M MAUI PLANNING & T.C. A(T) 62-12

LUC File A(T)- 62-12

Petitioner: Maui County Planning& Traffic Commission County Maui

Date petition and fee received from County with recommendation: 7-11-62

Suspense date for LUC action: _____

Publication of hearings

Dates	Newspaper
7-13-62	HONOLULU STAR BULLETIN
7-13-62	HONOLULU ADVERTISER
7-13-62	MAUI NEWS

Hearings

Date	Place(s)	By
8-2-62	Chambers, Maui Bd. of Sup.	LUC

Actions

Dates	Actions	By

Notes:

STATE OF HAWAII
LAND USE COMMISSION

426 Queen Street
Honolulu, Hawaii

This space for County or DLNR use

Date Petition and Fee received by County or DLNR _____

Date forwarded to LUC with recommendation 7/10/62

Date Petition, Fee and County/DLNR recommendation received by LUC 7/11/62

PETITION FOR AMENDMENT OF TEMPORARY DISTRICT BOUNDARY

(I) (We) hereby request an amendment of Land Use Commission Temporary District Boundary respecting the County of Maui, Island of Maui, map number and/or name M-7 to change the district designation of the following described property from its present classification in a(n) Agricultural district into a(n) Urban district.

Description of property:

See attached sheet.

Petitioner's interest in subject property:

No direct interest except general planning for Maui.

Petitioner's reason(s) for requesting boundary change:

Together with Munoz boundary change previously recommended, this would be a logical expansion of Urban zone.

(1) The petitioner will attach evidence in support of the following statement: None.

The subject property is needed for a use other than that for which the district in which it is located is classified.

(2) The petitioner will attach evidence in support of either of the following statements (cross out one):

(a) The land is not usable or adaptable for use according to its present district classification.

(b) Conditions and trends of development have so changed since adoption of the present classification, that the present classification is unreasonable.

This action was taken by a unanimous vote of the Maui County Planning and Traffic Commission at regular meeting of June 24, 1962.

Signature(s) Robert C. Shaler

Planning Director

Maui County Planning and Traffic Commission

Address: Kahului, Maui, Hawaii

Telephone: 727-865

RECEIVED

DESCRIPTION OF PROPERTY
areas in Pukalani

TAX MAP KEY	OWNERS	AREA
2-3-11-20	George Gnee Wo Tam	36.954 ac
2-3-11-73	Sosei Yagi and Machi Uyehara (le)	3.00 ac
2-3-09-14 2-3-33: 1	Masao Tengan and wf Katsuko J/T 1/2; Florence K. Tokuda and Sanna Agena J/T 1/2	1.02 ac
2-3-09-23 2-3-33: 2	Manuel Asue 1/2; Frank Munoz and wf Jessie R T/E 1/2	.26 ac
2-3-09-22 2-3-33: 3	Flora M. Onaga Ralph K. Hotema Dick T. Hotema T/C	1.04 ac

Ammended TO READ:

2-3-33: 1 thru 18 incl. and 20 & 21 plus 4 easements leading to 2-3-33: 19

2-3-11: 20 & 73

NOTE: 2-3-09: 23, 22, 14 dropped into plat 33, picked up as 2-3-33: 1, 2, 3

NOTICE OF PUBLIC HEARING

TO CONSIDER PETITIONS FOR TEMPORARY DISTRICT BOUNDARY CHANGE AND APPLICATION FOR SPECIAL PERMIT WITHIN THE COUNTY OF MAUI, BEFORE THE LAND USE COMMISSION OF THE STATE OF HAWAII

NOTICE IS HEREBY GIVEN of the public hearing to be held by the Land Use Commission of the State of Hawaii in the Chambers of the Maui County Board of Supervisors, Wailuku, Maui, on August 2, 1962 at 8:00 p.m., or as soon thereafter as those interested may be heard, to consider petitions for Temporary District Boundary change and application for Special Permit within the County of Maui as provided for in sections 6 and 7, Act 187, Session Laws of Hawaii 1961. Temporary District Boundary change petitions to be heard are:

Petitioner	Tax Map Key	Permission Requested
East Maui Irrigation Company	2-8-08: por. 7 (that portion being 1030.00 acres, more or less, bounded by the east pali of Halehaku stream, and Honopou stream; and between the mauka side of Lowrie ditch and the centerline of the New Hamakua Ditch Trail)	Change from a Conservation district to an Agricultural district classification.
Loyalty Enterprises, Limited	2-1-08: 42 (Wailea)	Change from an Agricultural district to an Urban district classification.
Frank and Jessie Munoz	2-3-33: 19,15,16,18 (Pukalani)	Change from an Agricultural district to an Urban district classification.
County of Maui Planning and Traffic Commission	2-3-11: 20,73 2-3-33: parcels 1 through 18 inclusive and 2-3-33: 20,21 (Pukalani)	Change from an Agricultural district to an Urban district classification.

Special Permit Application to be heard is:

Petitioner	Tax Map Key	Permission Requested
Juichi & Kinu Kurasaki	3-3-01: 45 (Lower Waiehu)	Build and operate a restaurant: specifically, as a Steak House.

Maps showing the areas under consideration for Temporary District Boundary change and the area under consideration for Special Permit and copies of the rules and regulations governing the applications for the above are on file in the offices

of the Maui County Planning and Traffic Commission and the Land Use Commission and are open to the public for inspection during office hours.

All written protests or comments regarding the above petitions for Temporary District Boundary change and the application for Special Permit may be filed with the Land Use Commission, 426 Queen Street, Honolulu, Hawaii, before the date of public hearing, or submitted in person at the time of the public hearing or, regarding Temporary District Boundary change petitions only, up to fifteen (15) days following this public hearing.

LAND USE COMMISSION

E. C. Bryan ,Chairman
E. C. BRYAN

R. J. Darnell ,Executive Officer
R. J. DARNELL

(Legal ad - 2 cols. w/border)
(To appear on July 13, 1962)
(HONOLULU ADVERTISER)
(HONOLULU STAR-BULLETIN)
(MAUI NEWS)

STATE OF HAWAII
LAND USE COMMISSION

426 Queen Street
Honolulu, Hawaii

Planning & Traffic Commission
County of Maui
Kahului, Maui, Hawaii
Attn: Mr. Robert Ohata, Director

Dear Sir:

With reference to your petition LUC file A(T) 62-12 to reclassify that property described as TMK: 2nd Division 2-3-11:20 & 73, 2-3-33-1 thru 18 & 21 & 22, from a temporary Agricultural District to a temporary Urban District, may I inform you of the following:

A public hearing was held on this matter by the Land Use Commission of the State of Hawaii in the chambers of the Maui County Bd of Supervisors, Wailuku, Maui, Hawaii, at 8:00 p.m. August 2, 1962.

Notice of the hearing appeared in the Honolulu Advertiser, on July 13, 1962; and in the Maui News, on July 13, 1962.

The Land Use Commission, at its meeting in the chambers of the Maui County Bd of Supervisors, beginning at 8:30 a.m. Sept. 19, 1962, amended Temporary District Boundary map M-7 (Paia) as follows:

To include all of the area described in petition A(T) 62-12 in the temporary Urban district.

Very truly yours,

R. J. DARNELL
EXECUTIVE OFFICER

Ref. No. LUC 203

October 16, 1962

Mr. Boniface Espinda
Deputy County Clerk
County Clerk Office
County of Maui
Wailuku, Maui, Hawaii

Dear Mr. Espinda:

Enclosed are copies of petition for Temporary District Boundary Change granted by the Land Use Commission to the following:

Planning and Traffic Commission - A(T) 62-12

Loyalty Enterprises, Limited - A(T) 62-10

Very truly yours,

R. J. DARNELL
EXECUTIVE OFFICER

Enclosures

Same to Planning Comm.

STATE OF HAWAII
LAND USE COMMISSION

426 Queen Street
Honolulu, Hawaii

October 16, 1962

Planning and Traffic Commission
County of Maui
Kahului, Maui, Hawaii
Attention: Mr. Robert Chata, Director

Dear Sir:

With reference to your petition (LUC File A(T) 62-12) to reclassify that property described as ~~Second Division~~ 2-3-11: 20 & 73 ~~2-3-33: 1 thru 18 & 21 & 22~~, from a Temporary Agricultural District to a Temporary Urban District, may I inform you of the following:

A public hearing was held on this matter by the Land Use Commission of the State of Hawaii in the Chambers of the Maui County Board of Supervisors, Wailuku, Maui, Hawaii, at 8:00 p.m., August 2, 1962.

Notice of the hearing appeared in the Honolulu Advertiser, on July 13, 1962; and in the Maui News, on July 13, 1962.

