

KUMAHARA, M.

A(T)64-62

Bonhilton

~ Cao - 17 months ago we were approach about this land in Kila Valley. Had my engineer run down to the State & County to see what possibilities we can get this land into a subdivision. At that time the land we knew was or where within the area we were purchasing. We started bulldozing and our engineer started working on the area. It involved 206 lots - Original Developer in the area was (Phlueger) Cassidy who knew we were going to build 246 fee simple lots. The 246 lots are all sold. When we started ~~single~~ final

STATE OF HAWAII
LAND USE COMMISSION

VOTE RECORD

File

ITEM Withdrawal Request by Kurehara
DATE 10/27/66
PLACE County Building - Maui
TIME 11:35 pm

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

COMMENTS:

Ref. No. LUC 520

November 4, 1964

Mr. Robert T. Migita
Waiakoa, Maui, Hawaii

Dear Mr. Migita:

By letter dated October 28, 1964, we informed you that the Land Use Commission accepted the withdrawal of Mr. Kuwahara's petition for amendment of the Land Use District Boundaries. Mr. Kuwahara indicated that he would, instead, file a petition for special permit.

Since such a petition is filed with the County Planning and Traffic Commission, we transmitted a copy of your letter of protest to that agency. However, we have been informed by Mr. Robert Ohata, Director, Maui County Planning and Traffic Commission, that his office will not use the copy of your letter of protest which we transmitted and will start from scratch. Your letter of protest to the Land Use Commission is therefore considered null and void by Mr. Ohata's office.

In other words, should you wish to continue your interest in the Kuwahara issue, you should again make an expression, at the appropriate time, to the Maui County Planning and Traffic Commission. Should Mr. Kuwahara initiate a petition for special permit, the County Planning and Traffic Commission will conduct a public hearing. Information would be published in the papers or could be obtained at the Planning and Traffic Commission office in Kahului.

This letter is written to inform you of what has happened to your letter of protest to the Land Use Commission. Any action which you may wish to take is, of course, at your own discretion.

Should you have further questions, please feel free to contact this office.

Very truly yours,

RAYMOND S. YAMASHITA
Executive Officer

Same letter to Messrs. Willey, Kunioki and Calasa

ROBERT O. OHATA
Planning Director



MRS. EVA M. DUPONTE
Administrative Assistant

PLANNING & TRAFFIC COMMISSION

COUNTY OF MAUI

POST OFFICE BOX 1487
KAHULUI, MAUI, HAWAII 96732

October 30, 1964

1448

RECEIVED

NOV 1 1964

State of Hawaii
LAND USE COMMISSION

Mr. Raymond Yamashita
Executive Officer
State Land Use Commission
426 Queen Street
Honolulu, Hawaii 96813

Dear Mr. Yamashita:

Re: Reference No. LUC 514

Transmittal on Kuwahara's request will not be used should a special use permit be requested. This office considers all submittals regarding the change of district boundary which was withdrawn to be null and void. Should a special permit be requested the Maui Commission will start from scratch.

Yours very truly,

A handwritten signature in blue ink, appearing to read "R. O. Ohata", is written over the typed name.

ROBERT O. OHATA
Planning Director

cc: Chmn. Thompson

Ref. No. LUC 514

October 28, 1964

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

Dear Mr. Ohata:

At the public hearing held on October 22, 1964, in the Board Room of the County Building, Wailuku, Maui, the Land Use Commission accepted the request by Mr. Michael T. Kuwahara to withdraw his petition for amendment to the Land Use District Boundaries. Since Mr. Kuwahara indicated that he will submit his petition as a special permit procedure, we are transmitting the following available information to you:

1. Background portion of Land Use Commission staff report prepared on petition. Our Legal Counsel advises us that we may not discuss other than issues of fact prior to a public hearing and therefore the remainder of the staff report is not included.
2. Correspondence as listed in portion of staff report included above.
3. Additional letters of protest from Messrs. J. Kunioki and M. N. Calasa.

