TOKUNAGA, Donald H. A(T) 63-42

JUN 25 1951
NOV 20 '59

MAKAWAO

PUKALANI

KEAHUA

KUKUIAEO

HALEAKALA HOMESTEADS

MAKAWAO FOREST RESERVE

WAIHOU SPRING RESERVE

MAKAMAE

KEAHUA

KAAPUEO

KALAIMUU

OMAOKIO HOMESTEADS

PULEHUNUI

KAMEHAMENUI

KEALAKAOUI

WAIAKOA HOMESTEADS

KULA FOREST RESERVE

KULA LODGE

Section 5

Section 6

Zone 2 Section 2

To Kahului

Kahului-Waiakoa Road

New Hamakua Ditch

Grade line

Omaopio Road

Old Government Road

Kula Pipeline

Kula Forest Reserve Road

Kula Highway

Lower Kula Road

Kekaulike Avenue

Kimo Dr.

Pulehunui Road

Puu Pane

Waiakoa Ditch

To Olinda

To Makawao

HIGHWAY

09 A

09

33

10

11

17

32

07

06

A

08

A

03

A

04

35

34

36

18

16

15

14

23

22

19

20

21

13

05

26

40

39

38

01

02

37

12

12

3 ε~ 4

Aw.

L. C.

Aw.

Grant 3502

Grant 3502 to Kamehameha III

Grant 3502 to Kamehameha V

Grant 3502 to Kamehameha IV

Grant 3502 to Kamehameha V

Grant 3502 to Kamehameha III

CORRECTED
JAN 3 9
SEP 1 1939
OCT 2 1939
FEB 1 1940
JUL 1 1940
JUL 1 1940
MAY 1 1950
NOV 1 1950
NOV 24 1950
JAN 2 1951
MAR 12 1951
MAR 28 1951
APR 25 1951
MAY 4
AUG 6 51
NOV 5 51
NOV 25
DEC 26
NOV 9 58

Sec. 4 PLAT 01

M. A. Co. Ltd. Tunnel Easement

Maui Pineapple Co 386.86 Acs.

Frank Enos 1/4
Rosalie E. Thorne 1/4
33.90 acs.
1443
J.B. Lyons, Timothy A. Enos K. 1/2 Trust
Aunae N.K.; Marwyn K.,
Francis L.; Thomas
B. Lyons - T/C

Maui Pineapple Co 84.35 Acs.

1468

Gr 1455 GR. 1444 A GR. 1445 GR. 1583

To Makawao

True North 1" = 500'

PLAT

963

PLAT 11

Gr 1202 33

Manuel Asue 32.87 ACS.

GRANT 2625

Gr 1672 1695 1694 1988 1203

Grant

PLAT 03

Gr K 1088

MAKANI ROAD

HIGHWAY

Por Ld Ct App. 1006 (Pending)

Upper Kula Road

Sta of Proj F-037-1 (4)

2078.17 N
4806.58 W
Pvt Rand

LOWER KULA ROAD PROJ. F-037-1 (4)

Plat 1215

Gr 4006

PLAT 32

Janet Boteilho 50.37 Acs.

Deed - Min. of Mt. to W.H Bailey

Gr 1447

MOUNTAIN VIEW TRACT

HALEAKALA VIEW TRACT

PLAT 10

PLAT 25

PLAT 24

PLAT 31

HALEAKALA

PAHAA PLACE LOTS

PUKALANI

PLACE 30

PLACE 1638

PLACE 29

PLACE 28

PLACE 27

PAKALU

PAKAHI

Frank Mundo & Donald H. Tokuda 99.71 Ac

99.80 Ac 43.786 Ac

493.37 acs.

LANDCO

Ld Ct App 1323

Por Gr 1213

1212 - E. Lyons, Timothy A. Enos K., Aunae N. K. Enos, Marwyn K. Enos & Francis L. Enos - Trustees Under Will & Estate of Frank Enos, Deceased, 1/2 Int. - Rosalie E. Thorne 1/4 Int. - 189.10 acs.

Quitclaim Mins of Int to W.H Bailey Nov 10, 1877 Lib 52 Pg 412

24 (John Silva & wf. Rose M. - Yfr) A/S 0.844 Ac.

25 (Albert S. Watanabe & wf. Ayako - S/T) A/S 0.938 Ac.

Maui Pineapple Co. 5.06 Acs.

To Kahului

To Kula

Hamakua Ditch

Sec. 7 Grant 3085

Gr 1447

PLAT 02

PLAT 08

Por. of KULA, MAKAWAO, MAUI

Tax Maps Branch
Tax Office Bldg.
Honolulu, Hawaii

PARCELS DROPPED: 1, 2, 3, 6, 11, 12, 14, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25.

SECOND		DIVISION
ZONE	SEC.	PLAT
2	3	09
CONTAINING		PARCELS
SCALE: 1 in. = 500 ft.		

PRINTED JAN 24 1964

3906

Dwg No.
By: NA & C
Source: Tax Maps Bureau

Submitted by Ota - 4/17/64

RELATED TO LANDOO'S PETITION
MAUI

Hui's Actions:

- F.B. Carter's Ad for sale of Libby's land first appeared Maui News on 3/16/63
- Offer to Purchase made by Hui on 3/18/1963
- Deed from Libby, McNeill & Libby 7/16/1963

April 6, 1962: Maui County Resolution No. 52 asking Maui County Planning & Traffic Commission to provide for Parks in the Pukalani Area Master Plan.

April 24, 1962: Maui Planning & Traffic Commission unanimously concurred with Maui County's request for a Park Area to be included in Pukalani's Master Plan

Act 201, SLH 1963, Appropriation of $75,000 approved for "Pukalani School and Park Site" acquisition.

REPORT on MASTER PLAN FOR MAKAWAO WATER PROJECT:

Board of Water Supply requested this Study back in November of 1962.
Initiated by the Engineering Section of the Maui County Board of Water Supply early in 1963. Engineering Report submitted 14 June 1963; Report adopted by the Water Board on 19 August 1963.

April 26, 1962

Honorable Eddie F. Tam
Chairman and Executive Officer
and Members, Board of Supervisors
County of Maui
Wailuku, Maui, Hawaii

Gentlemen:

The Maui Planning and Traffic Commission, at its meeting of April 24, 1962, unanimously voted to concur with your request contained in Resolution No. 52, to consider the need for a park in the preparation of a master plan for the Pukalani area.

Very truly yours,

ROBERT O. OHATA
Planning Director

Request for park con. + to copy Pukalani area

County Communication No. 156

PUKALANI PARK AND SCHOOL SITE:

(1) Resolution No. 52 adopted by the Board: April 6, 1962

(2) C. C. # 156 from Planning Commission - concurring said Apr. 26, 1962
resolution No. 52.

(3) Act 201, Session Laws of Hawaii 1963 - $75,000.00

(4) Resolution No. 115 adopted by the Board on: July 5, 1963
Requesting for $75,000.00

(5) G. C. #433 from Governor, transmitting Allotment Advice
(dated 8/30/1963) No. 26 - $75,000.00 for Pukalani.

G. N. TOSHI ENOMOTO
County Clerk

BONIFACE ESPINDA
Deputy County Clerk

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

April 9, 1962

Mr. Joseph S. Medeiros, Chairman
Maui Planning & Traffic Commission
County of Maui
P. O. Box 1487
Kahului, Maui

Dear Sir:

Re: Resolution No. 52

By direction of the Board of Supervisors of the County of Maui, we are transmitting herewith, a certified copy of the following resolution which was adopted by the said Board of Supervisors on April 6, 1962:

RESOLUTION NO. 52 - Requesting the Maui Planning and Traffic Commission to take into consideration the need for a park in the preparation of a master plan for the Pukalani area.

Very truly yours,

G. N. TOSHI ENOMOTO
County Clerk

Encl.

Resolution No. 52

Presented by Toshi Ansai Supervisor

WHEREAS, the people of Pukalani are desirous of having a park for the recreation and enjoyment of children and adults alike; and

WHEREAS, with the increasing development of the Kula area brought about by the proposed construction of the Lower Kula Road and improvement to the water system, Pukalani, situated at the junction of Haleakala Highway and Makawao Avenue, will become more important and more populated; and

WHEREAS, the Maui Planning and Traffic Commission is charged with the task of preparing a master plan for various areas in the County of Maui; now, therefore,

BE IT RESOLVED by the Board of Supervisors of the County of Maui, State of Hawaii, that the Maui Planning and Traffic Commission be and it is hereby respectfully requested to take into consideration the need for a park in the preparation of a master plan for the Pukalani area; and

BE IT FURTHER RESOLVED that a copy of this resolution be transmitted to Joseph S. Medeiros, Chairman of the Maui Planning and Traffic Commission.

Seconded by Richard P. Caldito Supervisor

BOARD OF SUPERVISORS	Ayes	Noes	Ab.	Ex.
EDDIE TAM, Chairman	X			
TOSHI ANSAI	X			
RICHARD P. CALDITO	X			
GORO HOKAMA	X			
HARRY N. KOBAYASHI	X			
SOON OAK LEE	X			
MARCO M. MEYER	X			
LANNY H. MORISAKI	X			
TOM TAGAWA				X
Total	8	0		1

County Clerk, County of Maui, State of Hawaii

I HEREBY CERTIFY that the foregoing is a true and correct copy of Resolution No. 52, which was adopted by the Maui County Board of Supervisors on the 5th day of April 1962, the original of which is now on file in the Office of the County Clerk, County of Maui, State of Hawaii.

Dated this 9th day of April 1962.

COUNTY CLERK, COUNTY OF MAUI, STATE OF HAWAII

G. N. TOSHI ENOMOTO
County Clerk

BONIFACE ESTINDA
Deputy County Clerk

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

April 9, 1962

Mr. Joseph S. Medeiros, Chairman
Maui Planning & Traffic Commission
County of Maui
P. O. Box 1407
Kahului, Maui

Dear Sir:

Re: Resolution No. 52

By direction of the Board of Supervisors of the County of Maui, we are transmitting herewith a certified copy of the following resolution which was adopted by the said Board of Supervisors on April 6, 1962:

RESOLUTION NO. 52 - Requesting the Maui Planning and Traffic Commission to take into consideration the need for a park in the preparation of a master plan for the Pukalani area.

Very truly yours,

G. N. TOSHI ENOMOTO
County Clerk

Encl.

G. N. TOSHI ENOMOTO
County Clerk

BONIFACE ESTINDA
Deputy County Clerk

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

April 9, 1962

Mr. Joseph S. Medeiros, Chairman
Maui Planning & Traffic Commission
County of Maui
P. O. Box 1487
Kahului, Maui

Dear Sir:

Re: Resolution No. 52

By direction of the Board of Supervisors of the County of Maui, we are transmitting herewith, a certified copy of the following resolution which was adopted by the said Board of Supervisors on April 5, 1962:

RESOLUTION NO. 52 - Requesting the Maui Planning and Traffic Commission to take into consideration the need for a park in the preparation of a master plan for the Pukalani area.

Very truly yours,

G. N. TOSHI ENOMOTO
County Clerk

Encl.

Resolution No. 52

Presented by Toshi Ansai Supervisor

WHEREAS, the people of Pukalani are desirous of having a park for the recreation and enjoyment of children and adults alike; and

WHEREAS, with the increasing development of the Kula area brought about by the proposed construction of the Lower Kula Road and improvement to the water system, Pukalani, situated at the junction of Haleakala Highway and Makawao Avenue, will become more important and more populated; and

WHEREAS, the Maui Planning and Traffic Commission is charged with the task of preparing a master plan for various areas in the County of Maui; now, therefore,

BE IT RESOLVED by the Board of Supervisors of the County of Maui, State of Hawaii, that the Maui Planning and Traffic Commission be and it is hereby respectfully requested to take into consideration the need for a park in the preparation of a master plan for the Pukalani area; and

BE IT FURTHER RESOLVED that a copy of this resolution be transmitted to Joseph S. Medeiros, Chairman of the Maui Planning and Traffic Commission.

Seconded by Richard P. Caldito Supervisor

BOARD OF SUPERVISORS	Ayes	Noes	Ab.	Ex.
EDDIE TAM, Chairman	X			
TOSHI ANSAI	X			
RICHARD P. CALDITO	X			
GORO HOKAMA	X			
HARRY N. KOBAYASHI	X			
SOON OAK LEE	X			
MARCO M. MEYER	X			
LANNY H. MORISAKI	X			
TOM TAGAWA				X
Total	8	0		1

County Clerk, County of Maui, State of Hawaii

I HEREBY CERTIFY that the foregoing is a true and correct copy of Resolution No. 52, which was adopted by the Maui County Board of Supervisors on the 6th day of April 1962, the original of which is now on file in the Office of the County Clerk, County of Maui, State of Hawaii.

Dated this 9th day of April 1962.

COUNTY CLERK, COUNTY OF MAUI, STATE OF HAWAII

Wailuku, Maui, Hawaii, April 6 19 62

Resolution No. 52

Presented by Toshi Ansai Supervisor

WHEREAS, the people of Pukalani are desirous of having a park for the recreation and enjoyment of children and adults alike; and

WHEREAS, with the increasing development of the Kula area brought about by the proposed construction of the Lower Kula Road and improvement to the water system, Pukalani, situated at the junction of Haleakala Highway and Makawao Avenue, will become more important and more populated; and

WHEREAS, the Maui Planning and Traffic Commission is charged with the task of preparing a master plan for various areas in the County of Maui; now, therefore,

BE IT RESOLVED by the Board of Supervisors of the County of Maui, State of Hawaii, that the Maui Planning and Traffic Commission be and it is hereby respectfully requested to take into consideration the need for a park in the preparation of a master plan for the Pukalani area; and

BE IT FURTHER RESOLVED that a copy of this resolution be transmitted to Joseph S. Medeiros, Chairman of the Maui Planning and Traffic Commission.

Seconded by Richard P. Caldito Supervisor

BOARD OF SUPERVISORS	Ayes	Noes	Ab.	Ex.
EDDIE TAM, Chairman	X			
TOSHI ANSAI	X			
RICHARD P. CALDITO	X			
GORO HOKAMA	X			
HARRY N. KOBAYASHI	X			
SOON OAK LEE	X			
MARCO M. MEYER	X			
LANNY H. MORISAKI	X			
TOM TAGAWA				X
Total	8	0		1

County clerk, County of Maui, State of Hawaii

Wailuku, Maui, Hawaii, July 5, 1963 19

Resolution No. 115

Presented by Soon Oak Lee Supervisor

WHEREAS, under the provisions of Act 201, Session Laws of Hawaii 1963, various sums of money have been appropriated for projects in the County of Maui, said sums of money to be expended by the County of Maui; and

WHEREAS, it would expedite the execution of said projects should planning and land acquisition monies be allotted to the County of Maui as soon as practicable; now, therefore,

BE IT RESOLVED by the Board of Supervisors of the County of Maui that it does hereby respectfully request the Governor of the State of Hawaii to allot the following sums of money for the various projects listed in said Act 201, as follows:

Project	Total Appropriation	Amount of Allotment Requested
Kealia Pond Dust Control	$ 20,000.00	$ 20,000.00
Kahului School - Covered Walkway (for current contract)	15,000.00	15,000.00
New Molokai Elementary School, Kualapuu	500,000.00	50,000.00
New Kahului School, Sixth Increment	700,000.00	70,000.00
Kealahou-Keokea School (for current contract)	100,000.00	100,000.00
Kaunakakai Elementary School, Molokai	25,000.00	25,000.00
Lanai High & Elementary School	25,000.00	25,000.00
Pukalani School and Park Site	75,000.00	75,000.00
Sewer System, Honokowai	40,000.00	40,000.00
Kalama Park	50,000.00	5,000.00
Olympic Swimming Pool	10,000.00	10,000.00

Resolution No. 115

BE IT FURTHER RESOLVED that certified copies of this resolution be transmitted to the Governor, the Director of Department of Planning and Economic Development, and the Director of the Department of Budget and Review, State of Hawaii.

Seconded by

Manuel S. Molina Supervisor

BOARD OF SUPERVISORS	Ayes	Noes	Ab.	Ex.
EDDIE TAM, Chairman				X
JOE BULGO	X			
WENDELL F. CROCKETT	X			
GORO HOKAMA Acting Chairman	X			
SOON OAK LEE	X			
MARCO M. MEYER	X			
MANUEL S. MOLINA	X			
LANNY H. MORISAKI	X			
TOM TAGAWA	X			
Total	8	0	0	1

County clerk, County of Maui,
State of Hawaii

I HEREBY CERTIFY that the foregoing is a true and correct copy of Resolution No. _____, which was adopted by the Maui County Board of Supervisors on the _____ day of _____ 19___, the original of which is now on file in the Office of the County Clerk, County of Maui, State of Hawaii.

Dated this _____ day of _____ 19___.

COUNTY CLERK, COUNTY OF MAUI,
STATE OF HAWAII

Original of Allotment Advice
to Tsukiyama

EXECUTIVE CHAMBERS

HONOLULU

August 30, 1963

JOHN A. BURNS
GOVERNOR

Dear Mr. Hokama:

I am happy to transmit Allotment Advice No. 26 which releases $345,000 in State funds to finance phases of six school projects the County requested by Resolution 115. I am withholding allotments for the other five projects pending determination of priorities and State fiscal limits.

After plans are completed for the new Molokai Elementary School and the new Kahului School and it is estimated that appropriated funds are sufficient to construct the schools, release of construction funds will be considered.

Section 11 of the Act requires Department of Education approval of location of land purchased for schools and the buildings erected for school purposes. I suggest that the Department be consulted [illegible] before the preliminary planning stages.

Warmest personal regards. May the Almighty be with you and yours always.

Sincerely,

Honorable Goro Hokama
Acting Chairman and Executive Officer
County of Maui
Wailuku, Maui, Hawaii

General Communication No. 433

Commission on Public Accountancy
Form No. A-18 Revised

STATE OF HAWAII

ALLOTMENT ADVICE

ADVICE NO. 26

J. V. No.

To The Honorable Goro Hokama
Acting Chairman and Executive Officer
County of Maui

July 31, 19 63

I HAVE THIS DAY APPROVED THE FOLLOWING ALLOTMENTS FROM STATE GENERAL OBLIGATION BOND FUND APPROPRIATIONS AUTHORIZED BY SECTION 1, ACT 201, SLH 1963, FOR THE PURPOSES INDICATED BY THE PROJECT TITLES OR IN PARENTHESIS AFTER PROJECT TITLES.

APPROPRIATION SYMBOL	ALLOTMENT SYMBOL	Item	TITLE AND PURPOSE OF ALLOTMENT	AMOUNT
B63-304 V	B63-304V	C-7-c	New Molokai Elementary School, Kualapuu. Plans and construction of classrooms, office library, cafeteria and land acquisition. (Plans and land acquisition)	$ 50,000
B63-305 V	B63-305V	C-7-d	New Kahului School, Sixth Increment. Construction of classrooms, office, library and cafetorium. (Plans)	70,000
B63-306 V	B63-306V	C-7-e	Kealahou-Keokea School. Additional funds to complete construction of new school provided by Act 30/1962. (Construction and equipment)	100,000
B63-307 V	B63-307V	C-7-f	Kaunakakai Elementary School, Molokai. Plans for classrooms and cafetorium.	25,000
B63-308 V	B63-308V	C-7-g	Lanai High and Elementary School. Plans for classrooms.	25,000

STATE OF HAWAII

Commission on Public Accountancy
Form No. A-18 Revised

ALLOTMENT ADVICE

ADVICE NO. 26 Page 2

J. V. No.

To .....

.....19 .....

APPROPRIATION SYMBOL	ALLOTMENT SYMBOL	Item	TITLE AND PURPOSE OF ALLOTMENT	AMOUNT
B63-309 V	B63-309V	C-7-h	Pukalani School and Park Site. Acquisition of land.	$ 75,000
			TOTAL ALLOTMENT	$ 345,000

RECOMMENDED FOR APPROVAL:

Director of Planning and Economic Development

Director of Budget and Finance

Governor, State of Hawaii

REFERENCE	JOURNAL ENTRY	SUBSIDIARY		CONTROL	
		DEBIT	CREDIT	DEBIT	CREDIT
	Debit: Unallotted (Unenc.) Bal. of Appro. for.....				
	Credit: Unencumbered Balances of Allotments for...				

August 18, 1965

Mr. Robert O. Ohata
Planning Director
Planning and Traffic Commission
County of Maui
P. O. Box 1487
Kahului, Maui, Hawaii 96732

Dear Mr. Ohata:

In response to your inquiry of August 11, 1965, we have checked our files on the district boundaries in the Pukalani area involving Landco lands. A brief chronological summary of the events pertaining to this matter is as follows:

1. As of December 31, 1963, in accordance with statutory requirement, the Commission had prepared proposed final district boundaries involving four district classifications; namely, Urban, Rural, Agricultural and Conservation.

2. On January 25, 1964, the Commission took final action on Landco's amended petition and approved classification of approximately 460 acres of Landco's Pukalani property as a Rural district.

3. On January 28, 1964, Mr. Yamashita informed Mr. Tokunaga of the Commission's action as indicated in item 2 above on Landco's amended petition. Mr. Yamashita also informed Mr. Tokunaga that the 460 acres approved by the Commission for classification as Rural included approximately 90 acres which were classified as Urban on the proposed final district boundaries (which were prepared prior to Commission action on Landco's petition).

4. On August 25, 1964, and on August 27, 1964, sets of the final district boundary maps were transmitted to the Department of Taxation. The effective date marked on these final maps is August 23, 1964, and show Landco's Pukalani lands in the Rural district.

5. As petitioned by Landco and as approved by the Commission, the present effective final district boundaries put all of the approximately 460 acres of Landco's Pukalani lands in the Rural district.

We hope that this will serve to answer your inquiry. Should you require further data, please be in touch with us.

Very truly yours,

GEORGE S. MORIGUCHI
Executive Officer

cc: Chairman Thompson
Commissioner Charles Ota

ROBERT O. OHATA
Planning Director

MRS. EVA M. DUPONTE
Administrative Assistant

1668

RECEIVED
AUG 13 1965
State of Hawaii
LAND USE COMMISSION

PLANNING & TRAFFIC COMMISSION
COUNTY OF MAUI
POST OFFICE BOX 1487
KAHULUI, MAUI, HAWAII 96732

August 11, 1965

Answered
8-18

Mr. George Moriguchi
Executive Officer
State Land Use Commission
426 Queen Street
Honolulu, Hawaii 96813

Dear Mr. Moriguchi:

On January 28, 1964, we received a letter from Raymond Yamashita stating that 460 acres in Pukalani was changed in classification from agricultural to rural as requested by Landco. The second paragraph of that letter says that some 90 acres lie between the Pukalani lots and the Mountainview Tract and are included in the "proposed final urban districts", said proposed final urban district was to be adopted as of July 1, 1964. The adopted final maps which were transmitted to our office by Raymond Yamashita does not show the proposed urban district.

Mr. Donald Tokunaga, principal of Landco, has told me that the Tax Office has this area urban on map submitted to them by your office. Evidently, there is a discrepancy between the map submitted to the Tax Office and the map submitted to our office. Please clarify.

Very truly yours,

Robert O. Ohata

ROBERT O. OHATA
Planning Director

cc: Mr. Donald Tokunaga

Old Problem Again Snags Land Use Efforts

By BOB JOHNSON and AL GOODFADER
Advertiser Staff Writers

Three months after taking office, Hawaii's third Land Use Commission has found itself embroiled in the same problem on which its two predecessors foundered.

The problem is: How to translate the lofty aims of the State's Greenbelt Law—preservation of agricultural land and orderly land development—into practical action despite a welter of conflicting views, unforeseen snags and diverse interests.