The Land Use Commission, at its meeting in the Chambers of the Maui County Board of Supervisors, beginning at 8:30 a.m., September 19, 1962, amended Temporary District Boundary map M-7 (Paia) as follows:

To include all of the area described in petition A(T) 62-12 in the Temporary Urban district.

Very truly yours

R. J. DARNELL
EXECUTIVE OFFICER

Ref. No. LUC 160

September 5, 1962

Planning and Traffic Commission
County of Maui
Kahului, Maui, Hawaii

Attention: Mr. Robert Ohata, Director

Gentlemen:

The Land Use Commission of the State of Hawaii will hold a meeting on the Island of Maui on September 19, 1962 in the Chambers of the Maui County Board of Supervisors, Wailuku, Maui, from 8:30 a.m. to 10:00 a.m.

As the 45-day waiting period prescribed by SECTION 2, Sec. 6 of Act 187 will have expired, your petition for change of Temporary District Boundary has been placed on the Commission's agenda for consideration at this meeting; and final action may be taken at that time.

Very truly yours,

R. J. DARNELL
EXECUTIVE OFFICER

WM:ak

Land Use Commission
August 7, 1962

Letter went to following land owners in Pukalani:

TMK 2-3-33

1. Manuel Asue - ½
   316 High Street, Wailuku
   Frank & Jessie Munoz - ½ .085 AC

2. Seichi Asato & wife - 1.035 AC (ANS. FROM CARL S. ASATO)
   No address

3. Masao Tengan & wife - ½
   4307 Sam Sing Village

   Florence K. Tokuda & Sandra Agena - ½ 1.020 AC
   No address

4. Moriaki Nakashima & wife - A/S .0899 AC
   Pukalani

5. Albert S. Watanabe & wife - A/S .0938 AC
   No address

6. John Silva & wife - A/S .0946 AC
   No address

7. Tamotsu Kamiya & James S. Kamiya - .0750 AC
   Pukalani

8. Sachio Isagawa & wife - 1.106 AC
   Pukalani

HERBERT & ETHEL UJIIE
TSUZUKI & LEI MATSUMURA

9, 10, 12, 13, 14, 15, 16, 18, 19, 21. Frank Munoz

11. Morikatsu Nakashima & wife - A/S 1.000 AC
    (only a Moriaki Nakashima listed at Pukalani)

20. Moriaki Nakashima & wife - A/S 32,613 ft.
    Pukalani

17. Department of Land and Natural Resources

TMK 2-3-11

20. George Gnee Wo Tam - 36.954 AC
    (36.84 AC)
    directory lists:

    a. George Tam, Kihei
    ~~b. George N. Tam, 191 Molokai Akau, Maui~~
    ~~(letter mailed to both)~~

73. Sosei Yogi - 3.00 AC
    No address
    Machi Uyehara - 3.00 AC
    Pukalani

2-3-33 Maui Planning Comm.

2. Seichi Asato 1.035 acs
3. Masao Tengan 1.020 acs
4 Moriaki Nakashima 0.899 acs
5. Albert Watanabe 0.938 acs
6 John Silva 0.946 acs
7 Tamotsu Kamiya 0.750 acs.
8 Sanio Isagawa 1.106 acs
11 Morikatsu Nakashima 1.000 acs
17 State of Hawaii 0.664 ac.
20 Moriaki Nakashima 32,613 sq. ft. .750ac
.684ac
21

parcs. 1-9-10-12-13-14-15-16-18-19
& 21 belongs to Frank Munoz.

STATE OF HAWAII
LAND USE COMMISSION

Ref. No. LUC 139

ROWLAND J. DARNELL
EXECUTIVE OFFICER

426 QUEEN STREET
HONOLULU 13, HAWAII

August 15, 1962

Department of Land and Natural Resources
State of Hawaii
State Office Building
Honolulu, Hawaii

Gentlemen:

I am writing regarding a petition before the Land Use Commission of the State of Hawaii, made by the County of Maui Planning and Traffic Commission. This petition requests a change of Temporary District Boundary from an Agricultural district to an Urban district classification for several parcels of land in the area of Pukalani, Maui.

At a public hearing held in Wailuku on August 2, 1962, it was learned that all of the owners of the land concerned had not been notified of this proposed action. A check of the records shows that you are the owner of land described as Second Division TMK 2-3-33: 17 (Haw) 2-3-09: 21 (Mau), which is part of this petition.

The Land Use Commission would appreciate your indication in writing, stating that you are either in favor, or in disagreement with, this proposed action. This reply should be in our hands by Friday, August 17, 1962. Any additional comments pertinent to the subject matter would be welcome.

If you should have any questions, please contact this office or Mr. Robert Ohata, Director, Planning and Traffic Commission, Kahului, Maui.

Very truly yours,

R. J. DARNELL
EXECUTIVE OFFICER

WILLIAM F. QUINN
GOVERNOR OF HAWAII

DIVISIONS:
CONVEYANCES
FISH AND GAME
FORESTRY
LAND MANAGEMENT
STATE PARKS
WATER AND LAND DEVELOPMENT

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
P. O. BOX 621
HONOLULU 9, HAWAII

August 22, 1962

Land Use Commission
State of Hawaii
426 Queen Street
Honolulu 13, Hawaii

Attention: Mr. R. J. Darnell
Executive Officer

Gentlemen:

Reference is made to petition by the County of Maui Planning and Traffic Commission requesting a change of Temporary District Boundary from Agricultural to Urban classification for several parcels of land in the area of Pukalani, Maui.

We have reviewed the request and wish to advise that the State, as owner of Parcel 11, of T.M.K. 2-3-09, has no objection to the proposed change.

We regret that this reply was not submitted by Friday, August 17, 1962 as your letter dated August 15, 1962 was received in this office only in the late afternoon of August 17, 1962.

Very truly yours,

JAMES J. DETOR, Head
Division of Land Management

243

Box 177
Pukalani, Maui, Hawaii
August 14, 1962

Mr. R. J. Darnell
Executive Officer
Land Use Commission
426 Queen Street
Honolulu 13, Hawaii

Dear Mr. Darnell:

I am in receipt of your letter, dated August 9, 1962. I wish to inform you that I am in favor with the proposed request of the Maui Planning and Traffic Commission from an Agricultural district to an Urban district classification for several parcels of land in the Pukalani area.

Very truly yours,

Morikatsu Nakashima

Morikatsu Nakashima

214

Box 177
Pukalani, Maui, Hawaii
August 14, 1962

Mr. R. J. Darnell
Executive Officer
Land Use Commission
426 Queen Street
Honolulu 13, Hawaii

Dear Mr. Darnell:

I am in receipt of your letter, dated August 9, 1962. I wish to inform you that I am in favor with the proposed request of the Maui Planning and Traffice Commission from an Agricultural district to an Urban district classification for several parcels of land in the Pukalani area.

Very truly yours,

Moriaki Nakashima

Moriaki Nakashima

250

August 16, 1962

Land Use Commission
426 Queen Street
Honolulu 13, Hawaii

ATTENTION: Mr. R. J. Darnell
Executive Officer

Gentlemen:

This letter concerns the answer regarding the petition of the proposed change of Temporary District Boundary from an Agriculture district to a Urban district in the Pukalani area, on Maui.

I am in disagreement with this proposed action.

No comments.

Very truly yours,

Carl S. Asato

Carl S. Asato

2/2

RECEIVED
AUG 16 1962
State of Hawaii
LAND USE COMMISSION

Makawao, Maui
August 14, 1962

RECEIVED
AUG 61 [illegible]
[illegible]
LAND USE COMMISSION

Mr. R. J. Darnell
Executive Officer
Land Use Commission
426 Queen Street
Honolulu 13, Hawaii

Dear Mr. Darnell:

We are having difficulty in procurement of land title to a property of one acre listed under tax key 2-3-33 parcel 13 because of the so-called "Greenbelt" zone.

When we acquired our agreement of sale in March, 1960, it was understood between the agent and we, the undersigned, that upon final payment this parcel would be sub-divided into two lots of one-half acre each. Our final payment was made in March of this current year and, to date, we have not been able to acquire land title to this piece of property due to some legal technicalities involved which we know nothing about.

Upon consulting Mr. Munoz, Realtor, he referred us to his attorney, Mr. Thomas Ogata. In checking with Mr. Ogata, he referred us to Mr. Munoz. This run-around for the past six months has us so disappointed, we really wish we had never purchased this property. I even asked Mr. Munoz for a refund which he declined. Mr. Munoz puts the blame on the "Greenbelt" law.

In desperation, we contacted Mr. Robert Ohata of the Maui Planning Commission. Mr. Ohata checked with Mr. Ogata and although he could not contact Mr. Munoz, recommended that we write to you.

