded in Favor of Plaintiff

1. In Count I of the Complaint, Plaintiff claims that the acceptance of the Environmental Impact Statement ("EIS") for the Upcountry Town Center project by Defendant John E. Min, in his capacity as Planning Director of the County of Maui Planning Department and by Defendant the Maui Planning Department, through the letter dated August 6, 2002, as published in the August 23, 2002 volume of *The Environmental Notice*, was null and void because neither were the proper accepting authority.
2. Defendant Maui Land & Pineapple Company, Inc. filed a Motion for Summary Judgment on November 8, 2002 claiming that it was entitled to summary judgment on Count I of the Complaint because the acceptance described above was lawful and proper.
3. The Court finds that there is no genuine issue as to any material fact on Count I. The issue presented is purely a question of law

and this question is what governmental entity is qualified to be the accepting authority under HRS § 343-5(c).

4. The approvals that are required for the instant project that trigger an Environmental Assessment, or an EIS, are those listed in HRS § 343-5(a)(6), namely actions which:

Propose any amendments to existing county general plans where such amendment would result in designations other than agriculture, conservation or preservation ...

5. Since the Applicant, Defendant Maui Land & Pineapple Company, Inc., is proposing an amendment to an existing county general plan where such amendment would result in a designation other than agriculture, conservation or preservation, there is no dispute as to which entity is the accepting authority under HRS Chapter 343.

6. HRS § 343-5(c) provides, in relevant part, that:

The authority to accept the final [environmental impact] statement shall rest with the agency receiving the request for approval.

7. Several definitions are important to properly interpret this section and its application to this case.

a. The authority to determine the adequacy of the final EIS and accept the document under HRS § 343-5(c) rests with an "agency". An "agency" is defined in HRS § 343-2, as:

... any department, office, board, or commission of the state or county government which is a part of the executive branch of that government.

i. The Maui County Council is clearly not an agency as interpreted and defined in Chapter 343. The State Land Use Commission, the Maui Planning Commission and the Maui Planning Department qualify as agencies.

ii. This is not the end of the inquiry because the “agency” must also be “... the agency receiving the request for approval ... pursuant to” HRS § 343-5(c).

b. Under HRS § 343-2, “approval” is defined as:

a discretionary consent required from an agency prior to actual implementation of an action.

c. An “action” is defined as:

any program or project to be initiated by any agency or applicant.

8. Combining all of the relevant definitions recited above, the accepting authority for a final EIS is “the agency receiving the request for discretionary consent required prior to actual implementation of the project to be initiated.” In plain language, this means that the final EIS must be accepted by the agency with authority to ultimately approve the permit sought by the Applicant.

9. The Maui County Council is not an agency because it is not part of the executive branch of the government. Therefore, while the Maui County Council may have the power to issue a final decision on the proposed rezoning from an agriculture district to project district and

community plan amendment, the Maui County Council cannot be an accepting authority.

10. Conversely, the Planning Department of the County of Maui does qualify as an agency but its role in the proposed rezoning and community plan amendment is advisory in nature. It does not make the final decision. The Planning Department of the County of Maui does not consent to the actual implementation of the project.

11. Plaintiff Malama Maui argues that the Maui Planning Commission is an agency for purposes of HRS § 343-5(c). However, the Maui Planning Commission does not make the ultimate decision on granting the required permits. The Maui Planning Commission merely submits recommendations to the Maui County Council which can accept or reject these recommendations.

12. The only governmental executive agency that can approve an application for this project appears to be the State Land Use Commission. The State Land Use Commission is an agency as defined under Chapter 343. The State Land Use Commission is the only agency that will receive a request for discretionary consent required prior to actual implementation of the project to be initiated.

13. Based upon this Court's analysis, regardless of what various individuals have indicated that they may be willing to have the Planning Department do, under Chapter 343, the Planning Department of the County of Maui has no authority to do what it has done.

14. The Court hereby finds that the moving party, Defendant Maui Land & Pineapple Company, Inc., is not entitled to a judgment as a matter of law.

15. There has been no cross-motion for summary judgment filed in this matter. The purpose of summary judgment and Rule 56 HRCP, however, is to expedite matters where there is no genuine issue as to any material fact. Based upon Flint v. MacKenzie, 53 Haw. 672, 501 P.2d 357 (1972), the purpose of Rule 56 HRCP should not be thwarted because one party does not fulfill the mechanical procedure of filing a cross-motion for summary judgment. Upon the entry of a finding that there is no genuine issue as to any material fact, the Court should enter judgment to that party so entitled as a matter of law.

16. The Court, therefore, rules, as a matter of law, that the acceptance of the EIS by the Maui Planning Department and Mr. Min is null and void as the Maui Planning Department is not the proper accepting authority. The Court, therefore, grants summary judgment for the Plaintiff on Count I.

17. The Court further finds that Count I of the original Complaint and Count I of the Amended Complaint read basically identically and, therefore, a judgment will be entered in favor of Plaintiff on Count I of both the original and Amended Complaints.