The commission bumped abruptly into the problem when it was petitioned by a group of Maui investors to allow a "rural" zoning of 493 acres that until recently were pineapple fields.

The land abuts the hamlet of Pukalani, on the slopes of Halekakala two miles from Makawao. It is owned by men prominent in Maui's civic and political affairs.

The question of its proper use apparently has brought to a head arguments within the commission over just what the law says when it orders the commission "to preserve, protect and encourage the development of the lands in the state for those uses to which they are best suited for the public welfare."

* * *

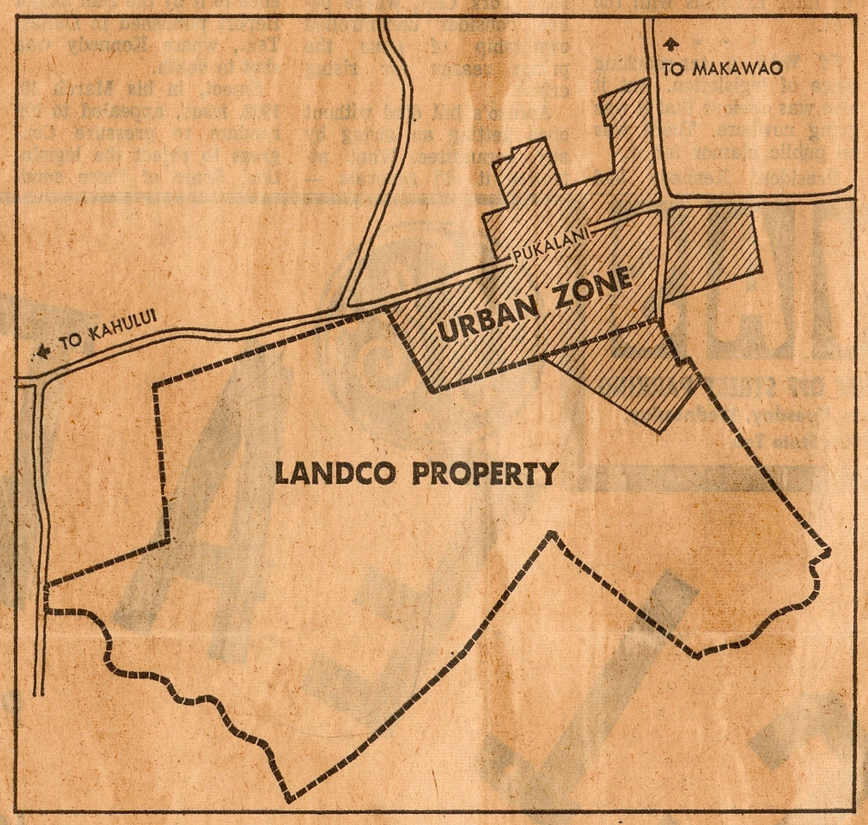
SPEAKING FOR the petitioners was State Sen. Thomas S. Ogata, whose law firm owns a half-share in the development hui. Ogata withdrew Thursday as counsel for the hui, called Landco, in order "to remove any suspicion that the members of your commission may act on the petition through undue pressure from a member of the Senate." Commission members said there had been no political pressure.

Speaking in opposition to the petition has been Raymond Yamashita, executive director of the commission, who feels the land should remain reserved for agricultural use. The commission is to decide the question Saturday at a meeting on Maui.

* * *

REGARDLESS of its merits, the petition has presented the commission with an urgent need to solve these questions:

- What, exactly, is the definition of "agricultural land"?
- What, exactly, did the 1963 Legislature intend when it told the commission to set up "rural" zones to protect owners of land in agricultural zones unsuited for farming?
- How much weight should the commission give to the possible economic effects of its decisions on investors—both those immediately concerned and those who will be indirectly affected by commission actions?
- How far can the commission go in practice, in overriding or bowing to the wishes of specific localities within the state while making decisions it believes are of benefit to the state as a whole?



Map of Pukalani area, which is another problem for Land Use Commission.

The commissioners, whose appointments still are subject to approval by the State Senate, must answer these questions while trying to do a job that defeated two previous commissions. The job is dividing the state into zones in which are permitted conservation, agriculture, rural and urban uses.

THE PUKALANI petition was submitted last summer by Landco, which has 12 owners of full shares and two owners of half-shares.

Full share owners are Frank Munoz, Maui contractor and developer who formerly was chairman of the Maui County Board of Water Supply; Atana Apana, Maui businessman; Tadaichi Fukunaga; Erling P. Wick, Maui real estate and stock broker and businessman; Carl Apana.

Tin Fook Tom, a Maui realtor; Aki Tom; Shizuichi Mizuha, a Bank of Hawaii official on Maui, former State Board of Education member and brother of State Supreme Court Justice Jack Mizuha; Asa F. Baldwin of the socially prominent and economically potent Baldwin family of Maui.

Masaru Yokouchi, a Maui baker and Democratic patronage committee chairman there; Dr. Harry T. Tideman, a Mainland physician with land dealings on the island, and the Maui Realty Co.

Half-share owners include James Apana and the Maui law firm of Ogata and Ueoka. President of the Maui Realty Co., of which Munoz is treasurer, is Donald Tokunaga, chairman of the Maui County advisory committee on economic development, a community leader and brother of former State Sen. Barney Tokunaga.

Donald Tokunaga has said that some of the 13 share-holders may be acting as agents for smaller huis that clubbed together to buy a share.

Charles Ota, Maui member of the Land Use Commission, was part-owner of 2/10ths of one share through interests in one of the smaller huis. He sold his holding to avoid any possible conflict of interest.

* * *

LANDCO bought the land for $400,000—$811 an acre—from Libby McNeil & Libby after the latter discontinued pineapple production on Maui. According to Tokunaga, the price was based on its eventual residential use.

Landco wants to subdivide the land into half-acre lots which will sell, with houses, for from $15,000 to $16,000 each to retired persons.

To that end, it submitted a petition to the Land Use Commission last summer asking that the commission remove the parcel from an agricultural zone and make it an urban zone. It changed its request in November from urban to rural. Thirty acres of the parcel already are zoned for urban use.

A rural zone allows mixed use of land in plots of half an acre or more for residences and farming. On its original application, the hui cited a need for houselots and an "urban growth trend" in the area.

The petition was endorsed by the Maui County Board of Supervisors and other Maui groups.

It was opposed by the commission's staff.

AT A PUBLIC hearing on the petition on Maui Dec. 6, the staff said there was no need for that much residential land in the area, that the land was in an area rated as "moderately suited" for agriculture by the State Land Study Bureau, that the proposal did not meet commission standards for a rural area and that its attraction to potential home-buyers was not an issue in the case.

Yamashita said he feels the "rural" designation was designed for land already in mixed residential-agricultural use, not "bare" land such as the plot under consideration.

In rebuttal, Ogata said for Landco that Yamashita's intepretation is wrong, that the rural designation is designed for relief of landowners in agricultural zones and that the petition meets this standard.

It was also pointed out that no water is available for irrigation of new farm lands in the area. Libby got its water through an arrangement with an abutting sugar company that owns its own supply.

Meanwhile, it was reported, some opposition was being generated by competing Maui developers, although it is no secret that Neighbor Islanders feel generally that wide latitude should be given land developers in an effort to boost their depressed economies.

* * *

THE COMMISSION apparently failed earlier in an effort to reach a decision. It was reported that the commission acted in an executive session late in December to approve the petition, then decided to reconsider.

The opposing viewpoints are summed up by Myron Thompson, chairman of the commission, and Robert G. Wenkam, a commission member.

Says Thompson: "The question is: Is this prime agricultural land?"

His answer: "I really don't know, because of the facts presented by the petitioner, it would appear that, given lack of water, the land is difficult to use at this time."

He feels the land does meet the commission's standards for a rural zone. He also points out a difficulty in trying to decide if the land should be held for future agricultural development.

"You can only go on the facts at this time," he says.

Wenkam, an ardent conservationist, insists the area is "definitely prime agricultural land." He also agrees with Yamashita's interpretation of the law regarding rural districts.

It's his view that there are "lots of other uses" possible for farm land in the area, even though pineapples no longer can be grown there.

"The law charges us with protecting prime agricultural lands and this is agricultural land," he says. In addition, he feels, "It's in the interest of the State to see that land use in a county is so regulated that the countries are not burdened by unnecessary utility costs" resulting from servicing a string of widely-separated settlements.

* * *

THOMPSON and Wenkam agree that their decision will not set a precedent and that there has been no evidence of political pressure on the commission.

Ogata said, in withdrawing as counsel for Landco, that his firm originally held the belief "that the petition would receive favorable consideration strictly upon the basis of merit as a matter of course, thereby rendering our appearance merely pro forma."

He added:

"We now understand that the disposition of the petition may be rather complicated . . . and to remove any suspicion that the members of your commission may act on the petition through undue pressure from a member of the Senate we are withdrawing as counsel for Landco."

★ ★ ★ ★

Subdivision Is Given OK

WAILUKU—The Maui Board of Supervisors Friday granted preliminary approval for the Pukalani Terrace subdivision being developed by Landco, a local hui.

The approval covers about 30 acres of land now zoned for urban use by the State. The remainder of more than 400 acres is the subject of a request for rural zoning by Landco to the State Land Use Commission. That portion of the land is now zoned for agricultural use only.

The board also authorized the County Attorney to negotiate with Landco for purchase of a 35-acre park site in the proposed development.

The County has $75,000 available from a State appropriation for the purchase. The site has been appraised for the County by George Ezaki at $82,600.

3907

Ref. No. LUC 70

January 28, 1964

Mr. Donald Tokunaga
Maui Realty Company, Inc.
100 Wells-Kanoa Building
Wailuku, Maui, Hawaii

Dear Mr. Tokunaga:

Your petition for boundary change from agricultural to rural for some 460 acres has been approved by the Land Use Commission. This action was taken at a meeting held on January 25, 1964, in the Board Room of the Maui County Board of Supervisors, Wailuku, Maui. The approximately 460 acres includes all of that portion of TMK 2-3-09: 5, Second Division, which is not in the temporary urban district.

For your further information, some 90 acres of the approximately 460 acres, lying southwesterly of Haleakala Highway and between Pukalani Lots and Mountain View Tract, are included in the proposed final urban district. Public hearings will soon be held on Maui in regards to the proposed final boundaries and regulations. At that time, comments will be invited. The proposed final district boundaries do not become permanent until adopted by the Land Use Commission. Act 205 mandates that final adoption shall not be later than July 1, 1964.

Should you have further questions, please contact this office.

Very truly yours,

RAYMOND S. YAMASHITA
Executive Officer

cc: Mr. Robert G. Chata
Mr. Myron Thompson
Mr. Charles Ota
Mr. Roy Takeyama
Dept. of Taxation

STATE OF HAWAII

LAND USE COMMISSION

VOTE RECORD

ITEM A(T) 63-42

DATE 1/25/64

PLACE Bd. Rm., Maui City Bd of Supvrs.

TIME 10:15 AM

NAMES	YES	NO	ABSTAIN	ABSENT
WUNG, L.	✓			
INABA, G.	✓			
OTA, C.	✓			
WENKAM, R.	✓			
BURNS, C.E.S.	✓			
(2) NISHIMURA, S.	✓			
MARK, S.		✓		
(1) FERRY, J.	✓			
THOMPSON, M.				✓

COMMENTS: Motion: Ferry - Hearer petitioner's request and Approved the Zoning from A to R

see

LAND USE COMMISSION
STATE OF HAWAII

Minutes of Meeting

Board Chambers

Wailuku, Maui

10:00 A.M. - January 25, 1964

Commissioners Present:	C.E.S. Burns James P. Ferry Goro Inaba Shelley Mark Shiro Nishimura Charles S. Ota Robert G. Wenkam Leslie E. L. Wung
Absent:	Myron B. Thompson
Staff Present:	Raymond Yamashita, Executive Officer Roy Takeyama, Legal Counsel Richard Mar, Field Officer Alberta L. Kai, Stenographer

The meeting was called to order by the Acting Chairman, C.E.S. Burns.

OLD BUSINESS

The Chairman asked if there were any old business which needed to be considered at this time. There was none.

NEW BUSINESS

A. Adoption of 12/6/63 Minutes

The legal counsel suggested the following corrections to the minutes:

(1) On page 2, last paragraph, 4th sentence should read:

The legal counsel stated that the end result is the same. Technically speaking to be accurate you are acting on the petitioner's request and not on the action of the local planning commission.

(2) On page 3, 5th sentence down should read:

The legal counsel stated, "I think the inquirty here is more or

less not based on legal grounds but purely based on the curiosity on the part of this Commission."

The Executive Officer made the following correction to the minutes:

(1) On page 1, the name of C.E.S. Burns be striken from Commissioners Present.

Commissioner Ferry moved to accept the minutes with such amendments. Commissioner Inaba seconded the motion. Motion carried.

B. Action On A Temporary District Boundary Change

The Chairman outlined the procedures to be followed on the petition pending before the Commission for action.

PETITION OF D. TOKUNAGA AND F. MUNOZ ON BEHALF OF LANDCO COMPANY (A(T)63-42), FOR AMENDMENT TO THE TEMPORARY DISTRICT BOUNDARY FROM AN AGRICULTURAL TO A RURAL DISTRICT CLASSIFICATION FOR LANDS IN PUKALANI, MAUI: Described as TMK 2-3-09: 5

The Executive Officer, having been sworn in, briefly outlined the request and area involved; and located the area on the map. The Executive Officer presented the following communications that were received and in favor of the petition:

1. Letter from Ben Miyahira, President of Maui County Farm Bureau, dated 12/5/63.

2. Letter from Kase Higa, Deputy County Attorney, dated 12/6/63.

3. Letter from Roger I. Knox, President of Maui Chamber of Commerce, dated 12/6/63.

4. Letter from Robert Ohata, Planning Director, Maui Planning & Traffic Commission, dated 12/13/63.

5. Letter from G.N. Toshi Enomoto, County Clerk, transmitting a resolution on behalf of the Board of Supervisors, County of Maui, dated 12/23/63.

The Executive Officer stated that in addition to receiving the above letters, a letter from Mr. Tom Ogata, dated 1/15/64, was received stating that he (Mr. Ogata) was withdrawing as counsel for the subject petition.

A summary of what had transpired during and since the hearing on the matter on 12/6/63, in Wailuku; and a summary of the petitioners' views on their request and their rebuttals against the staff's analysis and recommendation (which recommendation of the staff was for denial of the petition at this time) were made by the Executive Officer.

Mr. Donald Tokunaga who was sworn in presented a summary statement on their petition (a copy of this statement was circulated to each commissioner and a copy submitted as part of the record). He pointed out that there were no objections to their petition except by the Commission's staff; that the staff's analysis were erroneous, conclusions projected illogical and inconsistent with existing statutes as well as testimonies submitted; that the highest and best use of the land is for Rural lots; that the land is not prime agricultural land; and that granting of this petition will stimulate the economic development of Maui County.

The Executive Officer stated that subsequent to the public hearing on the instant petition, the Land Use Commission prepared proposed final district boundary maps and regulations for pruposes of a public hearing. This subsequent action set forth standards for determining district boundaries and had placed subject parcel in a Rural district. This was an action which was affixed specifically to this petition. In view of this subsequent action taken by this Commission the Executive Officer stated that he would like to point out that the standards for determining the Rural district as set forth in Law and by this Commission have been applied virtually to all areas in the State in preparing the proposed final Rural district. He stated that the designation of the subject parcel as Rural is a gross exception made. The Executive Officer stated that this is an exception because it does not meet 3 of the 4 criteria set by this Land Use Commission. He questioned whether anyone would have considered this parcel for a Rural district if the petition had not stood before this Commission. The Executive Officer stated that the fact that the Rural designation of the parcel is an exception to the uniform application of the Law in itself is not adverse unless it is related to the consequences.

(All statements made by the Executive Officer at this point are being striken from the record according to motion made by Commissioner Inaba and seconded by Commissioner Wenkam; and motion carried unanimously.) Motion was as follows:

Commissioner Inaba: "I move that we strike all statements made by the Executive Officer on profit angles from the record."

Commissioner Wenkam: "I seconded that motion." Motion carried unanimously.

The Executive Officer stated that the primary point that staff is trying to make is that primary residential uses spread over a large area is an Urban use.

Commissioner Wenkam stated that he was under the impression that the Law provided that Rural areas must almost exist according to definitions, before this Commission could declare the areas Rural.

Legal counsel stated that this Commission is empowered to create a Rural district. This creation must be applied according to Section 4 of Act 205. Staff is setting forth its standards of a Rural district according to language used in the past tense in Section 2 of Act 205 which would be questionable legally as far as analysis. He stated that this Commission has the power to create Rural districts other than those Rural uses that are in existence.

In reply to Commissioner Ferry's remarks the Executive Officer stated that his remarks were directed to this Commission to point out: (1) its responsibility; (2) the ramifications which would occur; and (3) how it would affect the perpectuating intent and purpose of the law, if an exception to the criteria as set by Law and this Commission for the establishment of a Rural district were made by this Commission.

Commissioner Wenkam who was in agreement with the Executive Officer's view points stated that though this exception would not be wrong because legal counsel has said that this exception if granted by this Commission would be in accordance with the Law and a perfectly reasonable request and perfectly legal thing to do.

Legal counsel asked permission to qualify his statements. He stated that the Section which he has used and quoted is merely for a basis for this Commission to make its final conclusion or determination of the case in question. To say that this is an exception or a privilege is stating a conclusion which can't be concluded until after the Commission makes a decision.

Mr. Tokunaga was in accord with legal counsel's thinking. He stated that it is the petitioners' opinion also that this Commission is empowered to establish the classification of a rural district.

In respond to Commissioner Ferry's remarks, Commissioner Wenkam replied that the issue before this Commission is, "Should this Commission zone a particular area Rural (and a very substantial area), it must be assumed that any other petition that come before this Commission for a similar request would be turned down." If there were no conflict in accordance with the criteria set up for a Rural district and applied equally to all islands and land owners throughout the State, there would be no exceptions if an action were taken by this Commission. He stated, however, that this question has been reasonably answered by the Legal Counsel that this Commission can create a Rural zone in an Agriculture area where the definition of a Rural district as set up in the Law does not apply but could apply in the future. So, however, this Commission grants this petition, it would be in accord to the interpretations of legal counsel.

The legal counsel stated for the record that the position of the Attorney General's Office is not for approval or disapproval of the petitioners' request. The position of the Attorney General's Office and his capacity as legal counsel to this Commission is merely to decide whether such a district (Rural) can be created by this Commission and whether it is within this Commission's powers.

Mr. Tokunaga requested permission to examine the criteria which the legal counsel has pointed out clearly that this Commission is empowered to do. He stated that the legal counsel has pointed out two criteria: (1) the land is usable and adaptable for the use it is proposed to be classified; and (2) conditions and trends of development have so changed since the adoption of the present classification, that the proposed classification is reasonable. The petitioners have shown that under:

Criteria (1) everyone is in agreement that this particular area is adaptable for the use proposed by the petitioners; and

Criteria (2) the trend that has taken place in the area at present is growing into a number of houses.

Mr. Tokunaga stated that the petitioners have covered the necessary points to prove that this particular area should be in Rural. He stated that the petitioners only interest in this venture is for development and making lands available for sale at a low price.

Commissioner Mark asked if staff's position has changed any since the time the original staff report was prepared in light of new evidences, testimonies and facts submitted? The Executive Officer replied that basically staff's final recommendation is still the same for denial, because of other reasons which have been stated and additional comments presented which are sufficient bases by itself to recommend denial.

Commissioner Mark asked legal counsel to elaborate a little more on the concept of citylike concentration being absent - whether it applies to the present situation; or the projections of the plans; what is the interpretation? Legal counsel stated that he didn't think this was a legal question because citylike concentration was more a planning concept.

Commissioner Mark directing his question to the Executive Officer stated that he was concerned whether this Commission was discussing the present situation or projection of plans. The Executive Officer stated that in this particular situation it is the conditions that are in existence now. He stated that this particular area does constitute a citylike concentration, primarily because of the expanse of facilities that are available in the area, commercial facilities, and the availability of a number of people located in that area. He added that he was referring to the Pukalani area and not the Landco property itself, but which property is part of Pukalani. He stated that in existence is an already established urban area and that petitioners area abuts and is part of this Urban area.

Commissioner Mark stated that this is in the books, in the record, but what about the ground?

Mr. Tokunaga replied that in the area there are 3 stores.

Commissioner Mark asked whether the proposed shopping center and school would be in the same area that the 3 existing stores are presently located?

Mr. Tokunaga replied that the local planning commission has suggested that

they project a planning shopping center within their development area. He stated that if this were requested of them that they would put one in whether the people were for it or against it.

Commissioner Mark remarked that this would be contrary to the definition of a Rural district.

Mr. Tokunaga replied that if the County requests a neighborhood country store area, they would put it in, but that they are not asking for it. He added that with respect to whether this area is citylike or not, the Hawaii Farm people have lands in production in that very area zoned as Urban, which illustrates whether this area is citylike or not.

Mr. Yamashita remarked that Commissioner Mark has a point in question when he asked, "What is citylike concentration and is it there now?" Mr. Yamashita stated that in reading the Law and if such things as urbanlike facilities and services do exist in the area, than the Rural district should not include these areas where there are such things in existence. Commissioner Mark replied that it would be more appropriately Urban. Mr. Yamashita replied in the affirmative, stating that the Rural district was not intended to be areas with already existing urban facilities and services. These areas are more logically urban.

Commissioner Nishimura stated that this Commission feels that this area should be Rural and not Urban. This area which is an Urban area because it does not meet the requirements of a Rural classification, is being designated as an area for Urban development by this staff. This would then mean that thereafter areas more than half an acre would be so classified, whereas it should be classified as a Rural district.

Mr. Yamashita replied that from a planner's point of view, if this area in Pukalani is Urban and this Commission feels that there are Rural potentials in Pukalani and therefore imposes a very light density of use like Agriculture or Rural upon the area, the facilities put in by the government cannot be used because the cost will be defrayed among fewer people. The intent of the land use districts is to try and perpetuate a more efficient use of facilities that are there now and which would have to be provided for a growing urban area. So from a planner's point of view it would be desirable to control the particular density where government has spent a lot of money for these services and facilities.

Commissioner Mark asked whether these citylike features were scattered throughout the proposed development or are they contiguous to the existing facilities that were mentioned?; and would it be appropriate to include parts of the proposed development into an urban area and designate the remaining part as rural?

Mr. Tokunaga replied in the affirmative, stating that he felt that in an overall planning, portions of the proposed development could be Rural and portions could be Urban. He also added that approximately 50% of the lands in the area were intermixed with small mango orchards and residences, and that there were no citylike features in the area.

The Executive Officer stated that he stands corrected that this area is strictly urban. He stated however that the point he is trying to make is he did not think that there were many planners who would say that half an acre lot with a residence on it can be considered other than primarily a residential use. While there may be mango orchards or animals on the property the question which differentiates an agricultural use from a residential use is whether or not commercial sales are made off the agricultural type of activity that may be carried on the land.

Mr. Tokunaga replied that one reason why the legislators provided for this fourth classification or Rural was for situations such as this. The legislators felt that there was a gap between the Urban and Agriculture classifications or partly Agriculture, and therefore came up with this fourth classification for a Rural district.

Commissioner Ferry stated that the Pukalani project for petition has been before this Commission and have been discussed in this Commission's proposed boundaries; the arguments have been well presented, well thought out - some for and against - and to eliminate further discussions, he moved that this Commission honor the petitioners' request and approve the zoning from Agriculture to Rural. Commissioner Wung seconded the motion.