Unless your commission reinstates this Agricultural District to an Urban District, there is no hope for us to ever get this lot sub-divided for house lots. After all, what good is property unless you can build your own home on it! We, therefore, are very much in favor of having this Pukalani area changed from Agricultural to Urban District. We are deeply concerned, and any suggestions or recommendations from your commission shall be appreciated.

Yours very truly,

Ethel Ujiie
Ethel Ujiie and Herbert Ujiie

Lei Matsumura
Lei Matsumura and Tsuzuki Matsumura

Makawao, Maui
August 14, 1962

Mr. R. J. Darnell
Executive Officer
Land Use Commission
426 Queen Street
Honolulu 13, Hawaii

Dear Mr. Darnell:

We are having difficulty in procurement of land title to a property of one acre listed under tax key 2-3-33 parcel 13 because of the so-called "Greenbelt" zone.

When we acquired our agreement of sale in March, 1960, it was understood between the agent and we, the undersigned, that upon final payment this parcel would be sub-divided into two lots of one-half acre each. Our final payment was made in March of this current year and, to date, we have not been able to acquire land title to this piece of property due to some legal technicalities involved which we know nothing about.

Upon consulting Mr. Munoz, Realtor, he referred us to his attorney, Mr. Thomas Ogata. In checking with Mr. Ogata, he referred us to Mr. Munoz. This run-around for the past six months has us so disappointed, we really wish we had never purchased this property. I even asked Mr. Munoz for a refund which he declined. Mr. Munoz puts the blame on the "Greenbelt" law.

In desperation, we contacted Mr. Robert Ohata of the Maui Planning Commission. Mr. Ohata checked with Mr. Ogata and although he could not contact Mr. Munoz, recommended that we write to you.

Unless your commission reinstates this Agricultural District to an Urban District, there is no hope for us to ever get this lot sub-divided for house lots. After all, what good is property unless you can build your own home on it! We, therefore, are very much in favor of having this Pukalani area changed from Agricultural to Urban District. We are deeply concerned, and any suggestions or recommendations from your commission shall be appreciated.

Yours very truly,

Ethel Ujiie

Herbert Ujiie

Lei Matsumura

Tsuzuki Matsumura

Ref. No. LUC 124

August 9, 1962

Mr. George Gnee Wo Tam
Kihei, Maui, Hawaii

Dear Mr. Tam:

I am writing regarding a petition before the Land Use Commission of the State of Hawaii, made by the County of Maui Planning and Traffic Commission. This petition requests a change of Temporary District Boundary from an Agricultural district to an Urban district classification for several parcels of land in the area of Pukalani, Maui.

At a public hearing held in Wailuku on August 2, 1962, it was learned that all of the owners of the land concerned had not been notified of this proposed action. A check of the records shows that you are the owner of land described as Second Division TMK 2-3-11:20, which is part of this petition.

The Land Use Commission would appreciate your indication in writing, stating that you are either in favor, or in disagreement with, this proposed action. This reply should be in our hands by Friday, August 17, 1962. Any additional comments pertinent to the subject matter would be welcome.

If you should have any questions, please contact this office or Mr. Robert Ohata, Director, Planning and Traffic Commission, Kahului, Maui.

Very truly yours,

R. J. DARNELL
EXECUTIVE OFFICER

Wailuku, Maui, August 13th, 1962.

Mr. R.J.Darnell,
Executive Officer, State of Hawaii, Land Use Commission,
426 Queen Street, Honolulu, Hawaii.

Dear Sir: I am in accord with the County of Maui Planning and Traffic Commission that my area keyed to parcel 2-3-11-20 properly be zoned as Urban instead of Agricultural in view that mauka and makai of my area have been subdivided into house lots and in use as such.

George Tam

county

G. N. TOSHI ENOMOTO
County Clerk

BONIFACE ESPINDA
Deputy County Clerk

99

OFFICE OF
COUNTY CLERK
COUNTY OF MAUI
WAILUKU, MAUI, HAWAII

REF. YOUR
LTR. NO.: LUC 81

July 24, 1962

Mr. R. J. Darnell
Executive Officer
Land Use Commission
State of Hawaii
Honolulu, Hawaii

Dear Mr. Darnell:

Thank you for your letter of July 12, 1962, regarding a petition for temporary boundary change by the County of Maui Planning and Traffic Commission, and an amendment to the Petition of Mr. Frank Munoz.

Your letter was presented to the Maui County Board of Supervisors on July 20, 1962, and referred to the Public Works Committee for its attention.

Very truly yours,

G. N. TOSHI ENOMOTO
County Clerk

/lye

ROBERT O. OHATA
Planning Director

MRS. EVA M. DUPONTE
Secretary

PLANNING & TRAFFIC COMMISSION

COUNTY OF MAUI
P. O. Box 1407
Kahului, Maui, Hawaii

July 12, 1962

Mr. Roland Darnell
Executive Officer
Land Use Commission
State of Hawaii
Honolulu 13, Hawaii

Dear Mr. Darnell:

This is to confirm our telephone conversation of July 11, 1962, whereby from our petition dated July 10, 1962, the following changes shall be made:

2-3-09, 14, 22, and 23 are hereby dropped and 2-3-33, 1 to 18 inclusive, and 20 and 21 are hereby added. There are four easements leading to 2-3-33-19 that is also included.

Very truly yours,

ROBERT O. OHATA
Planning Director

LUC 7-13-62

ROBERT O. OHATA
Planning Director

MRS. EVA M. DUPONTE
Secretary

PLANNING & TRAFFIC COMMISSION
COUNTY OF MAUI

P. O. Box 1607
Kahului, Maui, Hawaii

July 12, 1962

Mr. Roland Darnell
Executive Officer
Land Use Commission
State of Hawaii
Honolulu 13, Hawaii

Dear Mr. Darnell:

This is to confirm our telephone conversation of July 11, 1962, whereby from our petition dated July 10, 1962, the following changes shall be made:

2-3-09, 14, 22, and 23 are hereby dropped and

2-3-33, 1 to 18 inclusive, and 20 and 21 are hereby added. There are four easements leading to 2-3-33-19 that is also included.

Very truly yours,

ROBERT O. OHATA
Planning Director

LUC 7-13-62

Ref. No. LUC 63

July 5, 1962

Mr. Robert Chata, Director
Planning and Traffic Commission
County of Maui
Kahului, Maui, Hawaii

Dear Mr. Chata:

With reference to your letter of June 27, 1962, addressed to Mr. Bryan, Chairman of this Commission, may I make the following observations.

The Land Use Commission, in order to zone the area between the Hanua subdivision and the present temporary urban boundary of Pukalani on its own volition, would have to pass a resolution of intention to place the subject property into an urban district; and then refer the matter to your Planning Commission for its comments and recommendations. Subsequent to receipt of these, the Land Use Commission could set a hearing on the matter. The Commission's next meeting is set for July 24, 1962.

Since this is a recommendation of the County of Maui, it would seem more appropriate, as well as less time-consuming, for the County to make out and file with this Commission a petition for amendment for the district boundary, and to send with it the County's comments and recommendations. Of course, no filing fee is necessary in such a case. I would urge that the County act on this as soon as possible, since it may be that the subject item may be set for hearing on August 2, at the same time as the Hanua item.

Very truly yours,

R. J. DARNELL
Executive Officer

RJDiak

Munoz
Hearing 2-3
for TPBC
Shige

Ref. No. LUC 70

July 9, 1962

Mr. Robert Ohata, Director
Planning and Traffic Commission
County of Maui
Kahului, Maui, Hawaii

Dear Mr. Ohata:

I am requesting clarification on the application for Temporary Boundary Change filed before your Commission by Frank and Jessie R. Munoz and subsequently forwarded with recommendation for approval to our office on June 27, 1962.

The part of the application in question is the area delineation, namely the 21.001 acres designated as owned by the petitioners on the map attached to the application, and the 36.184 acres requested by them for change of designation within the same petition; and the letter from the Maui County Planning and Traffic Commission to the Land Use Commission, recommending approval of the larger area.

It is my understanding, from our tax map (dated April 1961), that Mr. & Mrs. Munoz own, in fact, 30.610 acres of contiguous land in this area.

I should like to call your attention to Section 6, Act 187, SLH 1961 which deals with "Amendments to district boundaries" and reads, in part, as follows:

> ".....Any department or agency of the State or county, or any property owner or lessee through the county planning commission may petition the commission for a change in the boundary of any district....." (emphasis added)

Since the petitioner by his own admission does not own all of the land requested for a change of designation it would appear that his application may be invalid because of a lack of interest in the land.

I have initiated a separate request to the petitioner requesting clarification of the area.

The Land Use Commission has indicated a desire to consider this petition in their hearing on Maui on August 2, 1962.

Your immediate attention to this matter is requested.

Very truly yours,

R. J. DARNELL
Executive Officer

cc: Mr. and Mrs. Frank R. Munoz
WM:ak

P.S. - 7/10/62 - 10:00 A.M. - Frank Munoz notified of situation by phone.