In addition, the petitioner submitted a reproduced copy of a lease agreement for the subject property which was executed on June 22, 1964. Since a double reproduction is poor, we are not including a copy of the lease agreement which you can probably get from the petitioner.

Should you have further questions, please feel free to contact us.

Very truly yours,

RAYMOND S. YAMASHITA
Executive Officer

ENCLOSURES

cc: Thompson

Ref. No. LUC 513

October 28, 1964

Mr. Robert T. Migita
Waiakoa, Maui, Hawaii

Dear Mr. Migita:

The Land Use Commission held a public hearing on October 22, 1964 in the Board Room of the County Building, Wailuku, Maui, to consider the petition of Michael T. Kuwahara for an amendment to the Land Use District Boundaries. At the beginning of this hearing, the Land Use Commission favorably considered a request by the petitioner to withdraw his petition. The petitioner has indicated that he will resubmit his petition as a request for a special permit. The Land Use Law does provide for this alternative procedure. Under this special permit procedure, the petition is submitted to the County who then conducts a public hearing and acts to disapprove or approve. Should the County disapprove the petition, then the petition is dead -- unless the petitioner chooses to make an appeal to the courts. Should the County approve, then the approval is sent to the Land Use Commission for final approval or disapproval.

You have expressed an interest in this issue by your letter of protest. We are taking this opportunity to inform you of these events so that you may take whatever steps you may deem necessary. If Mr. Kuwahara submits a petition for special permit as indicated, the next action will occur on the County level. For information, you may contact your Planning and Traffic Commission. A copy of your letter has been sent to the County.

Should you have any further question, do not hesitate to contact us.

Very truly yours,

RAYMOND S. YAMASHITA
Executive Officer

cc: Maui Planning and Traffic Commission

Same letter to Messrs. Willey, Kunioki and Calasa.

cc: Thompson

Ref. No. LUC 512

October 28, 1964

Mr. Michael T. Kuwahara
RR 64
Waiakon, Kula, Maui

Dear Mr. Kuwahara:

The Land Use Commission held a public hearing on October 22, 1964 at Wailuku, Maui. At this hearing, the Commission voted unanimously to accept your request for withdrawal of petition A(T)64-62 and identified as Maui TMK 2-3-02: portion of 23, containing an area of approximately 29,000 sq. ft.

Since you have indicated that you plan to submit a special permit for the subject land, it would be most appropriate for you to contact Mr. Robert Ohata of the Maui Planning and Traffic Commission for details regarding procedures for special permit applications.

If you have any further questions, please feel free to contact this office.

Very truly yours,

RAYMOND S. YAMASHITA
Executive Officer

cc: Maui Planning and
Traffic Commission

STATE OF HAWAII
LAND USE COMMISSION

Minutes of Meeting

Board of Supervisors' Chambers

Wailuku, Maui, Hawaii

1:30 P. M. - October 22, 1964

Commissioners

Present:

Charles S. Ota
Goro Inaba
Shiro Nishimura
Robert G. Wenkam
Leslie E. L. Wung

Absent:

Myron B. Thompson
C.E.S. Burns, Jr.
Shelley M. Mark

Staff

Present:

J. Ferry
Raymond S. Yamashita, Executive Officer
Roy Y. Takeyama, Legal Counsel
Richard E. Mar, Field Officer
Amy Y. Namihiro, Stenographer

PETITION BY MICHAEL T. KUWAHARA, (A(T)64-62), FOR AMENDMENT OF THE LAND USE DISTRICT BOUNDARY FROM RURAL TO URBAN, TO "RELOCATE PRESENT GARAGE AND INSTALLATION OF GASOLINE PUMPS TO A DIFFERENT LOCATION ON THE SAME LOT." Described as TMK 2-3-02: portion of 23, containing an area of approximately 29,000 sq. ft., Kula, Maui.

Since the principles concerned were present, Chairman Ota, pro tempore, opened the public hearing on the petition. A short prayer was followed by an introduction of the Land Use Commission.