The Executive Officer polled the Commissioners. Approval: Commissioners Wung, Inaba, Ota, Wenkam, Burns, Nishimura, and Ferry. Disapproval: Commissioner Mark.

Motion carried.

CONTINUATION OF PUBLIC HEARING

The Chairman outlined the procedures to be followed during this hearing.

PETITION OF E. B. STEPHENSON, ET AL (A(T)63-31), FOR AMENDMENT TO THE TEMPORARY DISTRICT BOUNDARY FROM AN AGRICULTURAL TO AN URBAN DISTRICT CLASSIFICATION FOR LANDS IN KULA, MAUI: Described as TMK 2-3-03: 1

Mr. Mar was sworn in. Mr. Mar gave a summary of what had transpired since the last hearing on December 6, 1963 in Wailuku, Maui which matter was continued to give the petitioners an opportunity to amend their petition. Mr. Mar stated that the petitioners have submitted a letter requesting that their petition be amended for a change in the temporary district boundary from an Agricultural district classification to a Rural district classification instead of an Urban district classification. Mr. Mar then reviewed the area and request involved and located the area on the map.

The Executive Officer informed the Commissioners that although the County had submitted a prior disapproval of the original petition they have not commented on the petition as presently amended because the staff failed to submit the petitioners' request for amendment to their original request to

the County for their comments early enough. However the County will meet on January 28 and the staff hopes subsequently to have a comment before this Commission takes action.

The Chairman asked whether the clause in the law that says additional comments may be submitted within 15 days after the hearing could be applied to this situation? The legal counsel replied that this clause was applicable to those who wished to make further comments or submit protests on the matter.

The Chairman asked whether the petitioners or anyone representing the petitioners was present? There was no response. The Chairman asked if there were anyone in the audience who wished to be heard. There was no response.

The staff continued with its analysis and recommendation. The staff recommended denial of the petition because it did not meet the criteria of Act 205 for a Rural district and the proposed regulations of the Land Use Commission; that such parcel and adjoining lands are agricultural in character rather than Rural; that although subject parcel is not prime agricultural land consideration must be given to the surrounding areas if such request were to be granted.

Mr. Robert Ohata, Director of Maui Planning and Traffic Commission,was sworn in. Mr. Ohata, directing his questions to Commissioner's legal counsel, stated: "The Act says that the County shall up to 90 days submit its recommendation to the Land Use Commission, is this true?; and is this applicable to any amendment to the original petition?; what is the limitation (as to the time upon receipt of petitions, or amendments to petitions) for the local planning commission to transmit its recommendation to the Land Use Commission;? is there a limitation, or is it 15 days as your Chairman had indicated?"

The legal counsel stated that the 15 days is for petitioners or others who wished to protest or give additional information after the hearing. He stated, however, that after the petitioner files his boundary change to the Land Use Commission, upon 5 days after receipt of the petition by the Land Use Commission office, the Land Use Commission staff shall transmit to the local planning commission for comments and recommendations. The legal counsel stated that your question is, "How many days must the local planning and traffic commission submit by 90 days?" Legal Counsel stated that it is not spelled out in the Law as such. It is an administrative problem that you are faced with. It seems as though after 100 days, at least within that time you should submit it. The Act further states that after 100 but within 210 days of the receipt of the petition the Commission shall advertise the public hearing. This Commission cannot schedule a public hearing until the minimum number of days have elapsed.

The Chairman stated that the point he is raising is that this Commission has to take action on this matter within a certain prescribed period of time. He stated that it would seem, if it is possible, that your County Planning Commission take action prior to this Commission, which would be that much helpful.

Mr. Ohata replied that he was more concerned as to what the legal requirements are, and not what the procedures are or what is more appropriate. He stated that he just wanted to know what the precise length of the law is.

The Chairman requested that Mr. Ohata address his inquiry in writing to this Commission. Mr. Ohata replied that he has already submitted a letter concerning these questions and matters to the Executive Officer of this Commission.

The Chairman asked the Executive Officer whether these questions were spelled out? The Executive Officer replied that this letter was answered; to which Mr. Ohata replied that he had received this letter but that this letter was answered by the Executive Officer rather than from the Attorney General's office.

The legal counsel stated that the reason for that is the State Attorney General's office does not answer legal questions from the County. The proper procedure is for the local agencies to write to its own County attorneys. If this were done the State would be tresspassing upon the domain of the County Attorney's office. If there are any legal questions to be answered it should be directed to the County Attorneys Office.

Mr. Ohata directed another question to the staff. He stated that the staff report mentions that the State General Plan shows this area as being Agriculture; what was the staff's intent in mentioning that?

The staff's reply was that it was mentioned to point out what references were used and considered as guidelines to staff's ultimate position.

Mr. Ohata asked the staff whether analysis of the State General Plan was made and considered insofar as this application was concerned? The staff's reply was in the affirmative. Mr. Ohata stated that the State General Plan provides no provision for a Rural district as such, and this is a request for a Rural district which has not been considered in the State General Plan. How can the staff use a guide that is nonexistence or does not take into consideration the point which the applicant has made.

The Executive Officer stated that the land uses that are shown on the General Plan of the State of Hawaii is intended as a guideline as to what the ultimate uses might be and while it has not set up a Rural district as such, a person by examining the general uses shown on the General Plan may have indications of narrowing down the approximate uses of these districts as indicated by the maps.

The Chairman added that there are a great number of criteria that are used and certain standards that are set down in the Act and from information that that is in the general area for better decisions to be rendered. The Chairman stated that he gathered you (Mr. Chata) are objecting to the reference of the State General Plan. Mr. Chata replied in the affirmative.

Commissioner Nishimura asked Mr. Ohata whether the County has sufficient water facilities in the area? Mr. Ohata replied in the affirmative, stating that they had adequate water sources to meet a Rural district and that it would be no strain on the County government.

The public hearing was closed in the matter of E.B. Stephenson, Et Al.

PETITION OF ANTHONY A. TAM (A(T)63-34), FOR AMENDMENT TO THE TEMPORARY DISTRICT BOUNDARY FROM AN AGRICULTURAL DISTRICT TO AN URBAN DISTRICT CLASSIFICATION FOR LAND IN KULA, MAUI: Described as TMK 2-3-2: 23

Mr. Mar summarized what had transpired since the last hearing on December 6, 1963 in Wailuku, Maui which petition was continued to give the petitioner an opportunity to amend his petition. Mr. Mar stated that the petitioner has submitted a letter requesting his petition be amended to read from an Agricultural district classification to a Rural district classification instead of Urban. Mr. Mar then reviewed the area and request involved, pointing out the location of the area on the map.

Mr. Anthony Tam introduced himself and was sworn in. He stated that he wrote a letter to this Commission stating his reasons for wanting this area to be changed from an Agricultural classification to a Rural classification. He stated that ever since he owned this property it has never been used as an Agricultural use. It has always been used for rental purposes. There is on the property at present an auto repair shop and a garage. He stated that he wanted to lease portions of this property for a service station and a new garage building. In his letter he stated that there were originally 4 dwellings on the entire piece; that these buildings have been in existence ever since he has been in ownership and that he was deriving income from renting these buildings. Ever since the State put its highway through his property and demolished one of the dwellings, he has been trying to replace the building. He stated that he has bought a couple of buildings to move upon this lot but he was forced to move the first building to another piece of property where it is not as easy to rent. He has another building that he wants to move upon this lot but the people who bought the land want him to either move it out or demolish the building. He has until the end of this month to remove the building off the property. He stated that this particular land is not suitable for agriculture because whenever there is a lot of rainfall the top soil rushes down to the lower lots. He stated that he has had several complaints from the land owners below. The lot is not entirely level, about 1/3 is very steep gulch land. He stated that the State highway took the best portion of the land for farming. He stated that in order to put this land to its best use it would need to be used for renting purposes. He did not intend to subdivide or sell any land. He stated that this location is suited for renting purposes; the dwellings and homes put up for rental purposes have been very much in demand. He stated that he is denied the privilege of replacing the buildings and getting the normal amount of income which he should from renting.

The staff proceeded with its analysis and recommendation. The staff recommended approval of the petition as amended.

Mr. Tam expressed his approval of the staff's recommendation and stated that he hopes this Commission would act favorably on his petition.

Commissioner Wung asked Mr. Tam the following questions:

"Your request is for one building?; in the future do you intend to put any more buildings on this property?; this property consists of 10 acres, so if you have two houses on this property it could still be in an agricultural zone?"

Mr. Tam's reply followed:

"Yes.; if there is a demand and if the State says it's all right, I would, but I could not proceed that far.; except that no one will be able to make a living on this; I have rented to farmers who tried to make a living, but could not."

The Executive Officer who was recognized by the Chairman interjected and stated that this petition before this Commission is to grant or not to grant the petitioner's request for a change to a Rural district. Once the decision is made, if it is granted, whatever uses the petitioner may want to make of his parcels are no particular concern unless it is contrary to law. According to law if it is a Rural district, the petitioner may put about 20 houses on this 10 acre parcel of land.

Mr. Chata requested permission to answer Commissioner Wung's questions and was recognized by the Chairman. Mr. Ohata explained that the County Ordinance does not permit Mr. Tam under the agricultural zone to put another home on his lot. He is permitted one house per lot irrespective of the size. If he wants to subdivide his 10 acre lots into 2 acre agricultural subdivision than he can do so and have 5 lots and 5 homes, but he must go through a bonafide subdivision.

Commissioner Nishimura asked Mr. Ohata whether industry was permitted in the area as he noted that there were some industrial activities. Mr. Ohata stated that it is not permitted; that those industrial uses in the area are nonconforming uses.

A lengthy discussion followed on what government was responsible for <u>this</u> function; or what government was responsible for <u>that</u> function.

The Chairman instructed both petitioner and County Planning Director that the matters and problems discussed at this time are irrevelant and are not within the jurisdiction and domain of the State or this Commission.

The Chairman announced that this Commission will receive additional comments and protests within the next 15 days of this hearing and will take action on this matter 45 to 90 days from this hearing.

The public hearing was closed at 12:00 p.m.

Original petition was boundary change from Agricultural to Urban. Subsequently amended for boundary change to Rural District after Act 205 created the 4th District, Rural.

STATE OF HAWAII
LAND USE COMMISSION

Board of Supervisors Chambers
Wailuku, Maui, Hawaii

4:45 P.M.
December 6, 1963

STAFF REPORT

A(T)63-42 - LANDCO (DONALD T. TOKUNAGA & FRANK MUNOZ) Temporary District Classification: AGRICULTURAL

Background

LANDCO has petitioned the Land Use Commission for amendment of the temporary district boundaries so that 493.37 acres described by Maui TMK 2-3-09: 5 would be changed from an agricultural to a rural district classification.

The parcel of land under consideration is located in the area known as Pukalani on the Island of Maui. The petitioner has developed a plan to subdivide the property into half acre residential lots with a neighborhood shopping center, and a combined park and school site. Subject property was formerly owned by Libby McNeill and Libby who grew pineapples on the land. Since pineapple operations proved to be unprofitable, the land was sold to LANDCO who in turn plans to subdivide the parcel.

On September 6, 1963, the Land Use Commission received the Maui County's recommendation for the proposed Pukalani subdivision. It unanimously approved the petitioner's desire to amend the temporary district boundaries from agricultural to an urban classification. Since the rural district classification is intended to be more lightly developed than an urban district, the County's recommendation is construed as an approval to the amendment. The County's recommendation was based on the following:

"(1) that the County's General Plan provides for urbanization of this area;

"(2) that the land is no longer needed for agricultural purposes."1/

According to the petitioner and as verified by the County, action to obtain a school and park site in the Pukalani area was started over a year ago by the Supervisors. In addition, $75,000 was approved by the Second State Legislature earlier in 1963 for the purpose of obtaining a school/park site in Pukalani.

On November 13, 1963, the Land Use Commission received a request from LANDCO to amend its petition by changing the classification sought from urban to rural district classification. The purpose of the amendment was to develop the property for low density residential lots of one-half acre. As it now stands, the petitioner's request is an amendment of the Land Use Commission Temporary District Boundary from an Agricultural district to a Rural district.

The petitioner's land is contiguous to the existing Pukalani subdivision lots which is along the north western boundary of the subject land. Situated along the north eastern boundaries of the petitioner's land are the Mountain View and Haleakala View Tracts. To the south of the petitioner's land are fields of pineapples while the northern portion of the subject land is bordered by the Haleakala Highway.

Soil conditions on the petitioner's land are classified as moderately suited for intensive agricultural by the survey made in 1959 by the Land Study Bureau. Rainfall in the Pukalani area is little over 30 inches a year.

1/ Letter from Maui Planning and Traffic Commission, dated September 4, 1963.

Analysis

Although the staff recognizes that the petition has been amended to request for a change from Agricultural to Rural, it has felt obliged to comment on the statements (for urban districting) of the petitioner because they are the only bases of the petition. Further, in view of the fact that County ordinances limit agricultural subdivisions to a 2.0 acre minimum lot size, the staff feels obliged to consider the actual effect upon the County of Maui as an urban subdivision within the purview of its existing ordinances. The County regulations regarding controls within the rural district and the rural district itself have not yet been established.

In their supporting statement, the petitioner contends that:

1. "Maui County Board of Supervisors recognizing the urban growth trend in the Pukalani District has requested the petitioner to provide a 35 acre parcel within petitioner's proposed subdivision for a school/park/playground site. Action to obtain such a site in Pukalani was started by the Supervisors over a year ago; and a $75,000 appropriation was provided Maui County for this purpose by the Second State Legislative Session earlier in the year (1963)."

Staff Comment

Rather than "recognizing the urban growth trend in the Pukalani District," the staff maintains that the particular reason for the interest in a school site at Pukalani has been due to the fact that there has been a drastic population shift away from the once more heavily populated areas including the Hamakuapoko, Paia and Spreckelsville areas, and that the interest in the Pukalani site is, or should be based primarily upon the fact

of its more central location in relation to the population shift which is now occurring in that region of Maui. Population statistics over the last decade verify that there has been, in fact, a population decline on Maui during the last decade of about 10%. This is merely in support of the statement that the consideration of the Pukalani school site is more related to population shifts rather than growth. However, it is recognized that the population shifts are increasing the urbanized areas of Makawao, Pukalani and Kahului, in particular.

2. "The State Land Use Commission, too, has recognized the potential urban growth of the Pukalani district and has complied with Maui County Planning Commission request in the past to enlarge the urban district in Pukalani. Most of the expanded area then took in properties along the western side of Pukalani Highway and the isolated Pukalani subdivision lots which is along the northwestern boundary of TMK 2-3-09: 5. Mountain View and Haleakala View Tracts, situated along the north eastern boundaries of TMK 2-3-09: 5, together with portion of petitioner's lands, were previously classified urban district by the First State Land Use Commission."

Staff Comment

This statement is true, to the knowledge of the staff. Examination of the work of the previous Land Use Commission reveals that some ~~166~~ 132 acres of land in Pukalani were put in the Temporary Urban Distrct. Subsequent maps show adjustments which add about ~~240~~ 248 acres in accordance with the petitioner's contention above, resulting in a total of about ~~406~~ 379 acres. However, the previous Land Use Commission did not adopt the additional ~~240~~ 248 acres, although it was clearly their intent to do so.

figures subsequently released after more careful measurements

The proposed addition was also recommended as urban by the consultants. The proposed addition of 240 acres is about 1½ times the area (of 166 acres) now in the temporary urban district.

3. "Petitioner's request now is only to further enlarge the urban district to Pukalani by including petitioner's 493 plus acres there, which already is partly in urban and adjoins to the south the urban district of Pukalani established by the State Land Use Commission."

Staff Comment

The staff takes cognizance of the fact that about 166 acres are now in the Temporary Urban District and that the previous Land Use Commission and their consultants, together with the County of Maui, recommended an additional 240 acres that would more than double the area indicated in the Temporary Urban District. The staff takes further cognizance of the fact that the Consultants estimated a vacancy of about 20% or 33 acres in the 166 acres of Temporary Urban district area, that subsequent field investigation by the staff shows, by rough approximation, about 75% or 180 acres of the proposed addition of 240 acres are "vacant" (for urban use) and, that the estimated 213 "vacant" acres, after deducting 20% for other uses, and subdivided into 1/2 acre lots, could accommodate 340 more families or 1,360 more people, assuming 4 persons per family. Although Maui County ordinance would permit a much higher density, the assumption of 1/2 acre average lot sizes appears to be more realistic in this area. Thus, the proposals of the previous Land Use Commission, their consultants and the County of Maui, would provide for a population

growth of about 200%. In their deliberations, the next 10 year growth requirements were considered in addition to a recognition of the fact that a 5 year review period is mandated by Law. The staff is entirely unaware of any subsequent circumstances that justify the "further enlargement" from the 406 acres of urban areas now under contemplation, by the addition of some ~~493~~ 460 acres now being requested.

(Actually, 460±)

4. "Petitioner's 493 plus acres were in pineapple and owned previously by Libby, McNeil & Libby. The economics of the time has forced Libby to close down their pineapple operations on Maui, thus making it apparent that continued agricultural usage of the land is not warranted economically."

Staff Comment

Were the words "pineapple usage" rather then "agricultural usage" used, the statement might be considered reasonably correct. However, Act 187 states "'Agriculture' means the raising of livestock or the growing of crops, flowers, foliage, or other products." The fact that the land has been used for intensive agriculture attaches importance on the issue of whether or not "other lands are available that could serve adequately the urban needs." (for ±15yrs)

5. "The approximately 400 feet elevation, the fertility of the soil, its proximity to the center of employment and the principal towns of Wailuku-Kahului, plus the very low and attractive land prices (about 17½¢ per sq. ft. with all site improvements complete) will make the area most desirable for potential property buyers - both locally, as well as clients from away."

Staff Comment

The staff feels that the above statements are valid in considering the extent of urbanization in the Pukalani area. However, the staff feels that the particular issues have been given due consideration in the liberal allocation of urban areas already proposed and does not constitute justification for addition of some ~~493~~ 460± acres.

In addressing itself to the issue of the petitioner's request for a change from an Agricultural district to a Rural district, the following quotations from Act 205 were considered:

(1) "In the establishment of boundaries for rural districts, areas of land composed primarily of small farms mixed with very low density residential lots, which may be shown by a minimum density of not more than one house per one-half acre and a minimum lot size of not less than one-half acre shall be included."

(2) "Rural districts shall include activities or uses as characterized by low density residential lots of not more than one dwelling house per one-half acre in areas where 'city-like' concentration of people, structures, streets and urban level of services are absent, and where small farms are intermixed with such low density residential lots. These districts may include contiguous areas which are not suited to low density residential lots or small farms by reason of topography, soils, and other related characteristics."

In reference to the first quote, the staff is of the opinion that consideration of existing uses and platting (small farms mixed with very low density residential lots) is specified and that the parcel under consideration does not meet this

specification. In reference to the second quotation, city like concentration of people, structures, streets and urban level of services are not absent or at least would not be absent under the proposal by the petitioner, or should urbanization proceed in the total area now proposed for Urban districting.

Recommendation

The staff recommends denial of the petitioner's request for a change from an Agricultural district to a Rural district at this time. The recommendation is based on the following:

1. The creation of a Rural district classification for the ~~493~~ 460± acre parcel at issue is not deemed in the interest of promoting the more efficient use of the public facilities in an area recognized to be urban and where the further public investment in intensification of such facilities is being proposed. For this reason, the particular parcel should be designated urban were there any justification. However, there appears to be no justification to designate the area as an urban district at this time and, sufficient other lands, less suited for intensive agriculture by virtue of size and location and which would serve adequately the urban needs, are under consideration for urban districting.

LAND USE COMMISSION
STATE OF HAWAII

Minutes of Public Hearing

Board Chambers

Wailuku, Maui, Hawaii

4:45 P. M. - December 6, 1963

Commissioners Present:	C.E.S. Burns James P. Ferry Goro Inaba Shelley Mark Shiro Nishimura Charles S. Ota Myron B. Thompson Robert G. Wenkam Leslie E. L. Wung
Staff Present:	Raymond Yamashita, Executive Officer Roy Takeyama, Legal Counsel Richard Mar, Field Officer

The public hearing was called to order by Chairman Thompson and followed by a prayer.

HAWAII AERIAL TRAMWAY (SP(T)63-1), REQUEST FOR A SPECIAL PERMIT TO BUILD AN AERIAL TRAMWAY NEAR LAHAINA, MAUI: Described as TMK 4-7-01: 2

Because Mr. Kruse, who was sworn in, had to return to Honolulu, he was permitted to give additional testimony in his case at this public hearing. He stated that the purpose of the tramway is to serve tourist groups who will be coming to Maui in the next decade or so. He stated that one of the reasons this particular area was chosen was because the area is right on the highway and most of the tourists who will be going to Lahaina will be traveling on this highway. He stated that some of the disadvantages are: (1) the area is not the most beautiful spot on Maui; (2) the area is dry with no greeneries; (3) there is very little access to water; (4) plants and water must be transplanted in this area; (5) the land is hilly, rocky and barren; and (6) the area is surrounded with sugar lands. He stated that the lease they have with Pioneer Mill requires that they secure liability insurance; and that the operation is under the Division of Industrial Safety and Elevator Superintendent. He stated that the Company must insure that the development would be a credit upon them or they lose everything if anything goes wrong. He stated that the land is unsuited for any agricultural use at present and that the best and highest use is for an aerial tramway. He felt that the tramway would add to Maui's future economy and ability to draw tourists to that part of the Hawaiian Islands.

Commissioner Ota asked whether the change in the development plans included the Hawaiian type garden proposal? Mr. Kruse replied that originally the plan included landscaping the entire area from the 100 foot elevation. However, the developmental activities will be concentrated in the area between the present highway and the cane haul road. He stated that at a later date the plan may possibly take place on the mauka side of the cane haul road. He stated that there is a borrow pit there at present which looks atrocious and the only thing they were told could be done was to build around it a Hawaiian type village with a waterfall, etc.

Commissioner Wung asked, "How do you propose to get your water?" Mr. Kruse replied, "Water is the real problem. The closest pipe that the County has is at the edge of Lahaina town which is roughly 3 miles away. The plantation has water, much of which is brackish, approximately 100 to 120 grains of water. There are two choices, either dig a well or haul it in. We have to ascertain one of the two choices because we cannot exist with the present landscape, it isn't good. It is kiawe and dirt." He informed the Commissioners that their landscape artist will be Richard Tongg.

Mr. Robert Ohata (Planning Director of Maui County) having been sworn in, stated that the County Planning Commission held a public hearing on the request from Mr. Kruse of Hawaii Aerial Tramway. The Commission was satisfied with his request and accordingly approved his request and submitted its decision to the Land Use Commission. He stated that the Planning Commission would like to have the request approved as soon as possible because it means a great deal to the County economically, as it is an asset to the development of the Island of Maui.

Commissioner Wung asked Mr. Ohata, "Do you know how the developer plans to get his water to the tramway?" Mr. Ohata replied that Mr. Kruse had explained that he would bring the water in at his own expense regardless how he was to do it, and accordingly the Planning Commission thought that it could be well done. Mr. Ohata stated that the County will not be obligated to furnish him in that area, he would provide it at his own expense.

Commissioner Wenkam asked if the area in question is identical to the area being leased from American Factors? Mr. Ohata replied in the affirmative.

Chairman Thompson presented a letter as part of the record from American Factors informing the Commission that the lease agreement with Hawaii Tramway includes a covenant which requires that all building plans will be subject to review by all governmental authorities and Pioneer Mill Company. In addition the lease also provides that the landscaping will have to be properly maintained, trimmed and pruned.