Ref. No. LUC 81

July 12, 1962

The Honorable Members of the
Board of Supervisors
County of Maui
Wailuku, Maui, Hawaii

Attention: The Honorable Eddie Tam, Chairman
and Executive Officer

Subject: Petition to the Land Use Commission for Temporary Boundary Change by the County of Maui Planning and Traffic Commission, and an Amendment to the Petition of Mr. Frank Munoz

Gentlemen:

I have been asked by my Commission to obtain your recommendations and comments on matters pending before the Land Use Commission from the County of Maui. This office has received an amendment to the petition of Mr. Frank Munoz, Pukalani, forwarded to your Board July 10, 1962, to wit: area now requested for a change of designation is Second Division Tax Map Key 2-3-33: 19,15,16,18.

We have received a petition from the Maui County Planning and Traffic Commission requesting that the designation of the area between the Munoz petition and the existing Urban boundary at Pukalani be changed from its present classification of Agricultural, to Urban. A description of the subject area follows: Second Division Tax Map Key 2-3-11: 20 & 73 and 2-3-33: 1 through 18, inclusive, and 2-3-33: 20 & 21.

Public hearing for the Maui items noted in our letter to you of July 10, 1962, and the enclosed petition from the Maui County Planning and Traffic Commission has been set for August 2, 1962 at 8:00 p.m. in your Board Chambers.

The Land Use Commission will appreciate receiving your written recommendations prior to the public hearing.

Very truly yours,

R. J. DARNELL
Executive Officer

WM:ak

STATE OF HAWAII

DEPARTMENT OF PLANNING & RESEARCH

HONOLULU, HAWAII

MEMORANDUM

Date 7-11-62

To Maui P&TC petition file

From wm.

ref: LUC 63 &70

Subject ammendment to Munox petition and Maui P&TC petition

Phone conversation with Bob Ohata this afternoon caused an ammendment to the area requested in this petition, the areas now requested are:

2-3-33: 1 thru 18 inclusive
2-3-33: 20 & 21
2-3-11: 20 & 73

Parcels initially requested by Maui county and found inncorrect were:

2-3-09: 14, 22, 23

these parcels were dropped into plat 33, and are now referred to as:

2-3-33: 1, 2, 3,

Letter confirmation of the changes xx is pending.

notice

MATC

Ref. No. LUC 178

September 14, 1962

Mr. Carl S. Asato
Haiku, Maui, Hawaii

Dear Mr. Asato:

I am writing with regard to your reply to the State of Hawaii Land Use Commission. At its last regular meeting the Commission requested that I make a further survey of your property.

My plans call for me to be on Maui on Monday, September 17, 1962; I arrive at 8:30 a.m. and will have most of the morning there.

I would very much like to meet with you during that time, and will contact you by phone upon my arrival.

Very truly yours,

W. M. MULLAHEY
FIELD OFFICER

WM:ak

Ref. No. LUC 90

July 12, 1962

Planning and Traffic Commission
County of Maui
Kahului, Maui, Hawaii

Attention: Mr. Robert Ohata, Director

Gentlemen:

This is to inform you of a public hearing to be held by the Land Use Commission of the State of Hawaii on August 2, 1962 at 8:00 p m. in the Chambers of the Maui County Board of Supervisors, Wailuku, Maui. Your petition for Temporary District Boundary change will be heard at this time.

Legal Notice will appear on July 13, 1962 in the Honolulu Advertiser, Honolulu Star-Bulletin, and the Maui News.

Very truly yours,

R. J. DARNELL
Executive Officer

WM:ak

LAND USE COMMISSION

PUBLIC HEARING

Maui Board of Supervisors Chambers

Wailuku, Maui

August 2, 1962

Commissioners Present:	Edward C. Bryan Stanley C. Friel Wayne Gregg Edward Kanemoto Franklin Y. K. Sunn Roger T. Williams
Absent:	Yuichi Ige
Ex-Officio Members Absent:	F. Lombardi E. H. Cook
Staff Present:	R. J. Darnell, Executive Officer (XO) W. M. Mullahey, Field Officer Arthur Fong, Legal Counsel Philip T. Chun, Department of Planning and Research Alberta L. Kai

Chairman Bryan called the public hearing to order at 8:00 p.m. in the Chambers of the Maui County Board of Supervisors. He gave a brief summary outlining the procedures to be followed during and after the hearing.

Chairman Bryan announced that this public hearing was being held in accordance with notices published in the Honolulu Advertiser, Honolulu Star-Bulletin, and Maui News on July 13, 1962.

He stated that the matters for consideration were the petition of East Maui Irrigation Company requesting change from a Conservation to an Agricultural district classification; petition of Loyalty Enterprises, Limited, Frank and Jessie Munoz, and the County of Maui Planning and Traffic Commission, all three of whom request change from Agricultural to Urban district classification; and the application of Juichi and Kinu Kurasaki for a special permit to build and operate a restaurant, specifically a steak house, in an area which at present is in an Agricultural classification. These notices were made a part of the record.

After an affirmative answer from the XO that the applicants, Board of Supervisors, City Council, and Maui County Planning and Traffic Commission had been notified of the hearing by letter, the Chairman requested that those letters be made a part of the record.

APPLICATION FOR SPECIAL PERMIT OF JUICHI AND KINU KURASAKI TO ESTABLISH AND OPERATE A RESTAURANT: SPECIFICALLY A STEAK HOUSE, ON PROPERTY LOCATED NEAR WAIEHU: Described as TMK 3-3-01: 45 (0.976 acre).

Chairman Bryan requested that the XO describe this particular property. The XO gave a general description of the property, located in Lower Waiehu, and showing its location on the map. He stated also that it is on a new road, an escape road.

The Chairman asked if there was anyone in the audience representing the applicant or whether the applicant himself was present.

Mrs. Kimiko, after being sworn in by Chairman Bryan, explained that she was Mrs. Kurasaki's sister; and that the petitioners were requesting a special permit to put up an eating establishment in Waiehu as stated in a letter which accompanied the special permit application to the Land Use Commission. The Chairman requested the XO to read the letter referred to and this was done.

The XO was sworn in and proceeded to read letters received from County officials. Maui County Planning and Traffic Commission recommended approval for establishment of the restaurant as requested by Mr. and Mrs. Kurasaki. The Board of Supervisors' letter stated that the matter had been referred to the County Public Works Committee and the Land Use Commission would be notified of any subsequent action taken by the Board.

Supervisor Harry Kobayashi, Chairman of the Public Works Committee (not sworn in) explained that the Board did not have sufficient time to meet on the matter, but that the Public Works Committee met on July 31 and action would be taken by the Board of Supervisors on August 3, 1962. He stated that the Public Works Committee members had no objection to the request made by the applicant and they (the Committee) would concur with the Planning and Traffic Commission's recommendation.

Chairman Bryan asked if it was the intention of the Board to confirm this in writing within the next 15 days, and Supervisor Kobayashi replied in the affirmative.

The XO requested information of the County Planning Director or of Supervisor Kobayashi, stating that this property is serviced by what is known as an "escape road"; and he was of the understanding that this road was put in because the area is subject to tsunami or flood damage; that this area is flooded as often as any area on the Windward side of the isthmus of Maui is flooded. He expressed concern with flood conditions or tidal wave conditions on this piece of property and asked if they had special knowledge of the situation. He was answered that the road was not designed to take care of flood conditions as such, and that an escape road is in event of tsunami. The XO stated that he was trying to find out if the property itself is subject to any damage. These are things he did not know and might not be able to find out.

The XO gave the staff recommendation for disapproval of a steak house or restaurant in this location, because of potential danger from tsunami or flooding and because of its distance from any other existing urban area. This would be a recommendation

for denial without prejudice, pending the final determination of the Urban boundaries next year. The Chairman noted that the staff report was given orally.

Chairman Bryan asked if anyone in the audience would like to be heard.

Mr. Robert Ohata, Director of Planning of the County of Maui was sworn in. He stated that he gathered from the staff's recommendation against approval, that it was based on the fact that this is an area remote and possibly subject to tsunamis. He stated that his Commission felt that the remoteness should not be a consideration in the case because this is one isolated development in a vast area where there is little or no development. He stated that the usual planning procedures or planning criteria cannot be applied in this case, and pointed out an example, i.e., the area southwest of California is desert land. Should anyone want to open an eating establishment it would not be detrimental to close urban areas. He then took the second reason of the staff's recommendation, which was the possibility of damage by tsunami. He agreed that this area is in a danger zone, but pointed out that homes are permitted in this area, adding that people in an eating establishment could be alerted and easily evacuated. He recommended consideration of the fact that the property's being in the tsunami danger zone should not enter into the picture.