The Chairman called upon the Executive Officer to present a matter which needed to be discussed prior to proceeding with the hearing. The Executive Officer read a letter from Mr. Kuwahara, dated October 5, 1964, requesting the withdrawal of the petition. The Executive Officer stated that this request was received subsequent to the publication of notice of the public hearing. In accordance with policy, such requests would be acted upon by the Land Use Commission whereas such requests made prior to publication of notice may be acted upon by staff.

Chairman Ota asked if there were any statements or questions regarding this matter. Mr. Nadao Yoshinaga, representing the petitioner, stated that there were no further statement. Commissioner Inaba then moved to accept the request for

withdrawal. Commissioner Nishimura seconded the motion. There was no discussion and the Chairman called the question. The Executive Officer polled the Commission as follows:

Approved: Commissioners Wung, Nishimura, Wenkam, Inaba and Chairman Ota.

Disapproved: None.

The motion to accept the request for withdrawal was carried. The Chairman then closed the public hearing.

STATE OF HAWAII
LAND USE COMMISSION

Board of Supervisors' Chambers
Wailuku, Maui, Hawaii

2:30 P.M.
October 22, 1964

STAFF REPORT

Subject: A(T)64-62, Petition for Amendment of Land Use District Boundary
by MICHAEL T. KUWAHARA

Background

Mr. Michael T. Kuwahara has submitted a petition to amend the district boundaries from a Rural district classification to an Urban district classification for Maui TMK 2-3-02: portion of 23 containing an area of approximately 29,000 sq. ft. Mr. Kuwahara is a lessee of the subject land which is situated between the old Lower Kula Road and the recently completed new Lower Kula Road. The parcel is bounded on the North by the Pulehu Access Road to the Lower Kula Road at Kula, Maui. The subject parcel was created when the new Lower Kula Road was constructed through a larger lot. The petitioner states that he has had an existing garage business on the site for the past 15 years. The reason for requesting this boundary change is to "relocate present garage and installation of gasoline pumps to a different location on the same lot."

The subject parcel contains an automotive type repair facility operated by the petitioner, and a former temporary contractor's equipment yard with an adjacent residence. (Since the field investigation, earlier this year, the contractor has presumably moved out. The current use of the contractor's facilities has not yet been verified.) All structures, with the exception of the residential structure, appear to be of temporary wooden construction.

The general locale of the parcel consists of good agricultural soil. However, the subject parcel is a remnant sliver between the old and new Lower Kula Road and its usefulness for agriculture is doubtful. There is power and water available at the site. Except for the Migita Service Station and the two facilities on the subject parcel, the locale is characterized by scattered low density residential use intermixed with farms and open areas. This is the fundamental basis for the current Rural districting of the area. On the Maui General Plan, it is difficult to determine whether the area is in "rural" or "residential". The State General Plan shows the area in diversified agriculture. The Land Use Commission's designation of the area as Rural is complementary.

There is a long historical background to this petition as follows:

- | | |
|----------------|---|
| April 6, 1964 | - Received Kuwahara Petition |
| April 6, 1964 | - LUC Staff letter to MPTC for recommendation on Kuwahara petition. |
| April 7, 1964 | - LUC Staff letter to Kuwahara notifying him of difference with Tam petition and advising of Special Permit alternative. |
| April 10, 1964 | - LUC approves Tam petition for <u>Rural</u> classification of TMK 2-3-2: 23 (portion of which is subject of Kuwahara's petition for <u>Urban</u> classification). |
| April 22, 1964 | - MPTC letter to LUC stating unanimous vote to recommend approval of Kuwahara petition. MPTC "considered the Urban complex existing consisting of two other service stations already in the area." |
| May 24, 1964 | - Migita's letter to LUC voicing protest against action taken by MPTC on Kuwahara petition (attached). During LUC deliberations on proposed final district boundaries, Migita's letter was considered as a protest against Kuwahara's petition for an Urban classification and supporting the proposed Rural classification. Migita's protest was subsequently favorably considered by the LUC. In effect, Kuwahara's petition, which was then being considered as a 'protest', was denied. |