Mr. Ohata asked Legal Counsel whether the action by the Land Use Commission is not one to approve the request of Mr. Kruse, but one that would affirm the action of the Planning Commission or deny the action of the Planning Commission? The legal counsel replied, "In effect, what we are doing is really in the end result the same: whether you act to approve or deny the actions of the local planning commission is in effect the action that is going to affect the petitioner. So whether we are going to act to approve or deny, we are acting

to approve or deny on the petition as such submitted by the local planning commission; the ultimate result is the same." Mr. Ohata stated, "The reason I posed the question was to ascertain whether this Commission can impose other administrations other than what the planning commission has done?" The legal counsel stated, "I think the inquiry here is more or less not based on legal grounds but on preauspices on the part of this Commission. I think the legal grounds as set forth in the Act is clear that the leases within the district is clearly in the bounds of the County. The Commission members, individually, were concerned as to what type of controls there was, more or less, not on legal grounds but on basis of preauspices than anything else. The Commission knows that this is in the means of the County."

Commissioner Ota moved to approve the request by Hawaii Aerial Tramway; seconded by Commissioner Wenkam. The Chairman polled the Commissioners. Approved: Commissioners Wung, Inaba, Ota, Wenkam, Nishimura, Mark, and Chairman Thompson. Disapproved: None.

PETITION OF E. B. STEPHENSON, ET AL (A(T)63-31), FOR CHANGE OF TEMPORARY DISTRICT BOUNDARY FROM AN AGRICULTURAL DISTRICT TO AN URBAN DISTRICT CLASSIFICATION FOR A 42.07 ACRE PARCEL IN KULA, MAKAWAO, MAUI: Described as TMK 2-3-03: 1

The Field Officer, Richard Mar, having been sworn in, read the petition as submitted by the petitioner then outlined the area and request involved.

Mr. Robert Ohata stated that this request was submitted before the planning commission as a request for a change to an urban district before the present Act was adopted. (It came in under Act 187 rather than Act 205.) Therefore, the applicant was faced with the problem of requesting for a change in the district boundaries from Agricultural to Urban. There was no Rural zoning at that time. The Planning Commission in its evaluation felt that this was not an urban zone and still feels it is not suitable for an urban zone. Recently the Planning Commission has evaluated the entire Kula area and feels that this portion may come under the Rural classification. The plans that were adopted by the Planning Commission and transmitted to the Land Use Commission staff show this area in a Rural zone. Mr. Ohata asked that before the Land Use Commission takes action on this request to provide Mr. Stephenson and Mr. Jennings an opportunity to amend their request, if they desire. Mr. Ohata stated that the reason he states this is because he received a letter from Mr. Jennings which was transmitted to the Land Use Commission which indicated that it is the desire of the owners to divide these lands into one acre lots which would be within the limits of the Rural district (this letter was read and made part of the record).

The legal counsel stated that the petitioners if they wish to amend their petition should state their request in writing and submit it to the Land Use Commission.

Mr. Ohata stated that he raised this question because Mr. Stephenson and Mr. Jennings are in Santa Cruz, California and not familiar with Hawaii laws, or what has transpired recently. He stated though that it is possible to assume that the petitioners would know how to make an amendment to their original request. He stated that perhaps if the Land Use Commission saw within their powers to approve such a procedure, it can inform them that there is this new classification and if they wish to amend their petition, they could do so accordingly. He felt that this would be a good jesture on this Commission.

Mr. Ohata asked the legal counsel, "The law now provides that the request must again be transmitted to the Planning Commission for recommendations to the State Land Use Commission because of the amendment?" The legal counsel replied, "This is the procedure the petitioner must follow. 'He must communicate with the field executive officer of the Land Use Commission requesting amendment in terms of the petition to be submitted to the County for their recommendation as far as the amendment is concerned. The Land Use Commission will await the county's recommendation.'"

Commissioner Nishimura asked Mr. Ohata, "Under your interim zoning, is this area in a rural district?" Mr. Ohata replied in the negative. He stated that the county's interim zone provides for controls similar to the Land Use Commission. The county has, however, prepared a general plan for reference purposes only, which has been adopted and transmitted to the Land Use Commission as its recommendation for a rural zone. (Map is in files)

Commissioner Ferry asked, "Under the county statutes, would you allow 41 lots to trespass over 12 foot right-of-way?" Mr. Ohata replied, "Under the subdivision ordinance you would not be able to do that. You would have to widen the present road to standard width which is a minimum of 40 feet. You would have to provide adequate water system and the whole thing dedicated to the County."

Commissioner Nishimura asked, "The area is in pineapple and grazing pastures and the whole area is to be in rural classification and not just spot zoning?" Mr. Ohata replied in the affirmative.

Commissioner Wenkam asked whether the Land Use Commission could entertain a petition for rural when the Commission has not concerned itself as to where the rural areas would be. The legal counsel replied that legally under the law the Commission could.

Chairman Thompson stated that the Commission could either take one of the two courses, either: (1) defer this hearing in terms of this petition and await the amendment; or (2) continue this hearing until a later date, the time to be announced. Chairman Thompson pointed out that since this Commission has taken evidence for this request, he would suggest that this Commission follow the latter alternative.

Commissioner Ota stated, "It seems the petitioners' problem is not as simple as we anticipated. The fact that they are on the mainland, I feel that the sensible thing is that they should have an agent or somebody on this island to look at this problem. I would request that this be deferred and have the executive officer write to the petitioner."

The Chairman stated, "Because this Commission has accepted evidence on this petition, I am taking the course that this hearing be continued rather than having to defer it."

The Chairman proclaimed the hearing to be continued and date and time to be announced later. The legal counsel announced that continuation of a public hearing does not require a re-publication of a legal notice of hearing.

Public hearing to be continued in the matter of E. B. Stephenson, Et. Al.

PETITION OF ANTHONY A. TAM (A(T)63-34), FOR CHANGE OF TEMPORARY DISTRICT BOUNDARY FROM AGRICULTURAL CLASSIFICATION TO AN URBAN CLASSIFICATION FOR LAND IN KULA, MAUI: Described as TMK 2-3-2: 23

The Field Officer read the petition as submitted and outlined the area and request involved.

Mr. Ohata stated that this request falls in the same category as the previous request. He stated that as he recalled this request came before the County Planning Commission as a special permit rather than a Boundary Change. He requested the recommendation of the Local Planning Commission on this matter and asked on what specific request was the recommendation made.

The Executive Officer, Mr. Yamashita, replied, "The petition signed by Anthony A. Tam is for a Change of the Temporary District Boundary from an Agricultural district to an Urban district. In reference to the county's recommendation it was that the petitioner's request be changed from a boundary change to a special permit request, and such special permit request be approved for one single family dwelling." Mr. Yamashita stated that because of the petition that was submitted by the petitioner for a change of boundary, the recommendation as submitted by the County does not constitute an amendment to the petition, therefore, the petition signed by Anthony A. Tam for a change of boundary was accepted as such.

Mr. Ohata stated that when the Planning Commission received the request from its staff, the staff felt that the request for an urban district could not be recommended for approval. The staff saw a uniqueness in this request and felt that this uniqueness might qualify under a special permit. The Planning Commission felt that if he had changed his request for a special permit, the Commission had no objection to that and felt that it could be approved. Therefore that is the request that was made accordingly, as contained in our letter to this Commission. Mr. Tam will testify that he wants another home on that parcel of land which would make a density of two homes for 13 acres - one home for 6 acres, which is a density that falls within the requirements of a rural zone, if he is permitted to analyze his request and amend it as the case may be.

The legal counsel stated that the petition before this Commission is an amendment of the interim boundaries for an urban district. Unless this Commission hears otherwise from the petitioner, the Commission must proceed on this basis.

Mr. Tam, having been sworn in, stated that ever since he owned this property he had four dwelling units on this particular piece. But since the road was put in, one building was demolished. At present there are three units on it.

Commissioner Ota informed Mr. Tam of the pressures that this Commission was faced with, but stated that this Commission is speculating that his property may come within the Maui County's proposed rural district, and should this Commission accept this proposed plan, he would undoubtedly have no problem. He added that the Land Use Commission's preliminary proposed boundaries should come out by the end of this month (December) which was one of the problems that this Commission was faced with.

The Chairman asked the legal counsel whether it was within the purview of the petitioner to withdraw his petition and resubmit an amendment for change to a rural district.

The legal counsel stated that the petitioner may do so, but it is up to this Commission to decide whether to permit the petitioner to amend or withdraw his petition whichever way this Commission may take action.

Mr. Yamashita who felt that the issues were not clear to the petitioner, informed the petitioner that in the previous matter that was before this Commission, it was felt that the petitioner would have a better chance to have his one acre subdivision granted if he asked for a rural districting instead of an urban districting. He stated that the Maui Planning and Traffic Commission and its director have recommended denial of your petition for urban classification, but that the Maui Planning and Traffic Commission and its director feel if you amend your petition to a rural district, you would have a better result.

Mr. Ohata replied that the County's contention is that Mr. Tam be given an opportunity to request a change from a petition for a district boundary to one of special permit.

Mr. Yamashita replied that in this particular instance Mr. Tam should have been advised as such.

Mr. Ohata requested that the Land Use Commission staff read the letter which was submitted to the Land Use Commission with the recommendation from the Maui County Planning and Traffic Commission in its entirety. Mr. Ohata's request was acknowledged.

Commissioner Ferry asked Mr. Ohata whether he was aware that Mr. Tam at present has three rental units on his property. Mr. Ohata replied that he felt that Mr. Tam was confused with the property lines. He stated that Mr. Tam's property (which he has three units on the land) is so carved by this new road that actually he has two lots. On one lot he has two homes and the other, he has one home.

Mr. Tam was in agreement with Mr. Ohata. He added that at the time of his request there were two units that he was renting on the lower section, and also two on the other section. There were four in all, and this has been for the past 20 to 25 years.

Mr. Ohata stated that this new unit which he expects to put on is on the lower side where he has 13 acres, which would mean 3 homes on the 13 acres.

Commissioner Ferry asked, "But he is now asking for two isn't he?" Mr. Tam replied that at present there is only one house. One was demolished. He stated that at that time he wanted an additional home put on, so that now this would mean two homes.

Commissioner Ferry asked, "Then this would mean a total of four?" Mr. Tam replied that there would be a total of three in the lower section, which at present there is only one, though originally there were two houses.

Mr. Ohata explained, "Actually Mr. Tam has two lots rather than one lot." Mr. Tam added, "Originally it was all in one piece before condemnation."

Commissioner Inaba asked, "Is this area going to be zoned under the rural classification when the zoning takes place?" Chairman Thompson replied, "We don't know yet."

Chairman Thompson stated that the problem before us, besides a little confusion among other things, is the appropriateness of this request. He called upon the legal counsel to clear some of the questions from a legal standpoint concerning the action on this case.

The legal counsel asked Mr. Ohata, "Was there a public hearing and required notice on this petition?" Mr. Ohata replied in the negative.

The legal counsel stated that the local planning and traffic commission cannot amend the petition for the petitioner. The petitioner files his petition with the Land Use Commission for amendment to the temporary boundary. Upon submission of this petition to the local county, the local county recommended that this petition be considered as a special permit. The local county planning and traffic commission has no authority to do that. The petitioner is the only party that can act on it and amend it as such. The legal counsel ruled "On the face of the recommendation as submitted by the county (it seems as though the county's implication is that this is a denial base, if it is a change from an agricultural to an urban district), the petition facing this Commission is for an amendment to the temporary district boundary from an agricultural to an urban classification."

Chairman Thompson stated that the concern here now is that if this Commission proceeds on this petition, it would be on what has been submitted.

Mr. Kazuo Kage, Chairman of the Maui Planning and Traffic Commission, was sworn in. He stated that this petition when first submitted to the Land Use Commission came in before the rural district classification was adopted. He stated that in

fairness to the petitioner and in fairness to the Maui Planning and Traffic Commission, he requested that this Commission continue the hearing on this petition to permit the Maui Planning and Traffic Commission an opportunity to review this request again. He stated that when the County received this request there was no rural classification and felt that if the County were permitted to review this petition again, they would take into consideration the additional rural district classification.

The Chairman asked the legal counsel whether the petitioner would need to reapply and make a resubmittal? The legal counsel stated that the petitioner would need to just make a request for amending the original petition. He made it clear that the petitioner is the person to make this request and not the Maui Planning and Traffic Commission. The petitioner is the one that files the petition and therefore the request for amendment should come from the petitioner and not the county planning and traffic commission.

Mr. Kage was in agreement with the legal counsel but informed the Commission that most of the people are ordinary lay men and they don't understand what a special permit is or the various things of concerned are. Most of them are confused - they don't know Rural from Urban.

Commissioner Wenkam stated, "This poses an interesting point as to whether this Commission can properly recommend the petitioner to change his petition or not, since this Commission would not want to apply any promise of action that would be favorable to the person. It is hard to say what action is best except to proceed with the hearing on this matter and listen to our staff's recommendation so that the petitioner knows in the sense what this Commission is considering in terms of this petition."

Commissioner Ota explained to Commissioner Wenkam that what has been discussed is purely on the basis of information and not on the light of this Commission's recommendation. The issues have been explained to Mr. Tam, now it is up to Mr. Tam to decide. He stated that this Commission is not saying it recommends this to Mr. Tam.

Commissioner Wenkam replied that at the same time Mr. Tam does not know whether his original petition is advisable or not, because he does not know whether it is going to be turned down.

Chairman Thompson informed Mr. Tam that the Land Use Commission staff acted upon the original petition for the amendment of the agricultural temporary district boundary to urban. He stated that "There is a suggestion that a request for amendment be made by you."

Commissioner Ferry stated that it is evident that the petitioner is not fully informed of the normal procedures. It is evident also that this Commission is trying to help him to amend his petition from an Agricultural classification to an Urban classification, to an Agricultural classification to a Rural classification. Commissioner Ferry stated, "In the light of this why don't this Commission merely ask for a continuation of hearing and correspondence be effected between the executive officer of the Land Use Commission and the petitioner."

The petitioner's wife, Mrs. Tam, was very reluctant to continue the hearing because of the long wait they had already experienced. She was informed of all the disadvantages and advantages concerning her particular request and was informed that this was her decision to make. After a lengthy discussion Mrs. Tam asked that the hearing be continued.

Chairman Thompson declared the hearing to be continued at a later date (which date will be announced), and correspondence to proceed between the Land Use Commission and the petitioner.

The public hearing in the matter of Anthony Tam was continued.

PETITION OF DONALD TOKUNAGA AND F. MUNOZ (A(T)63-42), FOR AMENDMENT TO TEMPORARY DISTRICT BOUNDARY FROM AGRICULTURAL TO RURAL DISTRICT CLASSIFICATION: Described as TMK 2-3-09: 5

Mr. Richard Mar gave a brief description and background of the area and request involved.

Mr. Tom Ogata, attorney with the law firm of Ogata and Ueoka, represented the petitioners. He stated that his presentation would include testimonies from Mr. Tokunaga, Mr. Munoz, Mr. Ohata and Mr. Yoshie (who is experienced in the cultivation of pineapples), and also letters which he will offer as part of the record.

Chairman Thompson requested that all persons who will be presenting testimonies in this matter to stand and be sworn in at once. Request was complied with and all were sworn in.

Mr. Donald Tokunaga, introducing himself, submitted the following for evidence:

> "Mr. Thompson, Chairman
> and Members of the Land Use Commission
>
> "Thank you for this opportunity to present our request for change, covering our Pukalani parcel TMK 2-3-09: 5, from agricultural district classification to that of an urban district classification, now amended to a rural classification. We wish to state at the outset that although our petition of August 1963 for change in classification requesting that your commission consider it and changing the interim district boundary affecting subject parcel from agricultural to urban, to all intended purposes, it is a rural classification that we see which is most suitable and conforming to the area we believe. Approximately 30 acres of subject parcel along the northwest boundary was previously reclassified urban by the prior land use law, and the Maui County Planning Commission strongly urged that the then existing and developed subdivision along both sides of Pukalani highway be

reclassified from agricultural to urban. Subject parcel you will note in the area that is situated along the western side of Pukalani highway adjoins mostly those subdivisions to the rear which were previously reclassified as urban. At one place where it borders the Pukalani highway and where the main entrance is being constructed, it is sandwiched between two older and builtup subdivisions that were included in the county's initiated urban reclassification request. Thus, when Act 205 amending Act 187 became law in June 1963 and permitted a fourth classification designated as Rural, we felt that it would be the natural thing to have our subject parcel reclassified as such. To the east, south, and west of the area are lands classified as agricultural, (stretch from miles and miles) some in sugar and pineapple; but more in its natural and undeveloped stage, and used for only limited grazing because of lack of water. Subject parcel probably reclassified as rural would serve as a natural buffer between the already established urban areas and the 1,000 acres of agricultural classified lands to the east, south and west. Under Section 98H-2 of Act 205, amending the original Act relating to land uses in the State of Hawaii, it is stated that: 'Rural districts shall include activities or uses as characterized by low density residential lots of not more than one dwelling house per one-half acre in areas where 'city-like' concentration of people, structures, streets and urban level of services are absent, and where small farms are intermixed with such low density residential lots. These districts may include contiguous areas which are not suited to low density residential lots or small farms by reason of topography, soils, and other related characteristics.'

"Our first incremental development of subject parcel covers the approximately 30 acres that have been classified urban. However, we believe that the rural classification such as established and described by Act 205 is more apropo for subject parcel and would blend in better with the surrounding neighborhood and growth trend already under way in Pukalani. We have decided to limit our 48 lots there to one half acre lots and have agreed to comply with FHA proposed conditions for the tract that lot size of 100 x 200 be typical and that there should be a limitation of one dwelling to each lot. Building setback lines, size, typical dwelling, etc. will be covered by these covenants in addition. We reiterate those attached six basic points which we originally made back in August 1963 when we submitted our petition for change in classification. The creation of a fourth rural classification by legislative action plus Maui County Planning Commission recent recommendation to your Honorable Commission that the area of subject parcel be reclassified as rural under the Maui's proposed new district boundaries is strongly supporting evidence favorably influencing our request for change in classification.

Respectfully submitted,

D. TOKUNAGA"

Mr. Frank Munoz introduced himself as one of the trustees and co-signers to the petition. He stated that this property in question consists of 493 acres of land of which approximately 30 acres is now zoned for urban classification. He stated that the 493 acres of land which are being petitioning for change in usage are part of the operations of Libby, McNeill & Libby in the Makawao and Pukalani areas. The records will show that Libby owns in that vicinity approximately 730 some what odd acres. In addition to those areas that Libby owns in fee, they have other areas, so that the total operation involves approximately 1,760 some what odd acres of land. Mr. Munoz elaborated on the possibility of continuing agricultural usage on the land. He stated that he was familiar with the adequacy of water in the Makawao district. He informed the Commissioners that during the time Libby had the area in cultivation, they had an agreement to purchase a limited amount of water from the Ilimai system which abuts the area. He stated that although the staff has reported that the annual rainfall is roughly 30 inches, the 30 inches of rain comes in a very, very short period. He stated that during the strict demand for water in the summer months, there is a shortage of water at a higher elevation. The present water department has to pump water for domestic need from the Wailua ditch system. The Wailua ditch system during the rainy season can deliver 160,000,000 gallons of water. During the dry season it can drop down to 15 units gallon of water. The County of Maui is permitted to purchase a limited amount of water from this source for domestic needs, and not for irrigation purposes. Mr. Munoz stated that in his opinion, considering all of the other areas which will not be planted in pineapple, there will be a surplus of agricultural lands in the Makawao-Pukalani area. He stated that there is a very limited amount of land set aside by the previous commission for urban needs. He stated that there is somewhere about 95 acres of land now zoned for urban development which includes approximately 30 acres which is a portion of this parcel now established by the petition. He stated that out of the areas now classified as urban development, he owned about 14 acres, in addition to the subdivision going up in Kula which encompasses another 40 acres. He stated that the 30 acres in urban classification and part of this plan is above the present water tank on Pukalani highway. He stated that he did not feel that the Pukalani area was suitable for seasonal pasture as the soil was too dry.

Mr. Munoz informed the Commissioners that he plans to develop the area on incremental basis. From their preliminary master plan they are of the opinion that lots smaller than half acre will not fit the "table". He stated that people could not go into large farming operation, but a lot large enough would be provided for them to do some farming. In their opinion the rural classification would best serve the purpose in the Pukalani area. He stated, however, that in the future people may request for a larger area, but the pleasure is half acre lots, anything smaller than that he did not believe it would sell.

Mr. Alex Yoshie, employed with Haserot Pineapple Company, stated that he has been in the pineapple business for 29½ years and was with the Hawaiian Cannery in Kauai for 27 years before being employed with Haserot Pineapple Company. He stated that he was familiar with the area in question, and that his company at present was purchasing all of their pineapples from independent growers. He stated that he felt that 30 inches of rain for any area is sufficient without proper irrigation system, but felt that pineapple could not be grown. He stated

that experts say that 30 inches of rain is sufficient for pineapple growing, but that the distribution of the rainfall is of importance. He stated that in the valley area the rainfall was very slim. He stated that their company would like to operate on a seasonal basis, primarily during the summer months, using school children labor. He stated that they preferred having the pineapple grown near the Camp with proper moisture and have the fruit come up in a short span. Mr. Yoshie described the condition of the pineapple in the area as very dry and stated that the soil condition is of ash soil and lot of rocks and that the moisture was the biggest problem in the area; and that without proper irrigation pineapple growing was not feasible.

Mr. Ogata informed the Commissioners that Libby was in operation in the Pukalani area for 15 to 20 years, and were growing pineapples on a maximum acreage and using whatever land they had. He stated that the land was in its natural state and used for purposes of a low type pasture prior to the cultivation of the land. He informed the commissioners that in a letter from the Farm Bureau, (submitted for the record) the Bureau considers the area as being unsuitable for crop planting because of the weather condition which is windy and because of the lack of water. Mr. Ogata informed the commissioners that in a letter from Mr. K. Hamada, Manager and Chief Engineer, Board of Water Supply, County of Maui, dated 12/5/63, (submitted for the record) it states that water is available for only the proposed development and not for irrigating crops to enable maintenance of large or even moderate size truck farms within this area.

Commissioner Wenkam stated that he personally disagreed with the plans as shown for a rural area. He stated that he felt that this should be in an urban area, and wondered why a rural classification was being requested instead of an urban classification.

Mr. Ogata replied, "When you consider a rural area you have to consider the area as a whole and not just this area in question, but all of the surrounding areas, so that this would be part of the larger area which would be mixed with small farms and low density residential lots."

Commissioner Wenkam stated, "You say larger area; but your area is roughly all of it - yours is probably three times the area of the existing areas that are used for urban. Aren't you almost creating a city all of your own?"

Mr. Ogata replied, "You might be right in a way. It might develop into that according to the plan. However, what might happen would be (although that might be the preliminary indication) in actual development the owner might be able to sell only so many of the lots in half acre sizes; other lots may be in five acre parcels, that may be the end result. This shows a uniform of lot sizes, but under a rural classification you would probably have mixture of small farms and large lots."

Commissioner Wenkam asked, "Strictly speaking, if the Commission were to district it rural by our definition, you would be required to sell small farm lots in this area?" Mr. Ogata replied, "We probably will have to offer that plan. This would be in consistent with the definition of a rural use." Commissioner Wenkam asked whether the plans for a shopping center will incur within the new

area, and not along existing highways or existing shopping center areas? . . Mr. Ogata explained that there is already a small area classified as urban and the shopping center will go into that area, so that there would be no need to use any portion of this area to be classified into a rural district for a shopping center.