Mrs. Kimiko pointed out that the new road was built due to the fact that the original road was too near the beach area and too far from the original road built there. She also stated that a parking area would be built which would not prove hazardous, should the escape road be utilized if there were danger of tsunami.

Mr. Frank Souza was sworn in by the Chairman. Mr. Souza stated that he was a resident of the area in which Mrs. Kurasaki is planning the steak house. He plans to build homes in this area for rental purposes and he felt that if an eating establishment should be granted in this area it would create a lot of problems: (1) a lot of noise blaring from music boxes, cars, etc.; and (2) the escape road would be jammed with cars and that the possibility of escape in case of a tsunami would be hazardous.

Mrs. Kimiko stated that Mrs. Kurasaki will build ample parking space for their customers so that there will be no hazard to the main road. She also stated that the highway is just a few hundred feet away, and she didn't think it would have any effect on the problem of escape. Then too, wouldn't the State provide ample warning should there be danger of tsunami?

Mr. Souza suggested that the Commission go down to see the road, and the Chairman answered that the Commission had already inspected the property.

Commissioner Sunn asked the XO if it is a generally accepted practice for variances to be granted for isolated instances such as a request for an eating establishment, filling station, in isolated areas without consideration? Does this mean that if you grant such a variance that anyone, any place, could ask for such a thing on the basis that they can actually process such a request to fulfillment, which should be granted?

The XO stated that his recommendation for denial was categorical. Anyone in the very close vicinity, with a similar set of circumstances, could logically ask for exactly the same thing or something quite similar to what Mr. and Mrs. Kurasaki have asked, if such a request is granted.

Commissioner Sunn then asked Mr. Ohata if the Maui Planning Commission considers the establishment of a precedent by granting such a request?

Mr. Ohata replied that the Maui Planning Commission looks at each application as it comes up. Because one establishment is approved in one area, doesn't necessarily mean that the Commission will use that as a precedent and approve a dozen more similar uses. He stated that his Commission reserves the right of approval or denial, depending on the standard planning studies that ought to be made before a decision is rendered.

The XO stated that, in planning law and policy used all over the United States, an applicant is required to prove three things for approval of a variance:

1. That conditions pertaining to the particular property are unusual or different from those on all the property around it.

2. That the applicant has a hardship, in that if he cannot have the requested use, he cannot make reasonable use of his property.

3. That the use requested would not have a detrimental effect upon anything else in the neighborhood.

He also pointed out that Act 187 states that certain unusual and reasonable uses may be allowed in an Agricultural district by special permit; and that he should have stated in the recommendation of the staff that he did not think this is a particularly unusual use that is entirely reasonable to be made of this piece of property.

Supervisor Kobayashi posed the following questions: Is not this Law that governs the Commission labeled the Greenbelt Law; and does it not give you jurisdiction to determine whether the land use shall be Urban, Conservation, or Agricultural? The area now in question has been zoned Agricultural: What do you know about this area; what is so Agricultural about this area; what is the Agricultural use at present?

Chairman Bryan briefly stated the following to Supervisor Kobayashi:

1. That this particular area is not an Urban area. It is not so considered an Urban area by the Commission who drew the lines between the Agriculture and Urban areas.

2. At present the land is in an Agriculture use. The family has been attempting to grow truck crops in this area but has not been successful and they have come before this Commission requesting to put this land into some other use.

3. This is the reason why it is classified as an Agriculture use and not Conservation.

Supervisor Kobayashi stated that he did not think the staff is in any position at this time to come up with recommendations except to present the case to the Commission and have the Commission make its decision on the merit of the presentation.

Chairman Bryan referred Supervisor Kobayashi to Act 103 of the Legislature which provides procedures for all public hearings of the State, Boards, and Commissions. Further, no Commissioner knows beforehand what the staff recommendation will be, in order that the applicant and everyone else at the hearing can have full benefit of any information presented. Any judgment as to whether the staff has the right, rests with the Commissioners. The Commission would like to receive any arguments or facts in the way of information pertinent to this hearing and hopes to give a ruling on this matter within a period of 15 or 20 days.

Supervisor Kobayashi added that in the future, all information would be given to the Commission either in writing or verbally. This being their first hearing, he would like to be able to ask questions to clarify exactly what kind of information should be presented.

Mr. Chun directed a question to Mr. Ohata regarding the petition as to whether or not it met satisfactorily the requirements of access, sanitation, County regulations, and other facilities. Mr. Ohata replied in the affirmative, stating that not too far away the County of Maui has a golf course and there is an establishment there that caters to the public and it has been approved by the Department of Health as being sufficiently sanitary.

The XO stated that he would like to clarify his recommendation for denial without prejudice for the reason that the Urban areas to be added to the Temporary Urban areas, are in study at present. These will be based by the Land Use Commission on enlargement of Urban areas to take care of urban pressure; on the existence of government-supplied facilities, utilities and roadways that service existing areas. The "without prejudice" part of the recommendation meant that the property may be in an Urban area after the study has been completed; and whether it may or may not he did not know.

The Chairman pointed out to Supervisor Kobayashi that in a request for Special Permit the Commission often ask for more detail than they would in a request for moving of a line or zoning an area for Urban, Agriculture, or Conservation; the reason being that a Special Permit is for a specific use, but where an area is put in an Urban zone, then it becomes a matter for the County to administer.

Supervisor Kobayashi stated that it is then this Commission's responsibility procedure to maintain the Agriculture areas in existence suitable for Agriculture.

Chairman Bryan agreed, stating within certain limitations, that is the intent of the Law.

The Chairman informed Mrs. Kurasaki that the Commission will meet on August 21 and 22, and on one of these days Commission will try to make a final determination of your request and will send her a notice immediately.

Mrs. Kimiko requested if notification of meeting would be made to Mrs. Kurasaki. Chairman requested secretary to notify Mrs. Kurasaki by letter of Commission's meeting and to put matter on agenda.

The public hearing closed in the matter of Mr. and Mrs. Kurasaki.

PETITION OF EAST MAUI IRRIGATION COMPANY FOR AMENDMENT OF TEMPORARY DISTRICT BOUNDARY TO RECLASSIFY, FROM CONSERVATION TO AGRICULTURAL CLASSIFICATION, PROPERTY LOCATED IN THE HALEHAKU AREA, MAUI: Described as TMK 2-8-08, Por. 7 (1030 acres).

Chairman Bryan requested the XO to point out area involved in this petition.

The XO pointed out the location of the area on a map and gave a general description of the property.

The Chairman asked if there were someone in the audience representing East Maui Irrigation Company.

Mr. Robert Bruce was sworn in and introduced himself as manager of the East Maui Irrigation Company. Mr. Bruce read and presented a copy of a letter to each member of the Commission which he had prepared stating the reasons for the petitioner's request for a change of boundary.

Mr. Bruce stated that East Maui Irrigation Company delivers on an average of 180 million gallons of water a day to the Isthmus of Maui for the irrigation of sugar cane; and that it is the Isthmus area, where the pumping is carried on, that East Maui Irrigation is interested in for recharging. East Maui Irrigation would like to collect the water from the watershed for this purpose. Mr. Bruce brought out that it was the intent of Act 187 to protect and benefit our agricultural enterprises in the State; and he felt that the change East Maui Irrigation Company is requesting would accomplish this purpose.

Before presenting the staff report, the XO read communications received from the County of Maui Planning and Traffic Commission and the Board of Supervisors of Maui.

1. Letter from the Maui Planning and Traffic Commission recommending approval of the change of boundary, and requesting that the Commission notify the Maui Planning and Traffic Commission of any hearing and action taken on the petition.

2. Letter from the Maui Board stating that the matter had been referred to the Public Works Committee for its attention.

The XO presented the staff report, stating that the argument presented by Mr. Bruce in some ways states the partial reason for the area being in Conservation designation. The XO did not see why the use proposed by East Maui Irrigation Company could not be allowed in the Conservation District if it is a proper use. He stated that,

although the staff was reluctant to recommend a change, during the interim period, in the Conservation district, in the absence of a communication to the contrary from the Department of Land and Natural Resources (who presently has the control of land use in this area), the staff would recommend approval of the petition for a change of boundary.

The Chairman requested that letters presented in behalf of county officials and the applicant be made part of the record.

Mr. Chun questioned the XO as to when the inquiry was made to the Department of Land and Natural Resources concerning any comment they may have in respect to this application.

The XO replied that the subject in question has been before the Land and Natural Resources and discussed between the Department, the petitioner and the Land Use Commission staff on numerous occasions; and that the petition was held up by the petitioner himself, after the application had been recommended for approval by the Maui Planning Commission, and had been sent to the Land Use Commission on the basis that numerous conversations were being held. The last time the Land and Natural Resources had been heard from on this particular matter was this morning by telephone.