- May 26, 1964 - Kuwahara letter urging LUC to favorably consider petition. Refers to MPTC vote, on May 5, 1964, to approve his application. (Staff has no info on May 5 MPTC meeting.)
- May 28, 1964 - MPTC letter recalling its previous recommendation on Kuwahara petition because Kuwahara not recorded lessee.
- June 3, 1964 - LUC staff reply to Kuwahara requesting clarification on his "lessee" status and informing him that petition would be held in abeyance.
- June 22, 1964 - Kuwahara letter to LUC transmitting lease document, executed June 22, 1964, between Kuwahara and Tam.
- June 30, 1964 - LUC staff reply to Kuwahara acknowledging receipt of lease document and informing him that effective date of his petition was now June 25, 1964, date of receipt of lease.
- June 30, 1964 - LUC staff letter to MPTC requesting recommendation on reinstated petition.
- July 29, 1964 - Letter from MPTC stating that MPTC voted unanimously to take no further action on the application inasmuch as LUC had decided on rural classification for that area while said application was pending.
- Sept. 29, 1964 - LUC staff letter to Migita notifying him of public hearing on Kuwahara petition.
- Sept. 30, 1964 - LUC staff letter to Kuwahara notifying him of public hearing on his petition.
- Sept. 30, 1964 - Kuwahara letter requesting withdrawal of petition.
- Oct. 11, 1964 - Migita's letter to LUC protesting Kuwahara petition (attached).
- Oct. 15, 1964 - Letter of protest from Kenneth S. Willey (attached).

Summarizing, this parcel was a portion of the land involved in the Anthony Tam petition for amendment of the Temporary District Boundaries, from Agricultural to Rural, which was approved and reflected in the final Land Use District Boundaries. This petition, from Rural to Urban, was considered

during Land Use Commission deliberations on the final Land Use District Boundaries and denied.

Analysis

(The Land Use Commission is referred to the minutes (Dec. 6, 1963 & Apr. 10, 1964) and staff report of the Anthony Tam petition and deliberations on the Maui County final District Boundaries for further background info.)

Staff has reviewed the final District Boundaries affecting the subject petition and finds no basis, within the purview of the Land Use Law, to justify the creation of another urban district. The Kula area, in general, is a diversified agricultural area. Adequate areas have been provided for the foreseeable urban needs of this particular locale at Waiakoa. There are about 47 acres in this urban district which now includes about 5 or 6 urban facilities. The creation of a small, isolated urban district of the subject parcel would be contrary to the intent of the Land Use Law and State zoning by major-use districts. In other words, the creation of a major-use or urban district for this specific parcel of 29,000 sq. ft. constitutes spot zoning. (See Land Use District Boundary Map of Kula area.)

In analyzing the submitted evidence¹, staff concludes that the petitioner has submitted reasonable evidence of the need for the services being rendered. The fact that the service has been rendered for the past 15 years and to about 100 current farmers demonstrates such need. However, the proof, that the particular site is necessary for the facility, has not been demonstrated. The petitioner states that "...there is only a small portion far removed from where I am located at the present time which has

¹Previously sent to LUC.

been zoned for business. In this area so zoned there is no land available at the present time and in addition to that this business district is inconveniently located due to the relocation of the new highway." Considering the general diversified agricultural and rural character of the area, the existing 47 acres of the Waiakoa Urban District would seem ample. The Waiakoa Urban District includes all of the commercial activities in the locale with the exception of the Migita Service Station and the instant facility. Further, Waiakoa is only a mile away and considering what must be a widespread distribution of the 100 farmers now being serviced, it does not appear that an undue hardship is being imposed when the public's welfare is considered. In this case, the public's concern would be spot zoning and the subsequent scattered developments; and contrariness to established plans for orderly growth. There is no real evidence that "no land is available" and therefore the implied hardship would seem insufficient in view of the public concerns - nor would hardship be a legitimate concern for creation of an Urban District.

In regards to the proof that the area is usable and adaptable, staff concurs with the petitioner.