Mr. Ogata submitted the following letters for the record:

1. Letter from Kase Higa, Deputy County Attorney, dated 12/6/63, informing the Commission that the County of Maui is in the process of acquiring 35 acres of land in the area described as portion of 2-3-09: 5 for school and park site.

2. Letter from Ben Miyahira, President of Maui County Farm Bureau, dated 12/5/63, informing Commission that they are in favor of the petition by Landco.

3. Letter from Roger I. Knox, President, Maui Chamber of Commerce, dated 12/6/63, submitting the Chamber's favorable decision of the petition by Landco.

Mr. Munoz further informed the Commission that the Maui Pineapple Company has pineapple field in the vicinity of this particular land parcel. To control the crop work, it was necessary for them to acquire some water shed area in Keanae district. They had an agreement with the Maui Water Company to transport water in the fields in the Pukalani area. He stated that an irrigation system was started which amounted to about $100,000. He stated that this was the only way they could control the crop growing, planted in the Pukalani district--through an overhead irrigation.

Mr. Robert Ohata, Maui Planning Director, explained to the Commission that the request in question came before the County Planning Commission when the rural classification was not in existence. He stated that at that time the request was for urban. The County's general plan developed for Pukalani, which was adopted by the County Planning Commission and the Board of Supervisors showed this area as urban, and therefore they agreed with the petitioners' request and transmitted this request to this Commission. Subsequently, on December 2, 1963, Mr. Gordon Soh (for Mr. Yamashita), transmitted a letter to the County Planning Commission requesting its comments and recommendations on the amendment made to the original petition to rural by Landco. In reply to this letter it was stated that the next meeting date of the County Planning Commission was on December 11, 1963, and that it was impossible for the Commission to transmit its recommendation for the rural classification. However, the County planning staff was aware of the desires of the petitioners as it had conferred with them many times in amending their petition to a rural classification as submitted. Mr. Ohata stated that the county's general plan which was submitted to your staff as a recommendation for the broad rural classification shows the area as rural and not as urban. This map was adopted by the Planning Commission which indicates that the Planning Commission do concur with the rural classification as submitted, because it conforms with the county general plan as subsequently developed.

Commissioner Wenkam asked, "The area that the County Planning Commission recently general planned for urban is the total area that is under consideration?"

Mr. Ohata replied in the affirmative, and added that the concept whether the entire half an acre development constitutes city like development would be true if it develops according to the plan in its contingency. He stated, however, that the law anticipated transitional state in land development from agriculture to urban. It is in this transitional condition where small farms or farms intermixed with urban would be permitted. It is not conceivable that the entire 500 acres will go into urban immediately, according to the plan, but it would go in increment stages. So a rural classification is perhaps the proper classification.

Commissioner Wenkam asked if there were any time table set up for the increments? Mr. Tokunaga stated that it is estimated that it would take at least 10 years to fully develop the area. The only reason why the conditional of sale was projected with the previous owner was because Libby required that they project the master plan before going into development on an incremental basis.

Chairman Thompson asked how the developer was going to meet the problem concerning the water situation for its proposed farm lots when the water department has stated that water will not be used or allowed for irrigation purposes?

Mr. Ogata replied that even though water is now the problem, you will have instances where owners will go ahead and purchase land for small farming purposes. They would use the land when it rains to plant corn and do some seasonal planting.

Commissioner Wenkam asked, "How would the County planning people feel if several people bought lots for residential purposes and then a farmer went in and started raising poultry between their lots?" Mr. Ohata replied that it would fall within the rural classification. He stated that the reason why the County Planning Commission is more enthused with the rural classification and the urban classification is that Maui is primarily a rural community and as such many of the people not only think in terms of rural but would like to live in it as such. This kind of living is desirable and has a place in this community. This would blend in very well in this particular situation. It would not be a farming operation situation; it would be a rural like country gentleman type of life. Mr. Ohata stated that the intent of the legislature in approving the rural zoning was that they found that the prior three classifications did not fulfill the desires of the people. An area strictly agricultural or strictly urban was not apropo. Somewhere in between a transitional zone was needed. Therefore, this proposal as submitted by Landco meets this trend of thinking.

Mr. Yamashita gave the staff's report which was for denial.

Mr. Ogata made the following statement for consideration by the Land Use Commission concerning the amendment to the Land Use Law and reasons for the amendment by the last legislature:

1. The amendments were necessary because certain classifications had to be made to the land use statutes, which had to do with the relationship of the Land Use Commission and the various Counties; and

2. The clarification which related to certain hardship caused upon land owners; particularly land owners whose property had been classified in agricultural classification, even though the lands were not being used for agricultural purposes or not feasible for agricultural purposes.

In trying to clarify these areas, the legislature provided this amendment. (1) In the case of the County, the county will have the right to grant these variances for special permit subject to approval on the part of this Commission. (2) In the determination of the district boundaries, the Commission will give consideration to the County's general plan; and (3) In the area to relieve hardship upon those property owners whose lands are classified into agricultural districts, even though the land would not be suitable for agricultural purposes, the rural classification was introduced. The rural classification included land which would be used for residential purposes in larger sizes than the lots in the urban areas.

Mr. Ogata stated that the only question concerning the petition in this case is whether or not the new classification would suit the land describing the petition. Mr. Ogata stated that in determining that issue the law provides that the Commission shall include in rural areas those areas which would be characterized by small farms and low density residential use and defined to mean such lots that would be at least half an acre or more and within such lots only one residence. This was the relaxation or standards set forth in Act 187. The basic purpose of this type of statute is to preserve certain areas of land which would be suitable for agricultural use so that an area of land which is prime agricultural land should not be rated for commercial or residential use and remove the land from production. Where the land is not productive in any way whatsoever, and the best use would be residential development, than the intent of the law would be to put the land into the best use. It would seem in this case, that the area formally used as pineapple land is only useful for pineapple, truck farm or pasture. Taking into consideration the soil, weather and water situation in this area, these uses are uneconomical and unfeasible, therefore the highest and best use is residences. A small garden can be added to this use which would be only an incidental use.

The proper classification to be applied to this use would either be a rural or urban classification. Mr. Ogata stated that the rural district would include those areas which would border the urban and agriculture districts, and which would blend in with these classifications. He felt that the rural classification would be the best use in the development of this area.

Mr. Ogata stated that the law used some strict language for reason to change. The last session changed that language so that the petitioner has to prove only that the land is useable and adaptable to the use proposed. The language that Act 187 used was something else, it required that the petitioner must prove that the land is not useable or adaptable to the proposed use according to its present land classification. But now it only provides that all that is needed to show is that the proposed use is one that would be adaptable for that particular land classification. In this particular land in question, the rural district classification would apply as the proposed use would be adaptable to this classification. The alternative would be that conditions and trends of

development have so changed since adoption of the present classification that the proposed classification is reasonable. He stated that this change in the language was to make the amending process less difficult for the land owner to amend the district boundaries. He stated that in view of the testimonies given, the staff could come to a conclusion that the petition would be one that should be allowed. There is no proper use of this land except residential development which is the trend in the area and which is recommended by the County Planning Commission. Mr. Ogata stated that he would submit a written analysis of the staff recommendation.

The Chairman announced that written comments will be received within 15 days from this hearing and that the Commission will take action 45 to 90 days from this hearing.

The public hearing was closed at 8:00 p.m.

THOMAS S. OGATA
MEYER M. UEOKA

2121 MAIN STREET
Post Office Box 433
Phone: 33-737 or 33-738

OGATA & UEOKA

ATTORNEYS AT LAW
WAILUKU, MAUI, HAWAII 96793

854

January 16, 1964

RECEIVED
JAN 17 1964
State of Hawaii
LAND USE COMMISSION

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

Gentlemen:

We wish to acknowledge receipt of a copy of a letter dated January 15, 1964, from your Executive Officer addressed to Mr. Donald Tokunaga of Maui Realty Company, Inc., 100 Wells-Kanoa Building, Wailuku, Maui, Hawaii, advising him that your Commission will hold a meeting on the Island of Maui on January 25, 1964, in the Board of Supervisors Chambers, at 10:00 o'clock A. M., at which time it will consider the petition of Landco for change of temporary district boundary.

It has come to our attention that some question has been raised concerning the propriety of our appearance and representation before your Commission in behalf of the petitioner. Our original decision to serve as counsel in this matter before your Commission was based upon the fact that we serve as general counsel for the petitioner under which we furnish all legal services to the petitioner and also upon the belief that the petition would receive favorable consideration strictly upon the basis of merit as a matter of course, thereby rendering our appearance merely pro forma.

We now understand that the disposition of the petition may be rather complicated. In view of the change in the situation, and to remove any suspicion that the members of your Commission may act on the petition through undue pressure from a member of the Senate, we are withdrawing as counsel for Landco.

Very truly yours,

OGATA & UEOKA

By Thomas S. Ogata

cc: Mr. Donald Tokunaga
Maui Realty Company, Inc.

Ref. No. LUC 33

January 15, 1964

Mr. Donald Tokunaga
Maui Realty Company, Inc.
100 Wells-Kanoa Building
Wailuku, Maui, Hawaii

Dear Mr. Tokunaga:

The Land Use Commission of the State of Hawaii will hold a meeting on the Island of Maui on January 25, 1964 in the Board of Supervisors' Chambers, Wailuku, Maui, Hawaii, at 10:00 a.m.

As the waiting period prescribed by SECTION 98H-4 of Act 205/63 will have expired, your petition for change of temporary district boundary has been placed on the Commission's agenda for consideration at this meeting. Final action may be taken on your petition at that time.

Very truly yours,

RAYMOND S. YAMASHITA
Executive Officer

cc: Mr. Thomas S. Ogata
Ogata & Ueoka
P. O. Box 433
Wailuku, Maui

Ref. No. LUC 50

January 22, 1964

AIR MAIL-SPECIAL DELIVERY

Mr. Robert Obata, Planning Director
Planning and Traffic Commission
County of Maui
P. O. Box 1487
Kahului, Maui, Hawaii 96732

Dear Mr. Obata:

Your letter of January 13, 1964 in regards to recommendations of the County Planning Commission has been received. We are sorry that we were not able to answer your letter earlier as we were tied up with hearings on several hot issues over the past week end.

The concern which your office has expressed, over the timeliness of our transmittals for County comments, is entirely justifiable. We will make every effort to be more expeditious.

As you have suggested we have checked with the Attorney General's Office on the following: whether or not there may be a violation of statute should the Land Use Commission render a decision on any petition for change of district boundary without recommendation from the County Planning Commission. Mr. Roy Takeyama, Counsel for the Land Use Commission, stated that as long as the County's recommendation is considered before the Land Use Commission takes final action, the petitioner is not prejudiced. Therefore, the conclusion was that there was no violation of the statute in respect to Landeo inasmuch as the recommendation from the County has been received and will be a consideration before the Land Use Commission takes final action.

In regards to County comments on the Stephenson and Tam petitions, it would be all right for your Commission to act on recommendations at its January 28 meeting since they will be considered by the Land Use Commission prior to final action. On January 25, hearings are being continued on these two

particular petitions and action will not be taken sooner than 45 days subsequently. It is agreed, however, that the related amendments could have been transmitted earlier to your office in time for your January 7 meeting, and should have been done.

Very truly yours,

RAYMOND S. YAMASHITA
Executive Officer

cc: Mr. Myron Thompson
Mr. Charles Ota
Mr. Roy Takeyama
Mr. C.E.S. Burns

JOSEPH S. MEDEIROS, JR., Chairman
KAZUO KAGE, Vice-Chairman
WILLARD ELLER, Member
WILLIAM HONG, Member
YOSHIKAZU MATSUI, Member
MASAO NAGASAKO, Member
ROBERT UEOKA, Member

KOICHI HAMADA, Ex-Officio
HIDEO HAYASHI, Ex-Officio
JEAN R. LANE, Ex-Officio
MASAO SONE, Ex-Officio
ROBERT O. OHATA, Planning Director
MRS. EVA M. DUPONTE, Secretary

849

PLANNING AND TRAFFIC COMMISSION

COUNTY OF MAUI
P. O. BOX 1487
KAHULUI, MAUI, HAWAII 96732

January 13, 1964

RECEIVED
JAN 15 1964
State of Hawaii
LAND USE COMMISSION

Mr. Raymond Yamashita
Executive Officer
State Land Use Commission
Honolulu, Hawaii

Dear Mr. Yamashita:

Reference No. LUC 28

The Maui Planning and Traffic Commission will not be able to comment on the amendments of the petitions by Stephenson and Tam on changes in district boundary before January 24, 1964. The last Commission meeting was on January 7, 1964, and the next meeting will be on January 28.

This office is very much concerned in that this is the second time when transmittal from your office was timed so that action by the Maui Commission could not have been made. We find by the communications from Mr. Jennings and Mr. Tam that both could have been transmitted to this office in time for our meeting of January 7. To avoid repetition in the future, we enclose a schedule of the meetings of the Planning Commission for the year 1964.

It seems to me that there may be a violation of the statute on the Land Use Commission, should said Land Use Commission render a decision on any petition for change of district boundary without recommendation from the County Commissions. I would like to have your office check this with the Attorney General's Office. Please inform us as to the opinion of the Attorney General so that we may act at the meeting of January 28 even if it's after the January 24th date which you have set. Accordingly, we would like to have the Attorney General's Office check on the petition of Landco which was transmitted to this office and without recommendation from the Maui Commission.

Very truly yours,

Robert O. Ohata

Robert O. Ohata
Planning Director

Encl.
cc Mr. Myron B. Thompson
cc Roy Takeyama
cc Charles Ota

RECEIVED
JAN 15 1964
State of Hawaii
LAND USE COMMISSION

MAUI PLANNING AND TRAFFIC COMMISSION

SCHEDULE OF REGULAR MEETING DATES - 1964

January

Tuesday 7
Tuesday 28

February

Tuesday 4
Tuesday 25

March

Tuesday 10
Tuesday 24

April

Tuesday 7
Tuesday 21

May

Tuesday 5
Tuesday 26

June

Tuesday 9
Tuesday 23

July

Tuesday 7
Tuesday 28

August

Tuesday 11
Tuesday 25

September

Tuesday 8
Tuesday 22

October

Tuesday 6
Tuesday 27

November

Tuesday 10
Tuesday 24

December

Tuesday 8
Tuesday 22

Ref. No. LUC 10

January 7, 1964

Air Mail-Special Delivery

Mr. Robert L. Johnson
Maui Bureau Chief
The Honolulu Advertiser
P. O. Box 263
Wailuku, Maui, Hawaii

Dear Mr. Johnson:

Mr. Goodfader was in to see me this morning in regards to the Pukalani petition. Since he was from the same paper I showed him your letter. We thoroughly discussed the entire situation and Mr. Goodfader extracted most of the information in the files. He stated that he would contact you on this situation and that it would not then be necessary to send you copies. By this time, I hope he has contacted you and explained it all to you. Should you have any further questions or comments I should be happy to hear from you.

I appreciate very much your interest in the activities of the Land Use Commission and your best wishes. Ed Greaney works across the hall from us and is also helping the Land Use Commission. I have just extended your hello to him.

Very truly yours,

R. YAMASHITA
Executive Officer

RG.

Call Dave McClung

on Monday, 503-314.

dm

1/2/64

3:05

ROBERT JOHNSON

MAUI BUREAU CHIEF

THE HONOLULU ADVERTISER

P. O. BOX 263
WAILUKU, MAUI

PHONES { BUS. 336-945
RES. 324-861

The Honolulu Advertiser
Advertiser Square
Cable Address: ADVERTISER, HONOLULU
P. O. BOX 3110 • HONOLULU 2, HAWAII

RECEIVED
JAN 3 1964
State of Hawaii
LAND USE COMMISSION

January 2, 1964

835

Mr. Yamashita -

David McClung suggested I write to you. Could you send me as soon as possible a copy of your staff report and recommendation on the Pukalani Terrace proposed rural zoning change, for residential subdivision? That's the one form hui represented at recent hearing here by Donald Tokunaga and Frank Munoz, with Sen. Ogata as attorney.

David tells me this case is key to the commission's upcoming need to decide fate of the Oceanic Properties Waipio Acres proposal. I would appreciate any comment you can give me with regard to that. As David will probably have told you by now, you may write to me in confidence. Please indicate clearly material to be off the record, usable but not for attribution, or, if any, for publication as coming from you.

It is my understanding that the staff report and recommendation I am asking for is, by itself, a public document.

Please call me here if there is any question.

Are you by chance, in close proximity to Ed Greaney? If so, appreciate you're telling him hello for me. We used to work together on the Star-Bulletin.

Best wishes for success in your most difficult job.

Bob Johnson

Robert L. Johnson
Maui Correspondent
The Advertiser

Rural Zone In Pukalani

Land Use Commission Okay Landco Request

By a 7-1 vote the State Land Use Commission approved the creation of the proposed 460-acre Pukalani Terrace subdivision Saturday.

The request for a zoning change was made by Landco, the hui that owns and will develop the land. The commission's action was a change in existing land use boundaries established on a temporary basis by a previous Land Use Commission.

The temporary change will be in effect until permanent boundaries are established by the commission, after public hearings throughout the State, according to Roy Takeyama, deputy attorney general. He explained that the permanent boundaries must be determined by July, under the present land use act.

However, the temporary change approved by the commission Saturday will permit Landco to proceed with its rural development, Mr. Takeyama said.

Landco requested that the land, zoned for agricultural use, be changed to rural. Originally, the request was for a change from agricultural to urban for the land hui purchased from Libby, McNeill & Libby after the company discontinued pineapple production on the Valley Isle.

Mr. Takeyama ruled Saturday that the commission has the power to create rural districts.

Casting the lone no vote was Dr. Shelley M. Mark, State director of planning and economic development. Raymond Yamashita, who heads the commission's planning staff, recommended against the action taken.

Mr. Yamashita said the Landco property is adjacent to an existing urban district, and the land use request sought actually is urban.

The hui bought the land for $811 an acre, or a total cost of $400,000. It wants to subdivide the land into half-acre lots to sell to retired persons for $15,000 to $16,000 each.

Donald Tokunaga, a member of the hui, said the purchase was based on the land's eventual residential use.

"All of us in this venture believe the highest and best use of this land is for rural house lots," he said Saturday.

Mr. Yamashita believes the land should remain reserved for agricultural use.

The Pukalani petition was submitted last summer by Landco, which has 12 owners with full shares and two with half shares. The petition was indorsed by the Maui County Board of Supervisors and other groups.

In opposition to the zoning change, Mr Yamashita said he thinks a subdivision of half-acre lots each with a residence, would be primarily for residence use, not agricultural He said if a change was justified, the only logical change would be into an urban zone.

Scientists

(Continued from Page 1)

the Church College of Hawaii. Dr. Coburn, associate professor of mathematics, will speak on "In-equalities Made Easy," while Dr. Miles, physical science department chairman, will discuss "Synthesis of Organic Molecules."

The program arranged to date also includes presentations by

Dr. Ira Lichton, associate nutritionist, University of Hawaii—"The Relation of a Diet to Heart Disease" and "The Meaning of a Well-Balanced Diet."

Dr. Louis Nickell, head of physiology and bio-chemistry department, Hawaiian Sugar Planters' Association — "Antibiotics" and "Plant Tissue and Cell Structure."

Dr. Stanmore Townes, professor of mathematics, UofH —"Set Theories and Topology and "Modern Algebra and Matrix Theory."

Mrs. Dorothy Koenig, instructor in mathematics, UofH —"Consequence of a 'Witch' (geometric, parametric and algebraic forms of the "Witch of Agnesi").

The services of some 15 other scientists and mathematicians have been requested and arrangements are being made to have them here for lecture and discussion sessions during the second semester. Mr. Hosoma revealed

Hale

Forbes

Mawae

'Women In Politics'

(Continued from Page 1)

er for the first time in Honolulu since establishment of English Standard schools). This led to her interest in abolishment of the English Standard schools, later accomplished by the Legislature.

She was elected president—to fill an unexpired term—of the Hawaii Congress of PTA in 1950. She had served as vice president (director of health) of the then Territorial Congress of PTA in 1943.

She is the only woman elected president (three terms) of the Oahu Health Council. The council, with the Hawaii Congress of PTA as co-sponsor, organized the Easter Seal Society of Hawaii in 1947. She has served as president and vice president of the Oahu Chapter.

Mrs. Devereaux's other affiliations include Salvation Army Advisory Board, 10 years; committeemen, woman's auxiliaries to the Honolulu Medical Association, Hawaii Medical Association and Mental Health Association and

member, since in Governor's Commit Employment of the ped.

Helene Hale begi tical career as a Hi ty Supervisor, being four straight terms. of frustration—that sor couldn't do enou growing—so last ye for and was elect Chairman.

To quote her: "W no special qualific should participate o basis in all phases life. Like men, they judged by their background and p not on their sex."

Drawing on her of experience on the Supervisors, Mrs. H immediately to reor chairman's office. Si minated jobs and co functions in an effi the county's 27 de and 1,300 employe most efficient use.

She keeps her m

Expense Cuts, Stamps Help Put MDG In 'Black'

MDG Supply's reason for "going into the trading stamp business" was outlined by Elmer F. Cravalho, executive vice president and general manager, in a talk to the Kahului School PTA last month

Speaking at the general meeting held January 21, Mr Cravalho said his job—which he assumed June 29, 1963, under a five-year contract—was "to save money and cut expenses. This was done by cutting "the manager's salary . . . the payroll . . . and other expenses, including advertising."

He then set out to "change the image of the company" to bring out the "consumer-oriented, rather than stock holder-oriented" philosophy.

Noting that his whole life

Motor Biker Car Collision

Sixteen-year-old B Peterson, of Kahu named bruises Tues noon, when the moto was riding on Kane Kahului collided inte of a sedan operated Hyades B. Kiesel, of The latter escaped i

Police said the c mitted taking his eye road for a "few seco when he looked forw noticed the sedan down for a turn into entrance of Maui F ney. He was about 3 hind the car prior t pact.

Damage: The bik car, none.

trading stamp field

"The company is in today," Mr. Cravalho

Dr. Miwa

A group of Hawaii Army National ...hynik down a twisted tree at the site ...ndarded children's school at Ft. Ru... ...three members of the Hq. and Hq. ...8th Artillery, cleared the 40,000- ...area of undergrowth and small trees

Hawaii National Guard Photo

Rural Zoning Voted For Pukalani Tract

By ROBERT JOHNSON

WAILUKU — The State Land Use Commission voted 7 to 1 here Saturday to approve creation of a 460-acre rural district for the proposed Maui Pukalani Terrace subdivision.

The vote came after Deputy Attorney General Roy Takeyama ruled that, under the Greenbelt Law, the commission has the power to create rural districts even in areas where the existing land use is not rural.

RAYMOND YAMASHITA, heading the commission's planning staff, recommended against the action that was taken. The single "no" vote was cast by Shelley M. Mark, State director of planning and economic development.

Yamashita argued that the proposed subdivision for which rural zoning was sought is adjacent to an existing urban district in which the land use is actually urban.

He said that if a zoning change was justified for the Pukalani Terrace land—and he said he didn't think it was justified—the only logical change would be into an urban zone, to provide for the most efficient expansion of the existing urban use in Pukalani.

He said granting of rural designation for Pukalani Terrace would be a "gross exception" to zoning criteria already established by the Land Use Commission.

DONALD H. TOKUNAGA, speaking for Landco, the Pukalani Terrace hui that owns and will develop the land, said that the actual land use in the presently developed areas of Pukalani is rural, not urban.

He said, "All of us in this venture believe the highest and best use of this land is for rural house lots."

He said his group could "make as much or more profit" from subdivision of the property into farm lots, as already permitted under its existing agricultural use zoning. But he said this would create a future demand on the County for street and other improvements as the land became settled.