Commissioner Sunn then stated that his understanding, from what the XO has stated, is that there was no official communication made to the Department of Land and Natural Resources. The XO replied that a letter was sent to them which was dated July 11. No official reply has been received, however.

Commissioner Sunn questioned whether the letter submitted to the Board of Supervisors on Maui was sent the same day the Land and Natural Resources' letter was sent. The XO replied that the letter sent to the Board of Supervisors was dated July 10.

Chairman Bryan stated, for the benefit of government organizations that might be present at the hearing, that on receipt of any application, the Land Use Commission staff has been instructed to request the recommendations and comments from the County Planning and Traffic Commissions, the County Board of Supervisors or in the case of Oahu, the City Council, and any governmental body which might be interested in the particular case. The Commission usually has a reply prior to the hearing, but at times the Commission does not receive any reply until sometime during the 15-day period after the hearing.

Commissioner Sunn questioned Supervisor Kobayashi as to whether his Public Works Committee had met on this matter. Supervisor Kobayashi replied that on July 31st the Public Works Committee met and unanimously agreed, without objections, concurring with the recommendations of the Planning Commission; and that an official Board action report would be submitted to the Land Use Commission ~~for some~~ time next week.

Commissioner Sunn raised a question as to whether it would be worth the Commission's while to query the Soil Conservation Service as to their views on the matter.

Mr. Bruce replied that he didn't believe that this was part of the Soil Conservation district at this time but it is their intention, of which the Soil Conservation has been informed, that if East Maui Irrigation Company felt the area should be added

to the Soil Conservation district, they would comply with it.

Mr. Chun questioned Mr. Bruce, stating that, as he understood the petition, the purpose of East Maui Irrigation Company in applying for redistricting of this parcel of land, is to convert this pasture for the purpose of capturing surface water. Within the Conservation District, and pursuant to the Act 234 of the 1957 Session of the Legislature, pasturing is one of the purposes permissible within the Conservation District. Had an application been made to the Land and Natural Resources for this use within the forest reserve zone?

Mr. Bruce replied, stating that that was the main reason for withholding this petition. East Maui Irrigation Company have explored that personally; have met with the Division of Forestry, who are handling this subzoning, and who have had a hearing on Maui; and have explored the matter with this particular lessee, who does not wish to operate on Conservation district subzoning which is liable to change. He felt definitely that, if it is agreed that Agricultural use is the best use for this land, it should be in an Agricultural district.

Mr. Chun stated that he assumed there is nothing in the record that may seem to be in disagreement to total use for pasture purposes within the Division of Forestry.

Mr. Bruce replied that he didn't think the forestry people objected to the purpose of the use, but that they would prefer this subzoning (under Act 234), while East Maui Irrigation Company wants Agricultural zoning for an Agricultural use.

Chairman Bryan asked it there were anyone present who wished to speak for or against, or to make any comments.

The Chairman informed Mr. Bruce that the Commission is required to wait 15 days for any further comments that might come to the Commission in writing. In addition to that, the Commission would have to wait another 30 days before giving an answer, which makes a total of 45 days. The Commission intends to have a meeting on Tuesday, September 18; and at this time that meeting is scheduled for Honolulu, and at that time either Tuesday the 18th or Wednesday the 19th, the Commission will reach a final determination, if possible.

The Chairman requested that the secretary notify Mr. Bruce of the time and place of this meeting.

The public hearing was closed on East Maui Irrigation Company's petition.

PETITION OF LOYALTY ENTERPRISES, LIMITED, FOR AMENDMENT OF TEMPORARY DISTRICT BOUNDARY TO RECLASSIFY, FROM AGRICULTURAL TO URBAN CLASSIFICATION, PROPERTY LOCATED IN THE WAILEA AREA, MAUI: Described as TMK 2-1-08: 42 (650.0 acres).

The Chairman asked if there were anyone in the audience representing Loyalty Enterprises.

Mr. George Houghtailing was sworn in by the Chairman and stated that he was consultant to Loyalty Enterprises, and that he would present their case.

In response to a request by the Chairman, the XO described the area involved in the petition, and pointed out the location on the map.

Mr. Houghtailing stated that the land at present is not being used to its highest use (it is now pasture land) and that the Matson Navigation Company, in purchasing the land, had plans for resort and residential development. Loyalty Enterprises purchased, under an agreement of sale, 650 acres; and in the agreement of purchase was required to develop 180 additional acres for a golf course. He also pointed out that in the Hawaii State Planning Office Visitor Destination Area Report, put out in February 1960, the Wailea area was designated as part of a Tourist Destination Area. He added that the County was spending some money to bring in a 6-inch water main all the way from the intersection of Maalaea Bay to this property, in order to service the property, which was one of the stipulations when they had the appropriation made by the Legislature for extending the 15-inch water main.

The Chairman requested the XO to read communications received from County officials.

1. Letter from the Board of Supervisors which stated that the matter has been referred to the Public Works Committee.

2. Letter from the Maui County Planning and Traffic Commission, recommending approval for change of district boundary from Agricultural to Urban.

3. Another letter from the Planning and Traffic Commission of Maui approving amendment of petition of Loyalty Enterprises (to add the golf course area).

The Chairman asked Supervisor Kobayashi if the Board had any additional information to give in regard to their recommendations on petition. Supervisor Kobayashi stated that the Public Works Committee met on July 31st and concurred with the Maui Planning and Traffic Commission. Chairman Bryan asked him if the Board will be submitting a communication to the Commission. Supervisor Kobayashi replied in the affirmative.

The XO presented the staff report, recommending approval of the boundary change to Urban classification of the petitioned area, as outlined in orange on the special map provided by the petitioners, since the request is in conformance with the plans of the County and the State, and the State's Visitor Destination Area Report. He added that these plans are the partial basis for a number of the State's capital improvements in the way of water and highways scheduled for this area.

Chairman Bryan asked members of the Commission if they had any questions they would like to ask Mr. Houghtailing or Mr. Darnell.

Mr. Chun asked Mr. Ohata when the water line would be finished. Mr. Ohata did not have the information on hand, but stated he believed it may be at the end of this year.

Mr. Chun requested that the staff read the communication received from Matson on the matter. XO read the letter and stated that the staff contacted the Matson interests because the petitioners had an option to purchase; and also upon the Attorney General Office's recommendation that the Commission ask the Matson interests if they would

concur with the application. Matson did so reply, stating their concurrence.

Mr. Houghtailing stated for the record that a substantial down payment is being made; and this is not a paper option, but a substantial down payment.

Mr. Chun asked Mr. Houghtailing if there is any urgency in respect to timing of this matter. Mr. Houghtailing stated that there is definitely an urgency, because Loyalty is now compelled to submit the second phase of their planning in detail. This has been prepared, but they cannot proceed; and they have asked for an extension of time, pending the outcome of the change; because as long as it is going to be Agricultural, Loyalty cannot go ahead and move.

Commissioner Sunn stated that it is his understanding that the Commission cannot make an interim ruling; but, actually, in this particular case, the State's Visitor Destination Area Report, the State General Plan, the County Board of Supervisors and the County Planning and Traffic Commission all agree and are in accord with the proposal, and there have been no objections filed at all.

The XO agreed with Commissioner Sunn's statement, with the exception of the fact that the Visitor Destination Area Report did not concern itself with the residential development of some of the mauka lands but just the Visitor Destination Area section of the area.

The Chairman queried Mr. Houghtailing as to whether it would create a hardship for the petitioners if they were required to wait 45 days? Mr. Houghtailing replied that there is definitely a hardship between the two parties, because there are some negotiations that have been held up: one doesn't want to move and spend any more money if they are not going to get the boundary changed; and the other one says we will have to have some compensation during the waiting period. So there is urgency from this sense.

Chairman Bryan stated to Mr. Houghtailing that he (Mr. Houghtailing) was present at this morning's meeting and is aware of the Commission's agenda for the 21st of August, which is pretty well filled. Since that meeting will be held in Honolulu, he would suggest that Mr. Houghtailing be present and if the Commission has any communications pertinent to this matter the Commission may be able to review all that information and the petitioners would be able to draw their own conclusions. The Commission's final determination, however, cannot be made until the 18th of September, unless the Attorney General's Department shall find otherwise. The Commission has asked them to investigate any other possibility.

Mr. Houghtailing stated that as he understood it, the Commission has to act <u>within</u> the 45 days. Legal Counsel corrected this to state, "after the 45-day period."

Mr. Houghtailing stated that this is a question that you can beg, if the Attorney is going to rule, but looking at it from the standpoint of practical analysis and practical approach, what is going to be wrong if the Commission should act within that period and not wait for the 45-days and say, "This is it. I'm just wondering because this Commission now is the judge. I realize that an attorney would read

right down to the letter and I'm not going to try to do that; but I do feel that this Commission has a lot of jurisdiction and that's why you have a Commission. They have a period to act in now."