B. Count II is Now Moot and is Therefore Dismissed Without Prejudice

1. In Count II of the Complaint, Plaintiff claims that the EIS for the Upcountry Town Center should not have been accepted because it does not meet the tests for the adequacy of a final EIS.

2. Defendant Maui Land & Pineapple Company, Inc. filed a Motion for Summary Judgment on November 8, 2002 claiming that it was entitled to summary judgment on Count II of the Complaint because the final EIS was and is adequate.

3. Given this Court's ruling on Count I, the Motion for Summary Judgment as to Count II of the Complaint is moot at this point in time. Any opinion that this Court might issue on the adequacy of the EIS at this point would be advisory in nature and may not be relevant depending upon whether the ultimate accepting authority will require any additions or amendments to the EIS. The Court does not know what the ultimate accepting authority is going to find about the adequacy of the EIS. The Court does not want to prejudice that entity one way or another at this point by any comments made in this proceeding. On this basis, the Motion for Summary Judgment as to Count II is denied without prejudice.

4. The Court notes that Count II of the Amended Complaint merely adds an additional paragraph pertaining to the inadequacy of Defendant Min's Findings in the acceptance of the EIS which does not alter the impact of the Court's ruling with regard to Count I. Therefore, the Court dismisses without prejudice Count II of the original and

Amended Complaint as both appear to be mooted by the Court's ruling on Count I.

C. Summary Judgment on Count III of the Complaint, as Amended, is Awarded in Favor of Defendant Maui Land & Pineapple Company, Inc.

1. In Count III of the Complaint, Plaintiff claims that the County Defendants should not begin processing an application to approve the project until after a final decision by the State Land Use Commission to grant a district boundary amendment and after the Maui County Council amends the County Community Plan to create a project district.

2. Defendant Maui Land & Pineapple Company, Inc. filed a Motion for Summary Judgment on November 8, 2002 claiming that it was entitled to summary judgment on Count III of the Complaint because no law or regulation prevented Defendants from processing concurrently the above-referenced applications.

3. In support of Count III, Plaintiff relied upon Maui County Code Section 19.45.040.A which provides that:

The developer of land designated as a project district on an adopted community plan may initiate a project district development of part or all of a project district by written application to the planning director.

4. Subsection C of the Maui County Code includes language that requires all applications to include a description of the proposed project district and language that states that an application must include

an explanation of the impact of the project district development on the community.

5. Because Subsection A is stated in a non-exclusive, permissive manner and Subsection C requires all applications to discuss both a proposed project district and project district development, the concurrent processing of both a request for a designation as a project district and a request for a project district development is not necessarily prohibited by a strict reading of the Maui County Code.

6. The second prong of Plaintiff's argument is that there are certain policy reasons to prevent what was described as a bureaucratic steamroller occurring that would militate against the Planning Department and County of Maui processing any applications until the State Land Use Commission has rendered a final decision. Plaintiff cites Citizens for Protection of North Kohala Coastline v. County of Hawaii, 91 Haw. 94, 979 P.2d 1120 (1999) in support of this argument. The policy considerations of the Supreme Court in that case dealt with avoiding what it calls the burden of reconsidering decisions already made and the risk that the EIS would become a post hoc rationalization to support actions already taken. That case does not prohibit the concurrent processing of applications. There does not appear to be any prohibition against concurrent processing of applications but there is a mandate acknowledged in federal and state cases about EIS's that they be

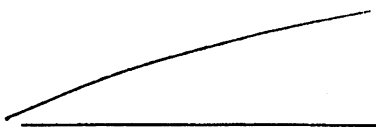
prepared at the earliest practicable time. This is expressly stated in HRS § 343-5(c).

8. Taking into account the law in this area, the Court hereby grants the Motion for Summary Judgment in favor of Defendant Maui Land & Pineapple Company, Inc. on Count III, and thus Defendant Maui Land & Pineapple Company, Inc. may file an application for the grant of a district boundary amendment with the Land Use Commission relative to the subject project.

9. The Court further orders, however, that no applications for permits or approvals regarding the Upcountry Town Center shall be further processed unless and until there has been an acceptance of the final EIS for the Upcountry Town Center by the appropriate accepting authority which, as the Court earlier ruled, is the State Land Use Commission.

DATED: Wailuku, Maui, Hawaii APR 15 2003

APPROVED AS TO FORM:



Randall H. Endo, Esq.
Attorney for Defendant
Maui Land & Pineapple Company, Inc.

Laureen L. Martin, Esq.
Attorney for Defendants
Planning Department, County of Maui
and John Min, in his capacity as
Director of the Planning Department,
County of Maui

APPROVED AND SO ORDERED:

/s/ JOEL E. AUGUST (Seal)

Judge of the above-entitled Court

Malama Maui v. Planning Department, County of Maui, et al.; Civil No. 02-1-0500(1); Orders on Motion for Summary Judgment Filed By Defendant Maui Land & Pineapple Company, Inc.