* * *

THE 360 ACRES for which the zoning change was sought is abandoned and mostly vacant pineapple land which Landco proposes to develop into a rural district.

Commissioner Robert Wenkam said that as he read the law "a rural district must almost already exist before the commission can zone it for rural use."

Takeyama said that Wenkam's reading—and Yamashita's interpretation in his argument—were based on "a very narrow and literal interpretation of the law.

* * *

"I DON'T THINK that is reasonable," Takeyama said. "You can create a rural district. I don't think it was the intent of the law to prohibit the creation of rural districts. This would freeze rural use to only existing rural areas."

Yamashita, in an exchange with Tokunaga, said that he felt a subdivision of half-acre lots, each with a residence, would constitute "primarily residential use, not agricultural."

Tokunaga said, "That is why the Legislature provided for the rural designation."

* * *

THE MOTION to approve the rural zoning was made by James P. Ferry, State land department director. C. E. S. Burns presided, in the absence of Myron Thompson, the chairman.

The commission's action yesterday was a change in existing land use boundaries established on a temporary basis by a previous Land Use Commission.

According to Takeyama this temporary change will be in effect only until permanent boundaries are established by the commission after general public hearings throughout the State.

THE PERMANENT boundaries must be set by July, under the land use act. Meanwhile, however, yesterday's action permits Landco to proceed with its rural development, Takeyama said.

Yamashita, in objecting to the Pukalani boundary change as a "gross exception" to the commission's own zoning criteria, said that his objection also extended to the commission's decision, before yesterday's hearing, to include the Pukalani Terrace land in a rural zone under its proposed permanent zoning boundaries to be established in July.

Hawaiian Wins Buddhist Award

HILO — A full-Hawaiian who has been an active Buddhist for many years was named winner of the Distinguished Service Award of the United Young Buddhist Association of Hawaii Saturday night.

Waipa

The award went to Kaamoku Waipa Jr., a Hawaii County fireman at the Olaa Fire Station.

It was presented at the YBA's 12th annual Inauguaral Ball at Hale Nani here.

* * *

WAIPA, who has been active with the Puna Hongwanji for many years, was cited for his good attendance, contributions of time and money, and living up the Buddist teachings.

He has served as president of the Olaa YBA and the Puna YBA and has been a State YBA counsellor in the past. He took an active part in last summer's State YBA convention in Hilo, and is presently serving as a director of the United YBA of Hawaii.

* * *

RECEIVING honorable mention awards were Mrs. Lillie T. Tsuchiya, Papaikou YBA; Satomi Takashiba, Kona YBA; Takaaki Nakamoto, Hilo YBA; Tsuyoki Nakashima, Kona YBA, and Irene Takahara Pahala YBA.

James Shinohara headed the judging panel. Other judges were C. K. Matsumura, Mrs. Takeo Yoshino, Takashi Nonaka and Richard Miyamoto.

Creighton Group Due Here Today

The Very Rev. H. W. Linn, S. J., president of Creighton University at Omaha, Neb., and 30 former students and friends of the university will arrive here today for a 10-day tour of Hawaii.

The visit will include a dinner tomorrow with Creighton's Hawaiian Alumni Club at the Waikiki Lau Yee Chee Banquet Hall.

The group plans to visit points of interest Oahu the Neighbor Islands. The visitors will stay at the Princess Kaiulani Hotel.

Spotlight On Mothers Thursday

The Mothers' March of the March of Dimes will be in th... ...ght Thurs-

G. N. TOSHI ENOMOTO
COUNTY CLERK

BONIFACE ESPINDA
DEPUTY COUNTY CLERK

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

RECEIVED
DEC 26 1963
State of Hawaii
LAND USE COMMISSION

December 23, 1963

Honorable Chairman and Members
Land Use Commission
State of Hawaii
Honolulu, Hawaii

Dear Sirs:

In behalf of the Maui County Board of Supervisors, we respectfully transmit a certified copy of Resolution No. 161, requesting your honorable Commission to grant the petition of Land and Construction Company, Incorporated, to rezone approximately 465 acres in the Pukalani area, Makawao District, Maui (TMK 2-3-09-5).

The foregoing Resolution was adopted by the Board of Supervisors on December 20, 1963.

Very truly yours,

/lye

enc.

G. N. TOSHI ENOMOTO
County Clerk

cc: Plan. & Traffic Comm.
Land & Construction Co., Inc.

Resolution

RECEIVED
DEC 26 1963
State of Hawaii
LAND USE COMMISSION

No 161 Introduced By Manuel S. Molina Supervisor

WHEREAS, Land & Construction Co., Inc., Wailuku, Maui, Hawaii, has made plans for the development of approximately 465 acres of land (Tax Map Key 2-3-09-5) in the Pukalani area of Maui into one-half acre lots; and

WHEREAS, said Land & Construction Co., Inc. has petitioned the Land Use Commission of the State of Hawaii in order that said area of approximately 465 acres be rezoned from an agricultural zone to a rural zone; and

WHEREAS, the Maui County Planning and Traffic Commission has approved said change in zoning; and

WHEREAS, the plans of Land & Construction Co., Inc. for said development are in conformity with plans for the development of the Pukalani area; now, therefore,

BE IT RESOLVED by the Board of Supervisors of the County of Maui that it does hereby respectfully request the Land Use Commission of the State of Hawaii to grant the petition of Land & Construction Co., Inc. to rezone said area of approximately 465 acres in Pukalani from an agricultural zone to rural zone; and

BE IT FURTHER RESOLVED that certified copies of this resolution be transmitted to the Land Use Commission of the State of Hawaii, to the Maui County Planning and Traffic Commission, and to Land and Construction Co., Inc., Wailuku, Maui, Hawaii.

STRATHMORE BOND
ERASEWELL
25% COTTON FIBER USA

BOARD OF SUPERVISORS – COUNTY OF MAUI
WAILUKU, HAWAII

MEMBERS	TAM, CHM.	BULGO	CROCKETT	HOKAMA	LEE	MEYER	MOLINA	MORISAKI	TAGAWA
AYES	X	X	X	X	X	X	X	X	X
NOES									
A B.									
EX.									

Adopted on the 20th day of December, 1963.

/s/ G. N. Toshi Enomoto
COUNTY CLERK COUNTY OF MAUI,
STATE OF HAWAII

I HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF RESOLUTION NO. 161, THE ORIGINAL OF WHICH IS NOW ON FILE IN THE OFFICE OF THE COUNTY CLERK, COUNTY OF MAUI, STATE OF HAWAII.

DATED THIS 23rd DAY OF December, 1963.

COUNTY CLERK, COUNTY OF MAUI

Copies passed out to Comm.

THOMAS S. OGATA
MEYER M. UEOKA

2121 MAIN STREET
Post Office Box 433
Phone: 33-737 or 33-738

OGATA & UEOKA

ATTORNEYS AT LAW
WAILUKU, MAUI, HAWAII

819

December 18, 1963

RECEIVED
DEC 19 1963
State of Hawaii
LAND USE COMMISSION

Mr. Myron B. Thompson, Chairman
and Members of the Land Use Commission
State of Hawaii
Honolulu, Hawaii

Gentlemen:

We enclose ten copies of our memorandum in rebuttal to the report of the staff submitted at the public hearing on the petition of Landco, so that each member may have a copy for reference.

We hope that this material will be of some assistance to the commission.

Very truly yours,

OGATA & UEOKA

By Thomas S. Ogata

TSO:mas

Encls.

(819)

RECEIVED
DEC 19 1963
State of Hawaii
LAND USE COMMISSION

TO: Land Use Commission of the State of Hawaii

FROM: Landco - Petitioner

SUBJECT: Rebuttal to Staff Report Submitted at Public Hearing held in Wailuku, Maui, on the Petition of Landco for Change in Temporary District Boundaries from Agricultural Classification to Rural Classification.

The following is submitted for consideration by the members of the Land Use Commission by way of rebuttal to the staff report concerning the disposition of the petition filed by Landco for a change in the temporary district boundaries.

The petition as originally filed by Landco requested the Land Use Commission to amend the temporary district classification for a certain area in Pukalani on the Island of Maui from an agricultural district to that of urban district.

Since the filing of the petition, the request has been amended so that the amendment of the district classification, if granted, would change the present agricultural classification to a rural classification.

The land described in the petition contains an area of 493.37 acres. However, as the staff now admits, some 30 acres of this property is already included in the present urban area, leaving about 463 acres of land involved in the request for change in use. This land petitioned to be changed from agricultural classification to rural is contiguous to present urban areas in Pukalani, almost all of which is used for low density residential use.

law says should not be contiguous

It is stated in the staff analysis on Page 2, that the rainfall in the Pukalani area is little over 30 inches a year. We have been advised that there are no official reports showing any rainfall data for this specific area. However, upon inquiry, we have received information that based upon a rain gauge which was previously maintained on the subject property by Libby the annual rainfall for the southwestern portion of Pukalani, being the area under consideration, does not exceed 20 inches. It is also stated on the same page of the staff report that soil conditions of the petitioner's land are classified as moderately suited for intensive agricultural use based upon a survey made in 1959 by the Land Study Bureau. The Land Study Bureau has advised us that it has made only a general survey of soil conditions on the Island of Maui and that the condition of the soil for a particular parcel of land on Maui would not be accurately determinable from such a study. Thus, the testimony of Mr. Ben Miyahira of the Maui Farm Bureau and the statement of Mr. Yoshii that soil quality is not conducive to intensive farming or for pineapple cultivation should have more weight than the interpretation of the staff drawn from such a general report.

The staff comments on Page 3, that the County of Maui has not yet established regulations regarding controls within a rural district, nor has such a district been established by the county. While county ordinances do not regulate the activities permissible within a rural district as such, and such

a district has not been established under the county zoning ordinances, uses and activities within an area designated as rural by the commission will be limited under the provisions of Act 205, and by the existing ordinances and other rules and regulations of the various state agencies, such as the Department of Health, etc., and the creation of a rural district by the county is not a prerequisite to the invocation of the statutory provisions contained in Act 205 of the Session Laws of Hawaii 1963, for the zoning of rural districts.

We do not agree with the statement that the necessity of a school site in Pukalani is based upon population shift rather than the urban growth trend in the area, appearing on Pages 2 and 3. It is a fact that the request for such a site originated from the People of Pukalani who believed that the growing trend of urbanization of their community warranted such a facility. It is admitted that the Island of Maui previous to the last six months had sustained a decrease in population. There is indication that this island has had a slight increase in population in the last six months. But whether Maui has experienced a population decline or not, shift in population, on any island, recognized by the staff, could cause a concentration of people in a sparsely populated area. The best example of this is in the Kahului area into which people from the plantation have moved from the several camps. Statistics show that Pukalani has enjoyed tremendous urban growth over the past five years as people from other areas

but not occupied!

of Maui have purchased homesites in this rural section of Maui.

The staff claims that 166 acres (revised to 132 acres) of land in Pukalani have been designated into an urban area and that according to the recommendation of the consultants to the previous Land Use Commission an additional 240 acres of land in the same vicinity are classifiable into urban use (Pages 4-5). We have attempted to locate the exact area now within the urban designation, and also the perimeter of the additional acreage to be zoned urban. We have been unable to do so due to the lack of pertinent information, except that contrary to the revised calculation of the staff on the area of the urban district, our computation shows that 213.60 acres have been zoned urban by the previous commission. We would suggest that a substantial portion of the 240 acres contemplated to be placed in an urban category be allocated for the Petitioner's property upon the adoption of the permanent district boundary map, and pending the adoption of the permanent map, the entire area of the land described in the petition not in the urban district be zoned rural.

It is further contended by the staff on Page 5, that out of the 166 acres now in the urban district, about 20% or 33 acres will are remain vacant. We are entirely unaware of, and there isn't, any unused and unoccupied lands (of urban uses!) within the area known to us to be urban in Pukalani that would aggregate 33 acres, or even close to this figure. Our estimate of the vacant urban areas would approximate 14 acres, and all of this vacant area is owned by Mr. Munoz and his intention is not to dispose the same. Obviously, any estimate as to what portion of an urban

area may result in vacancy out of the 204 acres proposed to be added into an urban district, would depend to a great extent upon the ownership and the character of the land embraced within such a district, as any tract of land therein owned by a person who do not wish to dispose his property will remain vacant, but if the area is so carved out that most, if not all, of the undeveloped land within it is owned by those who will improve and dispose of the same, then the vacant portion will be minimal. It is submitted that the argument of vacancy should be given little, if any, weight in the determination of the proper disposition of the petition. Classification of land use under the statute should be based upon the intent of the legislature, namely, the preservation of prime agricultural lands and the development of land areas within the radius of available public facilities. If these basic purposes are fulfilled, then extent of vacancies within an urban or any other district should be irrelevant in the proper determination of land use district.

It is also observed by the staff on Page 6, that it "is entirely unaware of any subsequent circumstances that justify the 'further enlargement' from the 406 acres of urban areas now under contemplation, by the addition of some 493 acres now being requested." A good and sufficient answer to such a position is that the amendment of Act 187 of the Session Laws of Hawaii 1961 (Green Belt Law) by Act 205 of last session, which provides for the establishment of an additional district to grant relief to owners of lands classified as

agricultural lands, without anything more, would constitute a justifying subsequent circumstance. A proper interpretation and application of the amendments to the original act will give the commission the necessary discretion to grant the petition and change the district boundaries from agricultural to rural.

Comment is also made by the staff under paragraph 4, on Page 6, as follows: "The fact that the land has been used for intensive agriculture attaches importance on the issue whether or not 'other lands are available that could serve adequately the urban needs.'" We do not clearly understand this statement. But if the cultivation of pineapple on this land is deemed an intensive agricultural use, we would then admit that it was so used, but such an intensive agricultural use was abandoned because of the economic situation of the pineapple industry and also because the land was not best suitable for such purpose. According to the testimony in the record this is marginal land, not even suitable for truck farming because of the absence of water, weather conditions as well as soil characteristics. We believe it to be a fact that in Pukalani no other lands of sufficient area are available for the future urban growth, immediate as well as on a long range basis.

The comments appearing on Page 7 for paragraph 5, beginning on Page 6, state, among other things, that "the staff feels that the particular issues have been given due consideration in the liberal allocation of urban areas already proposed and does not constitute justification for addition of some 493 acres."

Such a position would not give effect to the legislative intent that resulted in the enactment of Act 205, and in fact would stifle, thwart and wholly nullify the purpose and intent of the legislature, namely the creation of a rural district in an area where the use requirement would not justify an urban classification and at the same create hardship if an agricultural zone is imposed.

It is also contended by the staff on Pages 7 and 8, that the request in this instance would not comply with the statutory standards for a rural district, that is to say, (1) small farms mixed with very low density residential lots, and (2) the absence of city like concentration of people, structures, streets and urban level of services. Such a contention is premised upon the proposed development of the Petitioner's land based upon the preliminary plan heretofore submitted to the commission. As was mentioned during the hearing by the Petitioner such a preliminary plan was merely a master plan showing the ultimate development of the area, a projection of more than ten years, and at the conclusion of which the subject property will then be an urban area, and it was upon such thought that the original petition requested a change in the temporary district boundaries from agricultural to urban. Pending such ultimate development, and during the transitory period, the pattern of development will be upon the basis of small farms intermixed with low density residential lots and there will be an absence of city like concentration of people, etc. Hence, the initial

classification of the area for development purposes should be a rural district zoning, rather than urban.

The staff concludes by recommending the denial of the Petitioner's request since the creation of a rural classification for the land described in the petition will not promote the more efficient use of the public facilities in an area recognized to be urban and where further public investment in intensification of such facilities is being proposed. The staff believes that the area should receive urban classification, but feels that there is no justification for such a designation and that other lands in the vicinity less suited for intensive agriculture by virtue of size and location that would serve adequately the urban needs are under consideration for urban districting.

We are at a loss to follow the reasoning of the staff. It seems to us that the staff in arriving at its recommendation was unconsciously guided by the philosophy of the old Green Belt law and in doing so did not give proper consideration to effectuate the recent amendments set forth in Act 205. Pukalani is an area now served with necessary and convenient public facilities, and such facilities will not be taxed or over-burdened because of the development proposed by the Petitioner, and the development itself will be provided with all of the improvements, such as paved roads, water lines, utility lines, etc., by and at the cost of the developer. If the request contained in the petition were to be denied, the land can nevertheless be subdivided into agricultural subdivision

no - very consciously, as the findings & declaration was not amended.

very reason law states why it should not be rural!

under the Maui County Subdivision Ordinance into 2 acre lots, rather than into one half acre lots as now proposed. But if the land were to be subdivided under such agricultural subdivision, the improvements within such subdivision will not require any paved roads and the other improvement requirements will be substandard. Such a situation would, indeed, be a burden upon the county when the area becomes more populated. Thus, while an agricultural subdivision permissible under an agricultural classification would not be in or serve the interest of promoting the more efficient use of the public facilities, the proposed development of the Petitioner under a rural district classification will fulfill the efficient use of such public facilities.

The summary by the staff in the last paragraph indicates that the land is proceeding through a transitory stage between agricultural use and urban use, consequently it is our contention that it meets the legislative intent for the rural classification. The staff evidently has no concept of the new rural district. It has indicated that the land in question should evolve directly from agricultural use to an urban use. It has also made a literal evaluation of the rural zone which interpretation will not provide for any proposed development of a rural district.

In areas where urban demands on land are extremely great, land uses may evolve directly from agricultural use to urban use. Within the State of Hawaii, only the city and county

of Honolulu fulfills this condition. In other areas the evolution goes through an intermediary suburban or rural stage where residences are developed in a more or less agricultural setting. These amenities provide such "country living" which is desirable. It is under this rural concept that the proposed development is being initiated by the Petitioner.

Petitioner feels that its request fulfills the requirements of the rural classification intended by the Legislature. Firstly, it falls within the transitory stage between agricultural and urban as specifically intended by the Legislature in correcting Act 187 by the addition of the fourth rural zone to take care of such transitory situations. Secondly, it was the intent of the Legislature that the district boundaries consider the General Plan of the specific County. Here the County of Maui has recommended and feels that a rural district shall be designated for this area.

Summarizing the position of the Petitioner, we emphasize the following points:

1. Other than the adverse recommendation of the staff, there has been no opposition to the petition.

2. All factual testimony appears to be favorable, that is to say, the portion of the land described in the petition not in the urban district should be zoned as a rural district.

a. The land obviously is not suitable for sugar cane growing.

b. The land has been abandoned for pineapple cultivation, and, as far as the Island of Maui is concerned, there are other available lands better suited for the growing of pineapples.

c. The land is not suitable for truck farming because of lack of water as well as weather (wind) conditions.

d. The land is not suitable for ranching because cattle can be grazed on this property only during certain times of the year.

e. The land is located contiguous to urban areas with existing facilities to adequately serve the proposed development.

f. The initial development of the area would necessarily be small farms and low density residential lots.

g. A rural classification would be consistent with and follow the general plan of the County of Maui.

We, therefore, respectfully submit that the petition be granted and the temporary district boundaries of that portion of the land not now within the urban area be changed to classify such portion into a rural district.

LANDCO

By Thomas L. Ogata

Rec'd 1/25/64

TO: Land Use Commission of the State of Hawaii

FROM: Landco, Petitioner

Re: For Change of Temporary District Boundary from an Agricultural District Classification to a Rural District Classification for land in Pukalani, Maui, TMK 2-3-09-5

We appreciate your notice to us that the waiting period as prescribed by SECTION 98H-4 of Act 205/63 covering our captioned petition has expired and that your Commission has placed our petition on your agenda for consideration during this meeting. We are informed further that Final Action on our petition may be forthcoming prior to the conclusion of this meeting.

In summing up our arguments why we believe our petition should be approved, we ask that the members of this Commission take into consideration the facts and evidences which we have placed on record before you. You will recall that no one appeared in opposition to our request at the public hearing. The only adverse condition appears to be the position of the staff. Your staff's analysis and arguments against granting the petition have been thoroughly covered by our then attorney's rebuttal. Although Mr. Ogata no longer serves as our attorney in this matter, the facts and evidence that he has submitted in his rebuttal arguments - item by item against your staff's analysis - make it appear that your staff's findings and basis for its recommendation with regard to our petition were erroneous in many instances, and the conclusions projected were both illogical and inconsistent with existing statutes, as well as with testimony submitted.

We want it clearly understood here and now, before you decide what to do with our petition, that all of us involved in this venture - thinking of our people and Maui County's benefit - believe sincerely that the highest and best use for this parcel is to subdivide same into Rural Houselots; and to make same available at prices (including urban-standard improvements) for 50-60% of what 10-15,000 square feet houselots are selling there today.

The existence of other lands classified for urban use in Pukalani and elsewhere on Maui is an irrelevant argument to sustain a denial of the petition, because the existence of such land does not mean that it would be available for development. Whether such urban land would be made available would depend upon the desires of the owner. For that reason, existing urban lands in Pukalani and the surrounding areas not presently used for residential purposes or being developed for such use would not be made available. The point that we would like to stress is that classification of land into urban by and of itself will not make the land available to the public or place the land in the market for disposition, and such land will remain vacant so long as the owner sees fit not to dispose of his property, and most of the vacant urban land in the Pukalani and surrounding areas are owned by such owners, and consequently, these lands although classified as urban will not be available.

We emphasize again that the land is not prime agricultural land. It is not suited for sugar cane cultivation

as it is a great distance above the cane belt area; nor is it good pineapple land, and the most that can be said is that it is marginal land for pineapple growing and the depressed condition in this industry does not warrant the use of marginal lands for pineapple production; nor is the property involved suitable for truck farming or other agricultural purposes. These factual conclusions were supported at the hearing on the petition. To leave the area under agricultural classification would mean either that the land will be left idle and improductive or developed and disposed under an agricultural subdivision and to allow the land to remain idle would not be in the best public interest.

We already have alternate development plans projected to undertake farmlots subdivision of 2 to 5 acre parcels, which would return to us as much, if not more, than the reasonable profit we anticipate from this venture. Whether this Agricultural Subdivision is the right thing insofar as "the preservation, protection and encouragement of the development of" this particular parcel is concerned is for you - the State Land Use Commissioners - to decide. But the consequences of an agricultural subdivision should be clear to all of us. In an agricultural subdivision improvements need not meet the standards of the Maui County Subdivision Ordinance and without such improvements the area in later years will become a tremendous burden upon the County. Such a situation was intended to be eliminated by the Green Belt Law. A decision, therefore, to deny the petition will in effect nullify the purposes of the law, namely, to prevent the

development of land in such a way that the necessary conveniences will be lacking. A decision to grant the petition, on the other hand, will stimulate the economic development of this Island. The law that you are mandated by your appointment to be administered should not be applied to unduly or unreasonably restrict the growth and development of the neighbor islands, especially when such an application will not serve the purposes desired by the legislature. We submit that the position and views of the staff are those that would give effect to the polices of the old Green Belt Law, and are contrary to and do not reflect amendments enacted by the last session of the legislature.

We have given you our reason for buying and what we intend to do with this land within the bounds of existing State Laws and County Ordinances.

The kind of development and the future of what Pukalani Community will be like will depend a great deal on what takes place next in our Pukalani Terrace.

Respectfully yours,

area may result in vacancy out of the 204 acres proposed to be added into an urban district would depend to a great extent upon the ownership and the character of the land embraced within such a district, as any tract of land therein owned by a person who do not wish to dispose his property will remain vacant, but if the area is so carved out that most, if not all, of the undeveloped land within it is owned by those who will improve and dispose of the same, then the vacant portion will be minimal. It is submitted that the argument of vacancy should be given little, if any, weight in the determination of the proper disposition of the petition. Classification of land use under the statute should be based upon the intent of the legislature, namely, the preservation of prime agricultural lands and the development of land areas within the radius of available public facilities. If these basic purposes are fulfilled, then extent of vacancies within an urban or any other district should be irrelevant in the proper determination of land use district.