Chairman Bryan replied that this 45-day period is not the ruling of the Commission, it is the law itself. The interpretation, according to advice by the members of the Attorney General's staff, is that the Commission can't act within the 45 days. We have asked them to review that to see if there is any way the problem can be solved. He added that if there is any possibility of solving this, the Commission would notify the petitioners.

The public hearing closed on the petition of Loyalty Enterprises, Limited.

After a short recess, Chairman Bryan reconvened the hearing.

PETITION OF FRANK AND JESSIE MUNOZ FOR AMENDMENT OF TEMPORARY DISTRICT BOUNDARY TO RECLASSIFY, FROM AGRICULTURAL TO URBAN CLASSIFICATION, PROPERTY LOCATED IN THE PUKALANI AREA, MAUI: Described as TMK 2-3-33: 15, 16, 18, 19 (23.928 acres).

Upon request by the Chairman, the XO described the land involved in this petition. The XO pointed out that the Frank Munoz property is located across Edward S. T. Ching's property in Pukalani. He stated that the original application included considerable lands which did not belong to the Munoz family and that the petition was amended to include TMK 2-3-33: Lots 15, 16, 18 & 19, plus 3 easements to Lot 19. He explained that the next item to come up before the Commission would be a recommendation and request, from the County of Maui, to rezone an area which includes some of the areas that were originally requested by Mr. Munoz. The request made by the County of Maui is to include the rest of the land (TMK 2-3-33: Lots 1 through 18, 20 & 21; TMK 2-3-11: Lots 20 & 73) which would connect the Munoz property to the Pukalani Urban district.

Upon request by the Chairman the XO placed the tax key map on the board and pointed out the exact areas involved in each petition.

Mr. Meyer M. Ueoka, practicing Attorney of Maui, stated that he represented Mr. and Mrs. Munoz; and upon the Chairman's request proceeded to present their case.

Mr. Ueoka explained that the particular area involved is designated as Agricultural, and the petition requests that this area be redesignated to Urban. He felt that the evidence would show proof that it is needed for a use other than that for which the district is classified; that the petitioners would also show that conditions and plans for development have changed in this particular area. He stated that he realized that this particular zoning map was adopted by the prior Commission, because they had to adopt it in a hurry. However, to give the Commission an overall picture of this area, Mr. Ueoka continue, Mr. Munoz was partly responsible for the development of Pukalani, a very healthy and wholesome community: the area being large enough to provide comfortable living conditions, having an established church, and the possibility of a school in the near future, if Pukalani

further develops. He then called upon Mr. Munoz to give a history of Pukalani to support the petition.

Mr. Munoz was sworn in. He clarified statements in the original petition, stating that the areas included were formerly his, having been subdivided and approved approximately in 1959. The remaining area is now under development, as he had taken the liberty to developing the land, putting in the waterlines and starting the road construction, and accepting deposits from 14 purchasers, subject to clarification of the "Greenbelt" petition which has been applied to this property. He further stated that he did not know the reason back of the responsible people when the area was declared Agricultural, as he didn't believe he could reasonably ascertain an agricultural program in this particular area, where average rainfall averages somewhere about 25 to 27 inches. An agricultural enterprise wouldn't be possible at all and, in his opinion, the best use of the land would be for residential purposes, especially since there is an immediate demand for residential land in these areas. The proposed subdivision was approved by the Maui Planning and Traffic Commission, and if the Commissioners have visited the area they must have seen that he has proceeded in putting in the necessary improvements for compliance with the County of Maui's subdivision ordinances. The waterlines have also been completed. He stated that it is his intention to complete this subdivision; but if the Commission should deny the requested change, he would be obliged to have the real estate company who is handling the sales for him refund the deposits to the prospective purchasers. He added that, in his opinion, this is a rather urgent matter in view of the purchasers whose building plans are completed, and in consideration of those who have to move from their homes in the plantation.

Upon receiving approval from the Chairman, Mr. Ueoka questioned Mr. Munoz. During the cross-questioning, it was brought out that Mr. Munoz was responsible for the subdivision across the street from the presently proposed subdivision and most of the lots there have been developed with homes.

Chairman Bryan suggested that the petitioners adhere to the points directly related to this specific hearing.

The Commission was also informed that: the subdivision begun in 1959, involving parcels in the petition for redesignation by the County of Maui Planning Commission, already has six homes built on it; a detailed description of the surrounding subdivisions of Mr. Munoz -- development and approximate number of constructed homes; and, in the petitioner's opinion, that a hardship was created, for those who had purchased lots 10 years ago, by the former Commission who placed this area in Agricultural classification. The lands adjoining these particular parcels will be covered in the petition of the Maui Planning Commission; and all these descriptions and explanations were needed to show the need for redesignation.

The Chairman stated that the question of adjacent property, regardless of how it has been zoned, is a point of law which should be settled outside of this hearing. He suggested that the petitioners adhere to the problems directly related to this hearing.

Mr. Ueoka received an affirmative reply when he asked Mr. Munoz if he had made an application for subdivision prior to the adoption of Land Use district maps for

this particular land. Mr. Munoz added that he had received a communication from the Board of Water Supply of Maui County, approving his preliminary sketch of the Pukalani subdivision. He then presented a letter to the Commission from Norman Saito, Manager and Chief Engineer, and a letter from the Planning Director prior to the adoption of the Land Use maps. These letters were presented for the record and, upon request of the Chairman, the XO read these letters.

Other statements were made by the petitioners, to the effect that the firm holding the money in escrow from prospective buyers is Maui Realty Company, Inc., of which Donald Tokunaga is president and manager; various camps have been abandoned by the plantation; Kaheka, near Paia, has been designated as an Urban area, but will be abandoned shortly as will other camps; people from the aforementioned camps who do not desire to go to the sixth and seventh increment of Dream City would have to look outward for lands to build their homes; and Pukalani is a very desirable place and there has been a demand for acquisition of lands in that area.

Mr. Ueoka stated that both he and Mr. Munoz would be open for any questions put forth by the Commission.

Chairman Bryan brought to the attention of the Land Use Commission members that they ignore the comments on the actual physical development of the land. This is not the Commission's problem as it is not a policing or enforcing body.

Upon the request of the Chairman, the XO read communications received from County officials:

1. Maui Planning and Traffic Commission recommended approval of the amended application which includes all land that Mr. Munoz is applying for redesignation;

2. The Board of Supervisors referred the matter to the Public Works Committee on July 20, 1962 for its attention.

Supervisor Kobayashi stated that the Committee took action that same day and concurred with the Planning and Traffic Commission. A copy of this report would be forwarded to the Commission.

At the request of Chairman Bryan, the XO read a communication received from Thomas Ogata for amendment of the petition.

The XO proceeded to give an oral staff report, stating that the staff understood from the recommendation of the Maui Planning and Traffic Commission, that the Maui plan includes the urbanization of the subject area as well as other areas adjacent to it. The State General Plan in this area shows that the recommended extension of the town of Pukalani is in a northwesterly direction and includes part of this area in urban and part of it in a diversified Agricultural classification; however, the area that is shown in Urban along the opposite side of Haleakala Highway proves now to be in pineapple. In consideration of these factors the requested extension of Pukalani is considered by the staff to be in the proper direction, and in the proper area; and staff recommended approval of the petition, as amended.

Commissioner Sunn stated that Mr. Munoz had testified that across the street from his development or proposal were some 40 to 50 homes; and he took it that Mr. Munoz meant across the street leading to Makawao. Mr. Munoz replied that when he subdivided that area in 1950, there were 142 lots in the subdivision. It comes up to Mr. Ching's property across the street of this property and was a portion of the original Pukalani subdivision. Chairman Bryan asked if this was across the street, to which Mr. Munoz answered that it was across the present Haleakala Highway, immediately across from his property.

Commissioner Sunn asked whether, in regard to Mr. Munoz's petition, he referred to TMK 2-3-33: Parcels 19, 15, 16 & 18? The letters from the Planning Commission and the Board of Water Supply referred only to Parcel 19 of this tax map key. Is he applying for additional property? The XO replied that Parcel 19 is part of the Munoz application, and is not part of the County of Maui application. Commissioner Sunn stated that the submitted letters referred to one parcel but the petitioner was now requesting four. The Chairman stated that an answer could be found in the fact that Mr. Munoz, in his last letter, clarified the fact that he had substituted maps and was sending a second map which included more than just Parcel 19. The XO affirmed this, and stated that there were three lots. Mr. Munoz stated that he still owns lots 1 and 2 of the subdivisions which were approved in 1959.