Another point of concern is the fact that this facility together with the Migita Service Station is a non-conforming use in a Rural District. In his letters of protests and in conversation with staff, Mr. Migita points out that both facilities are now non-conforming. He has been adversely affected by the new Lower Kula Road because his station is now not visible by passing motorists on the new highway. In the past, an important part of his retail gas sales was from passing motorists on the old highway in front of his station. Mr. Migita further points

out that the petitioner's "request is not merely for relocation but is actually for the creation of a new business (service station for the resale of gasoline)." The location of the proposed new business would be fronting on the new highway and between Migita's facility and the new highway, preempting the small but important business from Migita's facility. Inasmuch as both facilities are now non-conforming, approval of this petition would be undesirable spot zoning - to the specific advantage of the petitioner and to his, Migita's, detriment. Mr. Migita further pointed out that maintenance of the "status quo" would be fair and acceptable.

Staff concludes that Mr. Migita's contentions in regard to spot zoning are valid. Further, both facilities are non-conforming and the Land Use Regulations state:

"It is the intent of this part to recognize that the eventual elimination, as expeditiously as is reasonable, of existing uses or structures that are not in conformity with the provisions of this part is as much a subject of health, safety and welfare as is the prevention of the establishment of new uses that would violate the provisions of the Land Use Law and Regulations. It is also the intent of this part that any elimination of non-conforming uses or non-conforming structures shall be effected so as to avoid any unreasonable invasion of established property rights."

On this basis, the creation of an urban district to perpetuate and, in fact, enhance the non-conforming use, would be contrary to a declared policy.

Recommendation

Staff recommends disapproval of this petition on the following bases:

1. Creation of an urban district for a specific 29,000 sq. ft. parcel constitutes spot zoning which:

- (a) is contrary to the intent of the Land Use Law to accomplish State zoning by major use districts, and
 - (b) gives benefits to one landowner while adversely affecting another.
- 2. Creation of an urban district would be contrary to the Statement of Intent regarding non-conforming uses.
- 3. The existing Rural classification of the subject parcel is most appropriate and fitting to the established Rural Standards for Determining District Boundaries as adopted.

1249
Waiakoa, Maui

May 24, 1964

RECEIVED

MAY 26 1964

State of Hawaii
LAND USE COMMISSION

Land Use Commission
State of Hawaii
Department of Planning and Economic Development
426 Queen St.
Honolulu, Hawaii

Gentlemen:

I hereby file my official protest on the action taken by the Maui County Traffic and Planning Commission in their meeting of April 21, 1964, recommending to the State Land Use Commission to change the district boundary of TKM (2-3-02-portion of 23) Pulehu, Waiakoa, Kula, Maui, from Agricultural to Urban.

At present, I understand that the Waiakoa Town, where the post office is located, is now zoned by the Land Use Commission as Urban, and the above location which is now zoned as Agricultural is about 2 miles northeasterly of the presently zoned urban area. This would be diametrically opposed to sound planning, according to good planners, as it would mean spot zoning to satisfy the need of one or few individuals. The granting of this change would open the "Pandoras box" in that you will have many applications for request to rezone different areas and parcels for their own specific usage, without regard to any orderly development and usage. I, too, would like to relocate my present business to a more advantageous area, if the above request is granted, and request for change in usage or zoning to satisfy my own needs.

I also understand that there is a request to change some of the boundaries in the Kula area from Agricultural to Rural. Provided the area cannot be used for agricultural purposes,

XERO COPY XERO COPY XERO COPY XERO COPY

I believe that this is a very good idea, for it would mean more people would have an opportunity to own land in Kula, and enjoy the climate and veiw.

Driving along the highway in Kula is a very pleasant one, with wide open ranges, flower gardens and farms, truck crop farms, lovely homes scattered here and there. But to have spotted business establishments here and there, scattered along the highway, would definitely ruin the whole area. Homes, spread far apart, would add and blend to the present area. Business establishments should be concentrated in certain key areas, not only from the economic stand point, but also from traffic situations.

I trust that you will give my official protest your serious consideration, and thank you for same.