It is also observed by the staff on Page 6, that it "is entirely unaware of any subsequent circumstances that justify the 'further enlargement' from the 406 acres of urban areas now under contemplation, by the addition of some 493 acres now being requested." A good and sufficient answer to such a position is that the amendment of Act 187 of the Session Laws of Hawaii 1961 (Green Belt Law) by Act 205 of last session, which provides for the establishment of an additional district to grant relief to owners of lands classified as

agricultural lands, without anything more, would constitute a justifying subsequent circumstance. A proper interpretation and application of the amendments to the original act will give the commission the necessary discretion to grant the petition and change the district boundaries from agricultural to rural.

Comment is also made by the staff under paragraph 4, on Page 6, as follows: "The fact that the land has been used for intensive agriculture attaches importance on the issue whether or not 'other lands are available that could serve adequately the urban needs.'" We do not clearly understand this statement. But if the cultivation of pineapple on this land is deemed an intensive agricultural use, we would then admit that it was so used, but such an intensive agricultural use was abandoned because of the economic situation of the pineapple industry and also because the land was not best suitable for such purpose. According to the testimony in the record this is marginal land, not even suitable for truck farming because of the absence of water, weather conditions as well as soil characteristics. We believe it to be a fact that in Pukalani no other lands of sufficient area are available for the future urban growth, immediate as well as on a long range basis.

The comments appearing on Page 7 for paragraph 5, beginning on Page 6, state, among other things, that "the staff feels that the particular issues have been given due consideration in the liberal allocation of urban areas already proposed and does not constitute justification for addition of some 493 acres."

Such a position would not give effect to the legislative intent that resulted in the enactment of Act 205, and in fact would stifle, thwart and wholly nullify the purpose and intent of the legislature, namely the creation of a rural district in an area where the use requirement would not justify an urban classification and at the same create hardship if an agricultural zone is imposed.

It is also contended by the staff on Pages 7 and 8, that the request in this instance would not comply with the statutory standards for a rural district, that is to say, (1) small farms mixed with very low density residential lots, and (2) the absence of city like concentration of people, structures, streets and urban level of services. Such a contention is premised upon the proposed development of the Petitioner's land based upon the preliminary plan heretofore submitted to the commission. As was mentioned during the hearing by the Petitioner such a preliminary plan was merely a master plan showing the ultimate development of the area, a projection of more than ten years, and at the conclusion of which the subject property will then be an urban area, and it was upon such thought that the original petition requested a change in the temporary district boundaries from agricultural to urban. Pending such ultimate development, and during the transitory period, the pattern of development will be upon the basis of small farms intermixed with low density residential lots and there will be an absence of city like concentration of people, etc. Hence, the initial

classification of the area for development purposes should be a rural district zoning, rather than urban.

The staff concludes by recommending the denial of the Petitioner's request since the creation of a rural classification for the land described in the petition will not promote the more efficient use of the public facilities in an area recognized to be urban and where further public investment in intensification of such facilities is being proposed. The staff believes that the area should receive urban classification, but feels that there is no justification for such a designation and that other lands in the vicinity less suited for intensive agriculture by virtue of size and location that would serve adequately the urban needs are under consideration for urban districting.

We are at a loss to follow the reasoning of the staff. It seems to us that the staff in arriving at its recommendation was unconsciously guided by the philosophy of the old Green Belt Law and in doing so did not give proper consideration to effectuate the recent amendments set forth in Act 205. Pukalani is an area now served with necessary and convenient public facilities, and such facilities will not be taxed or over-burdened because of the development proposed by the Petitioner, and the development itself will be provided with all of the improvements, such as paved roads, water lines, utility lines, etc., by and at the cost of the developer. If the request contained in the petition were to be denied, the land can nevertheless be subdivided into agricultural subdivision

under the Maui County Subdivision Ordinance into 2 acre lots, rather than into one half acre lots as now proposed. But if the land were to be subdivided under such agricultural subdivision, the improvements within such subdivision will not require any paved roads and the other improvement requirements will be substandard. Such a situation would, indeed, be a burden upon the county when the area becomes more populated. Thus, while an agricultural subdivision permissible under an agricultural classification would not be in or serve the interest of promoting the more efficient use of the public facilities, the proposed development of the Petitioner under a rural district classification will fulfill the efficient use of such public facilities.

The summary by the staff in the last paragraph indicates that the land is proceeding through a transitory stage between agricultural use and urban use, consequently it is our contention that it meets the legislative intent for the rural classification. The staff evidently has no concept of the new rural district. It has indicated that the land in question should evolve directly from agricultural use to an urban use. It has also made a literal evaluation of the rural zone which interpretation will not provide for any proposed development of a rural district.

In areas where urban demands on land are extremely great, land uses may evolve directly from agricultural use to urban use. Within the State of Hawaii, only the city and county

of Honolulu fulfills this condition. In other areas the evolution goes through an intermediary suburban or rural stage where residences are developed in a more or less agricultural setting. These amenities provide such "country living" which is desirable. It is under this rural concept that the proposed development is being initiated by the Petitioner.

Petitioner feels that its request fulfills the requirements of the rural classification intended by the Legislature. Firstly, it falls within the transitory stage between agricultural and urban as specifically intended by the Legislature in correcting Act 187 by the addition of the fourth rural zone to take care of such transitory situations. Secondly, it was the intent of the Legislature that the district boundaries consider the General Plan of the specific County. Here the County of Maui has recommended and feels that a rural district shall be designated for this area.

Summarizing the position of the Petitioner, we emphasize the following points:

1. Other than the adverse recommendation of the staff, there has been no opposition to the petition.

2. All factual testimony appears to be favorable, that is to say, the portion of the land described in the petition not in the urban district should be zoned as a rural district.

a. The land obviously is not suitable for sugar cane growing.

b. The land has been abandoned for pineapple cultivation, and, as far as the Island of Maui is concerned, there are other available lands better suited for the growing of pineapples.

c. The land is not suitable for truck farming because of lack of water as well as weather (wind) conditions.

d. The land is not suitable for ranching because cattle can be grazed on this property only during certain times of the year.

e. The land is located contiguous to urban areas with existing facilities to adequately serve the proposed development.

f. The initial development of the area would necessarily be small farms and low density residential lots.

g. A rural classification would be consistent with and follow the general plan of the County of Maui.

We, therefore, respectfully submit that the petition be granted and the temporary district boundaries of that portion of the land not now within the urban area be changed to classify such portion into a rural district.

LANDCO

By (Sgd.) Thomas S. Ogata

Ref. No. LUC 781

December 16, 1963

Mr. Donald Tokunaga
Maui Realty Company, Inc.
100 Wells-Kanoa Building
Wailuku, Maui, Hawaii

Dear Mr. Tokunaga:

Transmitted herewith are the areas mentioned in the Land Use Commission staff report submitted at the public hearing in Wailuku, Maui on December 6, 1963, regarding your petition.

The figures shown on the enclosed tax maps do not correspond to that in the staff report. The principal difference is in the amount of land stated to be within the temporary urban district. The figure of 166 acres used was taken from work done by the consultant to the prior Land Use Commission but our latest check show about 132 acres instead. Also, some 30 acres of your 493 acre parcel was pointed out by you to be already in the temporary urban district and this would have the effect of reducing your acreage from about 493 to about 463 acres.

Should you have further questions, please do not hesitate to contact this office.

Very truly yours,

R. YAMASHITA
Executive Officer

Enclosures
cc: Thomas S. Ogata

JOSEPH S. MEDEIROS, JR., Chairman
KAZUO KAGE, Vice-Chairman
WILLARD ELLER, Member
WILLIAM HONG, Member
YOSHIKAZU MATSUI, Member
MASAO NAGASAKO, Member
ROBERT UEOKA, Member

KOICHI HAMADA, Ex-Officio
HIDEO HAYASHI, Ex-Officio
JEAN R. LANE, Ex-Officio
MASAO SONE, Ex-Officio
ROBERT O. OHATA, Planning Director
MRS. EVA M. DUPONTE, Secretary

8/2

PLANNING AND TRAFFIC COMMISSION
COUNTY OF MAUI
P. O. BOX 1487
KAHULUI, MAUI, HAWAII 96732

RECEIVED
DEC 16 1963
State of Hawaii
LAND USE COMMISSION

December 13, 1963

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

Gentlemen:

The Maui Planning and Traffic Commission, at its meeting of December 11, 1963, unanimously voted to recommend approval of the amendment to Landco's petition wherein the districting requested is amended from urban to rural.

Inasmuch as the Land Use Commission will not act on this request for a period of 45 days since the public hearing held on December 6, 1963, the Maui Commission feels it is appropriate to make this recommendation at this time. The notification of the amendment by Landco was received by this Commission on December 3, 1963. The Maui Planning Commission's next scheduled meeting after receipt of the notice was the December 11th meeting first mentioned above. We realize that the public hearing was held on December 6, 1963 on this request, however, the Commission feels it is appropriate to act and recommend its decision to your State Commission.

Very truly yours,

Robert O. Ohata

ROBERT O. OHATA
Planning Director

cc Charles Ota
cc Maui Realty Company

(COPY)

Report of the

COMMITTEE

on

PUBLIC WORKS, Roads, Bridges, Public Highways, Refuse, Water, Sewers, Automotive Equipment and Traffic.

Richard M. Kageyama, Chairman; Ben F. Kaito, Vice-Chairman; Masato Doi, Member; Ernest N. Heen, Member; Matsuo Takabuki, Member.

RECEIVED
DEC 9 1963
State of Hawaii
LAND USE COMMISSION

802

December 3, 1963

Mr. Chairman:

Your Committee on Public Works to which was referred communication (M-913) from the Land Use Commission, giving notice of changes in time and place of public hearings to consider petitions for change of Temporary District Boundary within the City and County of Honolulu before the Land Use Commission, recommends that it be referred to the Mayor for his attention and information.

Land Use Commission

CITY COUNCIL
CITY AND COUNTY OF HONOLULU

The foregoing is a copy of Committee Report on this date adopted by the CITY COUNCIL of the City and County of Honolulu.

Honolulu, Hawaii

ATTEST:

Emperor A. Hanapi Masato Doi

EMPEROR A. HANAPI, CITY CLERK MASATO DOI, CHAIRMAN & PRESIDING OFFICER, CITY COUNCIL

Dated this 3rd day of Dec. 1963

Reference:

Resolution No.

Bill No.

COMMITTEE REPORT NO.

2343

(1)

To Kunaga

Testimonies

(1) Mr. To Kunaga — reading from prepared text. — Obtain text

(2) Frank Munoz —

493 acres — 30 acres now zoned for urban. Libby owns 700 odd acres in the area. Total operation 1,170 acres. Request for a change on one of the parcels. Agriculture uses of the land. — Water — Libby agreed to purchase water from EAMJE system. County of Maui — cannot provide water for area. Shortage of water in the area. Dry season drops down to 15 million gallons in reservoir.

There will be surplus ag. land in the Pukalani area. Very little land have been set aside by LUC for urban needs. 90 odd acres now zoned urban (130 acres in petitioner's land. He doesn't believe that any other farm crops (except pineapple) could be planted in the area because of wind condition, soil. livestock is limited due to seasonal pasture land.

(3)

918-24

(9) Mr. Tom's daughter (2.) — said that this has been going on for two years. Would there be any action if the amendment is added?
Request hearing be continued at later date.

6 Dec 63

(1)

(1) Continue hearing on Stephenson until rural district can be determined

(2) Ohata desires zone the area rural.
Public hearing to determine rural zoning.

(3) Ota would like to defer —
Write to petitioner for further clarification on whether they want to change amendment to rural district. —

Petition — To be announced at later date

Anthony A. Tam (Situation same as Stephenson)

(1) Tam says — 3 rental units on property — Would have been 5 rental units if initial development had taken place.

(2) Ota — Ohata recommends that Tam's property be zoned as rural.

(3) Discussion followed on whether to amend or withdraw petition.

(2)

(4) Time of request 2 rental units below new Kula road and 2 below old Kula. (One is demolished. (asking for 2 more units)

Two Lots —

---

(5) Roy Takeyama — Local Planning Comm. has no authority to amend petition for applicant.

(6) Kozuo Kaya = Summary —

at the time of request there was no rural district therefore the petitioner has an opportunity to amend from Agric to rural instead of urban.

If rural district had been set the recommendation of the Maui Commission would have been different.

(7) Ota — Staff should inform petitioner the avenues open to petitioner.

(8) Thompson Continue hearing at later date.

(5)

Mr. Nishimura — defining urban area for Wentam!

Mr. Ota — Shopping Center would have to consider as special permit;
Ogata — Shopping center will go into urban area.

Reading 3 letters for the record.

Mr. Munoz — Explaining about water situation in Pukalani area. Overhead irrigation cost $200,000 dollars to water existing pineapple.

Mr. Ohata — Explained it was different to make comments on amendment to rural zone. Maui Gen. Plan showed area as a rural & not urban. Subdivision would be developed into increments, Rural classification is a proper one.

Mr. Tokunaga — 10 years to fully develop the area. ~~Go~~ Master plan was required by Libby.

Ogata

Mr. Wentam — to Pineapple had been growing for 15-20 years.

M. Ferry — to Ogata — Land was in natural state prior to pineapple.

M. Hung — to ogata — Consider area to be unsuitable due to wind + lack of water.

M. Nishimura - how are you going to provide water for domestic use for the Subdivision. — letter read by Ogata - presented for record.

M. Wentam — asking why deve. is considered as rural — it looks like urban. Ogata - rural area has to be considered in whole and not just the petitioner's lot. Owner may sell land ½ acre or larger —. Dev. will have mixture of small farms and large lots Plan would be consistent with rural use & rules as promulgated by Commission.

Mr. Thompson — Question: lack of water for aquaculture — where the water will come from for small farms.

Mr. Ogata — Seasonal planting.

Menton — Question — what would happen if people raised poultry.

Mr. Ohata — Maui is a rural community. Subdivision would provide the rural needs of the Maui people. Ohata describes gray zone or transitional zone — as a rural area. Entire Kula area has requested it be disturbed as rural.

Mrs. Morris — Describing her property. Property 3 miles from Wailuku.

Mr. RV — Presentation of analysis.

Mr. Ogata. Explaining amendments of Act 205 with emphasis on the rural district. Summarizing — the area as not suitable for agricultural purposes due to lack of water, wind conditions etc. Only solution would be to change boundary to rural district.

(7)

Ogata—

Rural classification will help to build up the economy of Maui. No other use for the land except for residential use as recognized by Maui General Plan.

Mr. alec Yoshi -

Ogata asking Yoshi about pet. land.
Yoshi classified land as lack of water. 30" a year is insufficient. Raising pineapple in area is very slim! 2 years ago — cond. of pineapple in the area as dry (strike a match it would burn).
Yoshi — we would like to operate on a seasonal basis — summer months. Primarily to use school labor. Heavy pine in that area — prep to have pineapple year round & in short span of time.
Yoshi — had been in pineapple business for 29.5 years. Feels that grower has to make money as well as company. Grower has slim chance in making good in the area.

Nishimura — asking Yoshi about rainfall & soil conditions. Yoshi said moisture is a big problem in the area.

(3) Ogata — Asking Munoz. about subdivision — Munoz will develop subdivision by increments.

Ranchinga by Munoz was a failure in the area.

New amendments Act 205 — Standards to be determine by Commission. Asking Munoz if rural district would fit into the petitioner's land.

Munoz — requesting an amendment to district boundary to rural district. area of ½ acre would serve its purpose in Petaluma area.

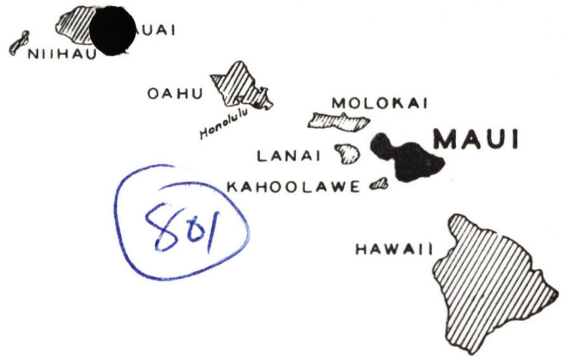
Ogata — asking Munoz if the ½ acre lots would serve the purpose as a rural district. Asked Munoz if he could sell all the lots. Munoz said it could be sold but not at one time. Results by people to purchase land in area. Munoz would like to build road from highway into subdivision.

Asked Munoz how big subdivision was ½ acre lots

Maui County Farm Bureau

Affiliate of the Hawaii Farm Bureau Federation & the American Farm Bureau

P. O. Box 494
Kahului, Maui, Hawaii 96732



801

December 5, 1963

RECEIVED
DEC 6 1963
State of Hawaii
LAND USE COMMISSION

State Land Use Commissions
Honolulu, Hawaii

Gentlemen:

On behalf of the members of the Maui County Farm Bureau may I present this brief statement for your consideration.

We have no objections to change the zoning of Pukalani parcel (TMK 2-3-09-5) from agricultural district classification to rural classification.

We base our written testimony on the following facts:

1. The area in question is unsuitable for ranching purpose because of poor carrying capacity. (Lack of rainfall)

2. It is not suited for intensive crop cultivation because there is a lack of irrigation water.

3. The State Government has expended large sums to develop water for the Kula and Omaopio area and before any other area is developed for intensive agricultural use the source of this water development should not be diverted to other areas thereby jeopardizing the present farm area.

Thank you for your consideration.

Yours very truly,

Ben Miyahira

Ben Miyahira, President
Maui County Farm Bureau

BF:mj
cc: Tom Yamabe II
Charles Ota, Maui Member
Robert Ohata, Maui Planning Director

MAUI CHAMBER OF COMMERCE

ISLANDS OF LANAI AND MAUI

WAILUKU, MAUI, HAWAII

December 6, 1963

800

RECEIVED
DEC 6 1963
State of Hawaii
LAND USE COMMISSION

Land Use Commission
State of Hawaii
195 South King Street
Honolulu 13, Hawaii

Gentlemen:

We understand that there is pending before the Land Use Commission of the State of Hawaii a request for a change in the temporary district boundary affecting a parcel of land situate in Pukalani, Maui from agricultural to rural classification.

It is also our understanding that such a change will conform to the general plan adopted by the Maui Planning and Traffic Commission in that the area has already been zoned by the Maui Commission into a rural district.

In view of the action taken by the Maui Planning Commission, the Maui Chamber of Commerce would favor the change in the use classification by your Commission as requested by the applicant.

Sincerely,

MAUI CHAMBER OF COMMERCE

Roger I. Knox

Roger I. Knox
President

(749)

BOARD OF WATER SUPPLY
COUNTY OF MAUI
P. O. BOX 547
KAHULUI, MAUI, HAWAII
(96732)

December 5, 1963

RECEIVED
DEC 6 1963
State of Hawaii
LAND USE COMMISSION

Land Use Commission
State of Hawaii
Honolulu, Hawaii

Gentlemen:

I am aware of the application made by LANDCO to the Land Use Commission of the State of Hawaii, requesting the change in the temporary land use district boundary covering the parcel of land situate in Pukalani, Island and County of Maui, containing an area of approximately 463 acres, from the present agricultural classification to that of rural district classification.

It is also my understanding that should the request be granted, the owner of the land will develop the same into smaller lots consistent with the permissible use allowable under such rural classification.

As far as the Maui County Board of Water Supply is concerned, adequate water will be available for such proposed development. No water, however, will be available for other than domestic purposes such as for irrigating crops to enable the maintenance of large or even moderate size truck farms within this area, and the Maui County Water Department does not contemplate to develop its system to provide water for such farming purposes for the area in question.

Very truly yours,

MAUI COUNTY BOARD OF WATER SUPPLY

By K. Hamada
Manager and Chief Engineer

"By Water All Things Find Life"

749

BOARD OF WATER SUPPLY
COUNTY OF MAUI
P. O. BOX 547
KAHULUI, MAUI, HAWAII
(96732)

December 5, 1963

RECEIVED
DEC 6 1963
State of Hawaii
LAND USE COMMISSION

Land Use Commission
State of Hawaii
Honolulu, Hawaii

Gentlemen:

I am aware of the application made by LANDCO to the Land Use Commission of the State of Hawaii, requesting the change in the temporary land use district boundary covering the parcel of land situate in Pukalani, Island and County of Maui, containing an area of approximately 463 acres, from the present agricultural classification to that of rural district classification.

It is also my understanding that should the request be granted, the owner of the land will develop the same into smaller lots consistent with the permissible use allowable under such rural classification.

As far as the Maui County Board of Water Supply is concerned, adequate water will be available for such proposed development. No water, however, will be available for other than domestic purposes such as for irrigating crops to enable the maintenance of large or even moderate size truck farms within this area, and the Maui County Water Department does not contemplate to develop its system to provide water for such farming purposes for the area in question.

Very truly yours,

MAUI COUNTY BOARD OF WATER SUPPLY

By A. Hamada
Manager and Chief Engineer

"By Water All Things Find Life"

HAROLD L. DUPONTE
COUNTY ATTORNEY

798

DEPUTIES
Kase Higa
Richard R. Komo
Arthur T. Ueoka

OFFICE OF THE COUNTY ATTORNEY

COUNTY OF MAUI
WAILUKU, MAUI, HAWAII

December 6, 1963

RECEIVED
DEC 6 1963
State of Hawaii
LAND USE COMMISSION

Land Use Commission
State of Hawaii
Honolulu, Hawaii

Gentlemen:

This is to inform you that the County of Maui is presently in the process of acquiring a parcel of land, containing an area of 35 acres, being a portion of Tax Map Key 2-3-09-5, in the Pukalani area of Maui, for a school and park site. The area is shown more particularly on maps on file with the Planning Director of the County of Maui. Said area has been approved as a school and park site in the general plan for Pukalani.

We have hired Mr. George Ezaki to appraise said parcel of land. The sum of $75,000.00 has already been allotted under the provisions of Act 201, S.L.H. 1963, to the County of Maui for this purpose. Therefore, the County will be in a position to purchase all, or a portion, of said school and park site as soon as Mr. Ezaki appraises the land.

Yours sincerely,

Kase Higa

Kase Higa
Deputy County Attorney

KH:ko

JOSEPH S. MEDEIROS, JR., Chairman
KAZUO KAGE, Vice-Chairman
WILLARD ELLER, Member
WILLIAM HONG, Member
YOSHIKAZU MATSUI, Member
MASAO NAGASAKO, Member
ROBERT UEOKA, Member

KOICHI HAMADA, Ex-Officio
HIDEO HAYASHI, Ex-Officio
JEAN R. LANE, Ex-Officio
MASAO SONE, Ex-Officio
ROBERT O. OHATA, Planning Director
MRS. EVA M. DUPONTE, Secretary

Copy to Chairman
Legal Counsel
793

PLANNING AND TRAFFIC COMMISSION

COUNTY OF MAUI
P. O. BOX 1487
KAHULUI, MAUI, HAWAII 96732

RECEIVED
DEC 4 1963
State of Hawaii
LAND USE COMMISSION

December 3, 1963

DEC 4 1963

Mr. Raymond Yamashita
Executive Officer
State Land Use Commission
426 Queen Street
Honolulu 13, Hawaii

Dear Mr. Yamashita:

Your Reference No. 766 transmitting letter and amendment to petition from Ogata and Ueoka representing Landco for a change of district boundary in Pukalani from Agricultural to Rural District has been received for the first time.