The Chairman requested that the XO clarify the areas as to exactly what was stated in the application and record, which parcels were included in the second map. The exact question being which lots are shown in red on the map on the wall? The XO stated that the map showed Parcels 15, 16 and 18. Chairman Bryan noted the agenda to be correct and requested the XO again read the communications received from the Board of Water Supply and the Maui Planning and Traffic Commission. This was done.

Mr. Ohata stated that, in order to clarify and speed up the hearing, the answer of the Planning Commission was this: that it is known that Mr. Munoz owns a large parcel designated as flanking the area petitioned by Maui Planning and Traffic Commission. The Maui Planning Commission is not too concerned as to land ownership; but it was felt that there should be an extension of the Urban boundary to include the whole portion. Therefore, it can be said that the Planning and Traffic Commission includes all parcels not owned by Mr. Munoz, making the actual land acreage immaterial in this particular case.

Chairman Bryan stated, "It may be immaterial to you; but it is not immaterial to us, because when we approve the thing we want to know what parcels we are including, so we usually try to ascertain as definitely as possible which parcels are included in the application. I think this should end the matter."

Mr. Chun asked Mr. Munoz what size lots are involved in the prior subdivision to be covered in the County's application. Mr. Munoz stated that they varied from 1 acre lots down to 5900 square feet or so.

Commissioner Gregg asked how much acreage is involved in the area. He stated that he believed that something was mentioned about the "remaining area". Mr. Ueoka replied that the total area is approximately 22 acres and the "remaining area" is included as a portion of the County petition. Commissioner Gregg asked whether Mr. Munoz owned the area between the "remaining area" and the Urban area in Pukalani; he received a negative reply from Mr. Munoz.

Chairman Bryan requested that all letters and documents referred to in this hearing be made part of the record. He stated that the earliest date the Commission could take action in this matter would be the 18th of September; and that he would ask the secretary to notify the petitioner where the Commission would meet on that date. It is not necessary that the petitioner be present, but he is welcome to attend. He will not be heard, but is free to listen to what the Commission has to say.

Commissioner Sunn asked: "Is it my understanding that the County Attorney of Hilo, County of Hawaii, ruled that if the project was under construction, and I think the previous Commission determined these interim boundaries on the basis of preliminary approval of subdivisions; and if this is the case, and it has been shown that this has been processed through the Planning Commission, would not this be an oversight for preliminary approval?"

Mr. Ohata replied that, in the County of Maui, preliminary approval is given by the Board of Supervisors and not the Planning Commission; and therefore, this was ruled as not having received preliminary approval.

Chairman Bryan stated that the Commission will receive any comments for 15 days and in addition would have to wait another 30 days before giving an answer, which makes a total of 45 days.

The hearing on the matter of the petition of Frank and Jessie Munoz was closed.

PETITION OF MAUI COUNTY PLANNING AND TRAFFIC COMMISSION FOR CHANGE OF DISTRICT BOUNDARY FROM AGRICULTURE TO URBAN DISTRICT; PUKALANI, MAUI, HAWAII: Described as TMK 2-3-11: 20, 73; 2-3-33: Parcels 1-18 inclusive; and 2-3-33: 20, 21.

Mr. Robert Ohata introduced himself as being the Director of the Maui County Planning and Traffic Commission, and was sworn in by Chairman Bryan.

Upon request by Chairman, the XO pointed out location on map and described the area involved in the petition.

Mr. Ohata stated that the Maui Planning and Traffic Commission, when it received the application from Mr. Munoz, felt that that property could be approved. But if it did recommend approval of that portion it would leave that portion non-contiguous to the present Urban area; and so, in an effort to develop a boundary that would be conducive to good planning, the Maui Planning Commission felt that the area in between should be included in the petition and therefore make the Munoz property contiguous with the present Urban area. This is the reason for the request by the Planning Commission, and we recommend approval of our request.

Chairman Bryan asked the XO if the Land Use Commission has received any comment from the Board of Supervisors. The XO replied by reading a communication from the Board which stated that matter has been referred to the Public Works Committee for its attention.

Chairman asked Mr. Ohata if he had any knowledge if the Public Works Committee acted upon that. Mr. Ohata stated that he could not report on that.

Upon request by Chairman XO gave staff report orally stating the portion of the area that was included in the general plan is actually in pineapple across the road, and should probably not have been included in this general plan as urban, but the area up the mauka side of the road which is included in this application probably should have been. The area is under considerable development with considerable building activities. As Mr. Ohata stated, this area is a well-rounded community and to make space for the demand for housing appears necessary. There appears to be urban pressure and the recommendation is for approval.

Commissioner Sunn asked XO that parcels 1-18 inclusive, 20 and 21, and 19 are included in the other (Munoz) application, now when you pointed to tax map key 2-3-11, you said Parcels 20 and 73, It is not inclusively? XO replied in the affirmative. XO clarified that parcels 20 and 73 are included in the lower area here (pointing on map) and this piece of land has been taken off from one tax map and placed on another. The original map that the application was made from (the County of Maui) was a little older map than this map here.

Commissioner Williams asked Mr. Ohata whether the property owners of this particular land have been consulted on this. Mr. Ohata replied in the negative to which Commissioner Williams stated that the County has just taken their right to have that zone changed. Mr. Ohata replied in the affirmative.

Commissioner Gregg asked whether any of the property owners were present.

From the audience, a spokesman stated that he represented two property owners in this area: one is Mr. Watanabe, and the other is Seichi and Masaura. He stated that Masaura and Seichi bought from Mr. Munoz exactly one parcel of land with the intention to subdivide. He stated that they were veterans and are applying for loans very shortly; and had submitted an application for subdivision approval, first to the Water Board and then the Planning Commission, which both have approved. Now they request that it be submitted prior to the adoption of the Board of Supervisors. So far as Mr. Watanabe is concerned, the application was made to the Board of Supervisors prior to the adoption of the boundaries, because the Board of Supervisors failed to act on the requests for preliminary approval; and therefore by operation of law, under the County ordinance, it should have already been approved.

Chairman Bryan queried the spokesman on his representation in behalf of these people. The spokesman replied that he was not speaking on their behalf but wanted to point out the fact that their actions show they would like to have this area zoned for Urban use. This was noted by Chairman.

Chairman Bryan asked Mr. Ohata if there are other landowners besides ones just heard to which Mr. Ohata replied in the affirmative.

Commissioner Gregg asked Mr. Ohata if he planned to ask the owners whether they were in favor of this change to which Mr. Ohata replied in the negative.

Commissioner Gregg asked Mr. Ohata if there is available water for this development to which Mr. Ohata replied that the Maui Planning Commission feels there is because of the letter given to Mr. Munoz on his prior request. Chairman Bryan asked what

position the County would take, should the other owners decide to dedicate their land under Act 187 to agricultural cultivation. Mr. Ohata stated that the Maui Planning Commission has filed a petition with the Commission and action should be taken on their petition as a request of change to Urban zoning.

The XO stated that he was informed by Mr. Chun this afternoon that Act 187 or the Rules state that the Land Use Commission is to contact any property owners who have any interest in property for which a hearing is being held for rezoning. This was not done and he apologized that this was an oversight on the part of the staff to make proper investigation for the Commission.

Legal Counsel, Mr. Fong, stated that there is no great problem, since the Act provides a 15-day period after hearing in which contact can be made, to which Chairman Bryan added, "provided they agree". Mr. Fong agreed, stating the Commission will decide if rezoning is necessary.

Mr. Ohata stated that the Land Use Commission in adopting these temporary boundaries did not contact owners. They notified owners through legal publications in newspapers as required by law and the same thing has been done in this particular case. "It may be the legal procedure to notify the property owners, and if the Commission feels it wants to contact the individual property owners I think that is a fine thing, and should be done; but we feel that our Planning and Traffic Commission is not the agency that should go over there to contact each property owner. Our recommendation is done purely on the basis of county planning -- whether this is good county planning or not good county planning."

Mr. Donald Tokunaga was sworn in; and stated he would like to speak very briefly in behalf of both Mr. Frank and Jessie Munoz, as well as the County of Maui, to have these particular parcels that have been discussed the last half hour rezoned from Agricultural to Urban. "If public pressure as well as existing utilities are any criteria for the rezoning of the property from Agriculture to Urban as a practicing realtor since 1937 I'd like to testify to the fact concerning these particular parcels in Pukalani. There is definitely a great demand for small houselots there and as far as existing utilities go, you have the road and I think there is sufficient water for residential development."

Chairman Bryan ordered that any documents referred to in this hearing be made part of the record.

The Chairman stated that the Commission will contact the remaining landowners for their comments with regard to this area; and if no definite problems arise, he thought the Commission could give a definite ruling on the 18th of September.

Mr. Ohata requested that he would like to be notified of this meeting and Chairman Bryan requested secretary to do this.

The public hearing was declared closed.