Very truly yours,

Robert T. Migita
(Robert T. Migita)

40 Kula Garage & Service

*OK
LHC
retains
Agricultural
boundaries for
mk 2-3-02: portion of 23*

1433
RECEIVED

OCT 13 1964

State of Hawaii
LAND USE COMMISSION

Waiakoa, Maui
Oct. 11, 1964

Land Use Commission
State of Hawaii
Department of Planning and Economic Development
426 Queen Street
Honolulu, Hawaii

Gentlemen:

I would like to file my official protest to a petition requesting a Change of District Boundary (Tax Map Key 2-3-02 Portion of Parcel 23) from a classification of rural to urban.

I am a resident, landowner, and the proprietor of an existing business (service station) in the immediate vicinity of the area in question. I am protesting this request for the following reasons:

(1) The applicant stated in his request that he desires a change in district classification from rural to urban for the purpose of relocating an existing garage and the installation of gasoline pumps.

The fact that gasoline pumps are to be installed means that this request is not merely for relocation but is actually for the creation of a new business (service station for the resale of gasoline).

(2) If this request goes through I believe it would set a precedence of spot zoning and according to good planners, spot zoning merely to satisfy the needs of one or a few individuals is contrary to a sound master plan.

I too, would like to relocate my present business to a more advantageous location along the new Kula Highway. For this reason I feel that the granting of this change would eventually lead to more requests to rezone different areas and parcels for an individual's own specific needs without any regard to orderly development.

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(3) The State Land Use Commission's master plan shows that the town of Waiakoa is presently zoned as urban. Waiakoa, which is located off the new highway, has a post office, stores, and a service station. If new business establishments are permitted in more favorable spots along the new highway, the existing establishments in Waiakoa will be unprotected and could eventually be drawn out of business.

(4) I believe that the Land Use Commission's purpose in zoning Waiakoa as urban was to provide for some sort of order to the growth of Kula. The area in this request is approximately two miles northeast of Waiakoa and had been rezoned from agriculture to rural only last July by the Land Use Commission. In effect, then, this request is contrary to the Commission's master plan.

(5) I understand that this request was referred to the Maui Planning Commission for their recommendation and it is also my understanding that the Maui Planning Commission maintained status quo and did not take any action on this matter. As a result this request does not have the official approval of the Maui Planning Commission.

I hope that you will give my official protest your serious consideration. Thank you very much.

Yours very truly,



Robert T. Migita

1435
AG 64-62
copy to
C. S. ...
M. Thompson
e. o. l. n.

October 15, 1964

AIRMAIL

Land Use Commission
426 Queen Street
Honolulu, Hawaii

Attention: Mr. Raymond Yamashita

Gentlemen:

This letter is in reference to the request for a zoning variance (from rural to urban) of a parcel on the new Kula Highway near the Pulehu Iki intersection. The variance is requested for the purpose of relocating a garage, gasoline pumps, etc.

Your hearing on this matter is scheduled for October 22nd so as a property owner and resident of this community I would like to voice my objection to granting such a variance.

In my opinion, there is insufficient reason for granting such a variance. Therefore, if the variance is granted, a very poor precedent would be set, leading to further variance requests, and planning for the entire Kula Highway strip would be in jeopardy.

I believe variances should be reserved for only the best of reasons which would benefit the community.

Sincerely,

Kenneth S. Willey
Kenneth S. Willey
RR58
Waiakoa, Maui 96790

KSW:ec

RECEIVED

OCT 21 1964

State of Hawaii
LAND USE COMMISSION

Waiakoa, Maui
October 19, 1964

2005. run-off
to All Room

1436

Land Use Commission
426 Queen Street
Honolulu, Hawaii 96813

Mr. Raymond S. Yamashita
Executive Officer

Dear Sirs:

In reference to a notice appearing in the local paper regarding a petition to rezone a certain area in Kula from rural to urban for the purpose of relocating a garage and establishing a service station, I would like to, as a property owner, voice my opposition to granting such a request for the following reasons:

1. If such a request for rezoning from rural to urban is granted it will set a precedence for others to do the same in establishing business in a helter-skelter manner in this community.
2. The State Land Use Commission has already stated that the area petitioned in the request for rezoning has been classified from agricultural to rural and that no change in classification would be justified as there already exist an area classified as urban in the community. (Waiakoa Town)
3. Granting the petition to rezone will be contrary to the sound judgement and decision of the State Land Use Commission and of the Maui Planning Commission.