Inasmuch as recommendation on any petition such as this requires the action of the Commission, we would not be able to give you our official comments prior to December 6, 1963. Our next meeting date would be December 11, 1963.

Very truly yours,

Robert O. Ohata

ROBERT O. OHATA
Planning Director

cc: Mr. Charles Ota

P.S. That same letter mentions the time of the hearing as 3:45 p.m. whereas the official notice mentions the time as 4:45 p.m. Which is correct?

December 3, 1963

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

Dear Mr. Ohata:

This is to call your attention to my typographical error which I inadvertently made in our letter to you, dated December 2, 1963, Ref. No. LUC 766. The time of the public hearing as scheduled should have been 4:45 p.m., instead of 3:45 p.m. My apologies.

Very truly yours,

ALBERTA L. KAI
STENOGRAPHER

cc: Myron Thompson
Charles Ota
Roy Takeyama

Ref. No. LUC 766

December 2, 1963

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

Dear Mr. Ohata:

I am not sure as to whether or not you have a copy of the amendment to LANDCO's petition, requesting that the districting requested be amended from urban to rural. In the event that you have not received one, a copy is enclosed. I had neglected to check on this matter and at this late date, I have been concerned over the legality of the amendment to the petition and of the hearing itself since we did not get an official comment from you on the amendment itself.

If it is possible to get a brief letter from you, it would help avoid a possible legal delay of the hearing, which is scheduled for 3:45 p.m. on December 6. Should you be able to get such a letter to Charlie Ota by the hearing date, I would be most appreciative. In discussing this matter with Roy Takeyama, he suggested that a letter from you would be most helpful. Perhaps another letter which would state substitution of the word 'rural' for 'urban', etc., would be possible. This is in reference to your letter of September 4, 1963.

I received your letter stating that you might not be able to make the hearings.

Very truly yours,

R. YAMASHITA
Executive Officer

Enclosures
cc: Myron Thompson
Charles Ota
Roy Takeyama

Eagle-Type-Erase

RECEIVED
DEC 19 1963
State of Hawaii
LAND USE COMMISSION

TO: Land Use Commission of the State of Hawaii

FROM: Landco - Petitioner

SUBJECT: Rebuttal to Staff Report Submitted at Public Hearing held in Wailuku, Maui, on the Petition of Landco for Change in Temporary District Boundaries from Agricultural Classification to Rural Classification.

The following is submitted for consideration by the members of the Land Use Commission by way of rebuttal to the staff report concerning the disposition of the petition filed by Landco for a change in the temporary district boundaries.

The petition as originally filed by Landco requested the Land Use Commission to amend the temporary district classification for a certain area in Pukalani on the Island of Maui from an agricultural district to that of urban district.

Since the filing of the petition, the request has been amended so that the amendment of the district classification, if granted, would change the present agricultural classification to a rural classification.

The land described in the petition contains an area of 493.37 acres. However, as the staff now admits, some 30 acres of this property is already included in the present urban area, leaving about 463 acres of land involved in the request for change in use. This land petitioned to be changed from agricultural classification to rural is contiguous to present urban areas in Pukalani, almost all of which is used for low density residential use.

It is stated in the staff analysis on Page 2, that the rainfall in the Pukalani area is little over 30 inches a year. We have been advised that there are no official reports showing any rainfall data for this specific area. However, upon inquiry, we have received information that based upon a rain gauge which was previously maintained on the subject property by Libby the annual rainfall for the southwestern portion of Pukalani, being the area under consideration, does not exceed 20 inches. It is also stated on the same page of the staff report that soil conditions of the petitioner's land are classified as moderately suited for intensive agricultural use based upon a survey made in 1959 by the Land Study Bureau. The Land Study Bureau has advised us that it has made only a general survey of soil conditions on the Island of Maui and that the condition of the soil for a particular parcel of land on Maui would not be accurately determinable from such a study. Thus, the testimony of Mr. Ben Miyahira of the Maui Farm Bureau and the statement of Mr. Yoshii that soil quality is not conducive to intensive farming or for pineapple cultivation should have more weight than the interpretation of the staff drawn from such a general report.

The staff comments on Page 3, that the County of Maui has not yet established regulations regarding controls within a rural district, nor has such a district been established by the county. While county ordinances do not regulate the activities permissible within a rural district as such, and such

a district has not been established under the county zoning ordinances, uses and activities within an area designated as rural by the commission will be limited under the provisions of Act 205, and by the existing ordinances and other rules and regulations of the various state agencies, such as the Department of Health, etc., and the creation of a rural district by the county is not a prerequisite to the invocation of the statutory provisions contained in Act 205 of the Session Laws of Hawaii 1963, for the zoning of rural districts.

We do not agree with the statement that the necessity of a school site in Pukalani is based upon population shift rather than the urban growth trend in the area, appearing on Pages 2 and 3. It is a fact that the request for such a site originated from the People of Pukalani who believed that the growing trend of urbanization of their community warranted such a facility. It is admitted that the Island of Maui previous to the last six months had sustained a decrease in population. There is indication that this island has had a slight increase in population in the last six months. But whether Maui has experienced a population decline or not, shift in population, on any island, recognized by the staff, could cause a concentration of people in a sparsely populated area. The best example of this is in the Kahului area into which people from the plantation have moved from the several camps. Statistics show that Pukalani has enjoyed tremendous urban growth over the past five years as people from other areas

of Maui have purchased homesites in this rural section of Maui.

The staff claims that 166 acres (revised to 132 acres) of land in Pukalani have been designated into an urban area and that according to the recommendation of the consultants to the previous Land Use Commission an additional 240 acres of land in the same vicinity are classifiable into urban use (Pages 4-5). We have attempted to locate the exact area now within the urban designation, and also the perimeter of the additional acreage to be zoned urban. We have been unable to do so due to the lack of pertinent information, except that contrary to the revised calculation of the staff on the area of the urban district, our computation shows that 213.60 acres have been zoned urban by the previous commission. We would suggest that a substantial portion of the 240 acres contemplated to be placed in an urban category be allocated for the Petitioner's property upon the adoption of the permanent district boundary map, and pending the adoption of the permanent map, the entire area of the land described in the petition not in the urban district be zoned rural.

It is further contended by the staff on Page 5, that out of the 166 acres now in the urban district, about 20% or 33 acres will remain vacant. We are entirely unaware of, and there isn't, any unused and unoccupied lands within the area known to us to be urban in Pukalani that would aggregate 33 acres, or even close to this figure. Our estimate of the vacant urban areas would approximate 14 acres, and all of this vacant area is owned by Mr. Munoz and his intention is not to dispose the same. Obviously, any estimate as to what portion of an urban

Ref. No. LUC 764

November 26, 1963

Mr. Thomas S. Ogata
Ogata & Ueoka
Attorneys-at-Law
P. O. Box 433
Wailuku, Maui, Hawaii

Dear Mr. Ogata:

Subsequent to our letter of November 14 regarding the amendment to your petition filed by LANDCO, our legal counsel has informed us that he has reconsidered the issue and, you are now advised that the amendment submitted by your letter of November 12, 1963, is valid. Therefore, your petition, as it now stands, requests an amendment of the Land Use Commission Temporary District Boundary from an Agricultural District to a Rural District for the parcel at issue.

We hope you will accept our apologies for the inconveniences we have caused you and your clients. Should you have any further questions, please do not hesitate to call upon us.

Very truly yours,

R. YAMASHITA
Executive Officer

cc: Charles Ota
Roy Takeyama
Myron Thompson

Ref. No. LUC 746

November 14, 1963

Mr. Thomas S. Ogata
Ogata & Ueoka
Attorneys at Law
P. O. Box 433
Wailuku, Maui, Hawaii

Dear Mr. Ogata:

Your letter of November 12, 1963 and the amendemt to your petition filed by LANICO for amendment of the temporary district boundary has been received by this office. The matter was discussed with Mr. Roy Takeyama, legal counsel to the Land Use Commission. We were informed that the amendment is not valid because a petition for boundary change can only be initiated against the Temporary District Boundaries now in effect and, the Rural district is not yet in existence.

I am partly responsible for what has occurred. On November 7, while on Maui, I was informally discussing this matter with Mr. Donald Tokunaga. The question of whether or not the petition could be amended to request a change from Agriculture to Rural, rather than Agriculture to Urban as stated in the petition was being discussed. I erroneously led Mr. Tokunaga to believe that this was feasible. Please accept my apologies.

The best course of action would seem to be a withdrawal of the amendment and consideration of the original petition by the Land Use Commission. If you concur, a short letter from you to that effect would suffice. Again, I apologize for the inconvenience this has caused you.

Sincerely,

R. YAMASHITA
Executive Officer

cc: Charles Ota
Roy Takeyama
Myron Thompson

THOMAS S. OGATA
MEYER M. UEOKA

2121 MAIN STREET
Post Office Box 433
Phone: 33-737 or 33-738

OGATA & UEOKA

ATTORNEYS AT LAW
WAILUKU, MAUI, HAWAII

769

November 12, 1963

RECEIVED
NOV 1[illegible]
State of Hawaii
LAND USE COMMISSION

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

Gentlemen:

We enclose an amendment to the petition filed by LANDCO for amendment of temporary district boundary. The amendment merely changes the classification sought to be obtained by the Petitioner from urban to rural, a new district classification provided in Act 205 of the Session Laws of 1963.

As indicated in the petition for amendment of the temporary district boundary, Petitioner proposes to develop the property described therein for low density residential lots of one-half acre.

We, therefore, request that the petition filed by LANDCO be treated henceforth as one requesting a change in the classification of the temporary district boundary from its present classification from an agricultural district into a rural district.

Very truly yours,

OGATA & UEOKA

By Thomas S. Ogata

TSO:mas

Encl.

THOMAS S. OGATA
MEYER M. UEOKA

2121 MAIN STREET
Post Office Box 433
Phone: 33-737 or 33-738

OGATA & UEOKA

ATTORNEYS AT LAW
WAILUKU, MAUI, HAWAII

769

November 12, 1963

RECEIVED
NOV 13 1963
State of Hawaii
LAND USE COMMISSION

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

Gentlemen:

We enclose an amendment to the petition filed by LANDCO for amendment of temporary district boundary. The amendment merely changes the classification sought to be obtained by the Petitioner from urban to rural, a new district classification provided in Act 205 of the Session Laws of 1963.

As indicated in the petition for amendment of the temporary district boundary, Petitioner proposes to develop the property described therein for low density residential lots of one-half acre.

We, therefore, request that the petition filed by LANDCO be treated henceforth as one requesting a change in the classification of the temporary district boundary from its present classification from an agricultural district into a rural district.

Very truly yours,

OGATA & UEOKA

By Thomas S. Ogata

TSO:mas

Encl.

149

RECEIVED
NOV 13 1963
State of Hawaii
LAND USE COMMISSION

STATE LAND USE COMMISSION

In the Matter of the Petition)
)
of)
)
LANDCO)
)
For Change of Temporary)
District Boundary)
)

AMENDMENT TO PETITION FOR CHANGE
OF TEMPORARY DISTRICT BOUNDARY

LANDCO hereby amends the first paragraph of the Petition for amendment of temporary district boundary heretofore filed by it to read as follows:

"(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 (Paia Quadrangle) Pukalani to change the district designation of the following described property from its present classification in a(n) agricultural district into a(n) rural district."

Dated at Wailuku, Maui, Hawaii, this 12 day of November, 1963.

LANDCO

By Donald H. Tokunaga and
Frank Munoz, Trustees

By Thomas S. Ogata
Their Attorney

Ref. No. LUC 730

November 7, 1963

Messrs. D. H. Tokunaga and
F. Munoz
Maui Realty Company, Inc.
100 Wells-Kanoa Building
Wailuku, Maui, Hawaii

Dear Messrs. Tokunaga and Munoz:

This is to inform you of the public hearing called by the Land Use Commission of the State of Hawaii, on December 6, 1963, at 4:45 p.m., in the Chambers of the Board of Supervisors of the County of Maui, County Building, Wailuku, Maui. Your petition for Change of Temporary District Boundary from an Agricultural district classification to an Urban district classification will be heard at that time.

Publication of Legal Notice will appear in the Honolulu Star-Bulletin and the Maui News on November 16, 1963.

Sincerely,

R. YAMASHITA
Executive Officer

NOTICE OF PUBLIC HEARING

TO CONSIDER PETITIONS FOR CHANGE OF TEMPORARY DISTRICT BOUNDARY 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 Board of Supervisors of the County of Maui in the County Building in Wailuku on December 6, 1963, at 4:45 P.M., or as soon thereafter as those interested may be heard, to consider petitions for change of Temporary District Boundary within the County of Maui as provided for in Section 98H-4 of the Revised Laws of Hawaii 1955, as amended.

Petitions for Change of Temporary District Boundary to be heard:

Docket Number and Petitioner	Tax Map Key	Change Requested
A(T)63-31 Errett Beck Stephenson, Et Al.	2-3-03: 1	Change from an Agricultural district classification to an Urban district classification.
A(T)63-34 Anthony A. Tam	2-3-02: 23	Change from an Agricultural district classification to an Urban district classification.
A(T)63-42 D. Tokunaga and F. Munoz	2-3-09: 5	Change from an Agricultural district classification to an Urban district classification.

Maps showing the area under consideration for change of Temporary District Boundary and copies of the rules and regulations governing the petitions above are on file in the offices of the Maui Planning and Traffic Commission and the Land Use Commission and are open to the public during office hours.

All written protests or comments regarding the above petitions 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 up to fifteen (15) days following this hearing.

LAND USE COMMISSION

M. THOMPSON, Chairman, Pro Tempore

R. YAMASHITA, Executive Officer

(Legal ad - 2 cols. w/border)
(To appear November 16, 1963)
(THE HONOLULU STAR-BULLETIN)
(THE MAUI NEWS)

September 9, 1963

Ref. No. LUC 644

Mr. Robert Chata, Director
Planning and Traffic Commission
P. O. Box 1487
Kahului, Maui, Hawaii

Dear Mr. Chata:

This will acknowledge receipt of your letters of September 4, 1963, concerning your Commission's recommendations in the following petitions for change of temporary district boundary:

LANDCO - approval

W. F. Brooks, Sr. - approval

N. T. Shimoda - approval

Thank you for your prompt attention in these matters.

Very truly yours,

William Mullahey
Acting Executive Officer

JOSEPH S. MEDEIROS, JR., CHAIRMAN
KAZUO KAGE, VICE-CHAIRMAN
WILLIAM HONG, MEMBER
YOSHIKAZU MATSUI, MEMBER
MASAO NAGASAKO, MEMBER
RICHARD H. TAYLOR, MEMBER
ROBERT UEOKA, MEMBER

KOICHI HAMADA, EX-OFFICIO
HIDEO HAYASHI, EX-OFFICIO
JEAN R. LANE, EX-OFFICIO
NORMAN SAITO, EX-OFFICIO
ROBERT O. OHATA, PLANNING DIRECTOR
MRS. EVA M. DUPONTE, SECRETARY

PLANNING AND TRAFFIC COMMISSION
COUNTY OF MAUI
P. O. BOX 1487
KAHULUI, MAUI, HAWAII

September 4, 1963

RECEIVED
SEP 6 1963
State of Hawaii
LAND USE COMMISSION

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

Gentlemen:

The Maui Planning and Traffic Commission, at its meeting of September 3, 1963, voted unanimously to recommend approval of Petition for Amendment of Temporary District Boundary from Agricultural to Urban of 493 acres in Pukalani, owned by LANDCO.

The Commission recommends approval based on: (1) That the County's General Plan provides for urbanization of this area; (2) that the land is no longer needed for agricultural purposes.

Very truly yours,

Robert O. Ohata

ROBERT O. OHATA
Planning Director

cc: LANDCO

Sent to
Attorneys of
Petitioner

State of Hawaii
LAND USE COMMISSION
426 Queen Street
Honolulu 13, Hawaii

October 22, 1963

MEMORANDUM TO ALL PETITIONERS CONCERNED

The Land Use Commission at its meeting on October 18, 1963 has asked me to assure you of its awareness of your petition before the Commission.

As of October 11, 1963 the Commission was fully constituted, and it is now in the process of scheduling hearings for petitions not heard by the previous Commission and of scheduling new hearings for petitions heard prior to May 3, 1963 on which the previous Commission took no action. Upon completion of these schedules, notification concerning when your petition will be heard will be forwarded to you.

Mr. Raymond Yamashita is the Commission's new executive officer, and he will begin his duties on November 1, 1963.

Sincerely,

Myron B. Thompson

MYRON B. THOMPSON
Chairman, Pro Tempore

Ref. No. LUC 671

October 10, 1963

Mr. Thomas S. Ogata
Ogata & Ueoka
Attorneys at Law
P. O. Box 433
Wailuku, Maui, Hawaii

Dear Mr. Ogata:

This is to acknowledge receipt of your petition in behalf of Messrs. D. H. Tokunaga and F. Munoz for the amendment of temporary district boundaries established by the Land Use Commission.

The term of the last Commission expired on May 3, 1963, and a new Commission has not yet been appointed. When this has been done, we will advise you concerning the hearing of your petition.

Sincerely,

CLARENCE L. HODGE
Acting Director
Department of Planning and
Economic Development

cc: Donald H. Tokunaga
Manager
Maui Realty Company, Inc.
100 Wells-Kanoa Building
Wailuku, Maui, Hawaii

Roy Takeyama, Attorney General's Office

Ref. No. LUC 631

August 7, 1963

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

Attention: Mr. Robert Ohata, Planning Director

Gentlemen:

Enclosed is a copy of a petition from Messrs. D. H. Tokunaga and F. Munoz for Change of Temporary District Boundary which I am forwarding for your comments and recommendations pursuant to Act 187/61, as amended.

Very truly yours,

W. M. MULLAHEY
ACTING EXECUTIVE OFFICER

Enclosure

STATE OF HAWAII
LAND USE COMMISSION

426 Queen Street
Honolulu, Hawaii

RECEIVED
AUG 7 1963
STATE OF HAWAII
LAND USE COMMISSION

This space for County or DLNR use

Date Petition and Fee received ~~by County or DLNR~~ _____

Date forwarded to ~~LUC~~ County for ~~with~~ recommendation 8/7/63

Date ~~Petition, Fee and~~ County/~~DLNR~~ recommendation received by LUC 9/6/63

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 (Paia Quadrangle) PUKALANI 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: TMK 2-3-09-5, being Lot 2 as shown on Map 1 of Land Court Application No. 1320 and containing an Area of 493.37 Acres.

Petitioner's interest in subject property:

Trustees for Fee Owners (LANDCO)

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

Need for ½ Acre Houselots in Pukalani, Maui, together with School/Park/Playground Area as requested by Maui County and need for a Neighborhood Shopping Center in such a large and planned Subdivision. NE corner of this Parcel already zoned URBAN.

(1) The petitioner will attach evidence in support of the following statement:

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.

LANDCO

Signature(s) D. Tokunaga
Trustee

Trustee

Address: c/o Maui Realty Co., Inc.
Wailuku, Maui

Telephone: 33-925

Statement in support of Petitionners' Request
to have TMK 2-3-09-5, Pukalani, Maui, rezoned
from partly Urban/Agricultural to all Urban Usage

1. Photo-fax copy of Maui County Planning and Traffic Commission's letter of 25 July 1963 suggesting that Petitioners proceed with an application to the State Land Use Commission for a Rural or Urban District Re-classification as Petitioners may decide.

2. Maui County Board of Supervisors recognizing the Urban growth trend in the Pukalani District has requested the Petitioners to provide a 35 Acre Parcel within Petitioners' proposed Subdivision for a School/Park/Playground site. Action to obtain such a site in Pukalani was started by the Supervisors over a year ago; and a $75,000 appropriation was provided Maui County for this purpose by the 2nd State Legislative Session earlier in the year (1963).

3. The State Land Use Commission, too, has recognized the potential Urban Growth of the Pukalani District and has complied with Maui County Planning Commission request in the past to enlarge the Urban District of Pukalani. Most of the expanded area then took in properties along the western side of Pukalani Highway and the isolated Pukalani Lots Subdivision which is along the north western boundary of TMK 2-3-09-5. Mountain View and Haleakala View Tracts, situated along the north eastern boundaries of TMK 2-3-09-5 - together with portion of Petitioners' lands - were previously classified Urban District by the First State Land Use Board.

4. Petitioners' request now is only to further enlarge the Urban District of Pukalani by including Petitioners' 493 plus acres there, which already is partly in Urban and adjoins to the south the Urban District of Pukalani established by the State Land Use Commission.

5. Petitioners' 493 plus acres were in Pineapple and owned previously by Libby, McNeill & Libby. The economics of the time has forced Libby to close down their pineapple operations on Maui, thus making it apparent that continued agricultural usage of the land is not warranted economically.

6. The approximate 4000 feet elevation, the fertility of the soil, its proximity to the center of employment and the principal towns of Wailuku-Kahului, plus the very low and attractive land prices (about 17½¢ per sqft. with all site

improvements complete) will make the area most desirable for potential property buyers - both locally, as well as clients from away.

LANDCO

SIGNATURE(S) _____
Trustee

_____
Trustee

Address: c/o Maui Realty Co., Inc.
Wailuku, Maui

Telephone: 33-925

THOMAS S. OGATA
MEYER M. UEOKA

2121 MAIN STREET
Post Office Box 433
Phone: 33-737 or 33-738

OGATA & UEOKA

ATTORNEYS AT LAW
WAILUKU, MAUI, HAWAII

August 6, 1963

RECEIVED
AUG 7 1963
State of Hawaii
LAND USE COMMISSION

Land Use Commission
State of Hawaii
Honolulu, Hawaii

Attention: Mr. Mullahey
Acting Executive Officer

Gentlemen:

We transmit herewith a petition for an amendment of the interim district boundary affecting the Island of Maui, more particularly map No. M-7, to change the zoning for the property described in the petition from agricultural to urban, together with a statement in support of the said petition and a map showing the proposed development and use of the land described in the petition.

We also enclose a verifax copy of a letter dated July 25, 1963, from the Maui Planning and Traffic Commission recommending that the petitioner proceed with a request for such a change before the Land Use Commission.

The foregoing petition is filed pursuant to Section 98H-4 of the Revised Laws of Hawaii 1955, as amended by Act 205 of the Session Laws of Hawaii 1963.

A check in the sum of $50.00 to cover the cost of filing the petition is also enclosed.

Very truly yours,

OGATA & UEOKA

By Thomas S. Ogata

TSO:mas

Encls.

RECEIVED
AUG 7 1963
State of Hawaii
LAND USE COMMISSION

July 25, 1963

Mr. Donald H. Tokunaga
Manager
Maui Realty Company, Inc.
100 Wells-Kanoa Building
Wailuku, Maui

Dear Mr. Tokunaga:

The Maui Planning and Traffic Commission, at its meeting of July 23, 1963, reviewed the preliminary Master Plan of Pukalani Terrace, Tax Map Key 2-3-09:5. After the review of the plan, the Commission suggests that you proceed with an application to the State Land Use Commission for a Rural or Urban District as may be desired.

Very truly yours,

ROBERT O. OHATA
Planning Director

State Form B14

STATE OF HAWAII

LAND USE COMMISSION
426 Queen St., Honolulu, Hawaii
Department, Bureau or Commission

OFFICIAL RECEIPT No. 58

August 1st 1963

RECEIVED from Thomas S. Ogata for D.U. Tokunaga & F. Murata

Fifty + no/100 **DOLLARS**

For petition hearing by the Land Use Comm. for temporary boundary change from O & G to Urban.

$50.00
Ck. #6096 Gordon

Accounting Inc.
Public Accountant