I urge that the petition to rezone be denied for the above mentioned reasons.

Thank you,

J. Kunioki
J. Kunioki

RECEIVED

OCT 22 1964

State of Hawaii
LAND USE COMMISSION

October 22, 1964

1436a

Hawaii Land Use Commission
Honolulu, Hawaii

Gentlemen:

In reference to your consideration of spot zoning on the Kula Highway, adjacent to Robert Migita's service station, we ask your consideration of the following:

- (1) Spot zoning, we feel, will contribute to several new service stations being built on the entrances and exits of our new highway.
- (2) Our understanding prior to the construction of the new highway was that no new businesses will be allowed within 150 feet of any access road.
- (3) If the spot zoning is sanctioned at this time, we would appreciate being advised as to whether we would be able to build a new station with immediate access to the new highway.

Your consideration of the above is appreciated. We hope that you will realize the financial hardship that will be placed on small service station operators in the Kula area. We assume that if one oil company is allowed to construct a new facility on the highway others will be granted the same opportunity.

Yours truly,

M. N. Calasa

M. N. Calasa

Xtra Copies

RECEIVED

OCT 22 1964

State of Hawaii
LAND USE COMMISSION

October 22, 1964

1436a

Hawaii Land Use Commission
Honolulu, Hawaii

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Yours truly,

M. N. Calasa

M. N. Calasa

RECEIVED

OCT 22 1964

State of Hawaii
LAND USE COMMISSION

October 22, 1964

Hawaii Land Use Commission
Honolulu, Hawaii

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Yours truly,

M. N. Calasa

M. N. Calasa

1436a

RECEIVED

OCT 22 1964

State of Hawaii
LAND USE COMMISSION

October 22, 1964

Hawaii Land Use Commission
Honolulu, Hawaii

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Yours truly,

M. N. Calasa

M. N. Calasa

20cs. run off
to All comm

RECEIVED

OCT 21 1964

Waiakoa, Maui
October 19, 1964

State of Hawaii
LAND USE COMMISSION

1436

Land Use Commission
426 Queen Street
Honolulu, Hawaii 96813

Mr. Raymond S. Yamashita
Executive Officer

Dear Sirs:

In reference to a notice appearing in the local paper regarding a petition to rezone a certain area in Kula from rural to urban for the purpose of relocating a garage and establishing a service station, I would like to, as a property owner, voice my opposition to granting such a request for the following reasons:

1. If such a request for rezoning from rural to urban is granted it will set a precedence for others to do the same in establishing business in a helter-skelter manner in this community.
2. The State Land Use Commission has already stated that the area petitioned in the request for rezoning has been classified from agricultural to rural and that no change in classification would be justified as there already exist an area classified as urban in the community. (Waiakoa Town)
3. Granting the petition to rezone will be contrary to the sound judgement and decision of the State Land Use Commission and of the Maui Planning Commission.

I urge that the petition to rezone be denied for the above mentioned reasons.

Thank you,

J. Kunioki
J. Kunioki

143
AG 64.62
(1435) courier to
C. C. C. C.
m. Thompson
e. O. O.
20 cc
run off
for Comm.

October 15, 1964

AIRMAIL

Land Use Commission
426 Queen Street
Honolulu, Hawaii

Attention: Mr. Raymond Yamashita

Gentlemen:

This letter is in reference to the request for a zoning variance (from rural to urban) of a parcel on the new Kula Highway near the Pulehu Iki intersection. The variance is requested for the purpose of relocating a garage, gasoline pumps, etc.

Your hearing on this matter is scheduled for October 22nd so as a property owner and resident of this community I would like to voice my objection to granting such a variance.

In my opinion, there is insufficient reason for granting such a variance. Therefore, if the variance is granted, a very poor precedent would be set, leading to further variance requests, and planning for the entire Kula Highway strip would be in jeopardy.

I believe variances should be reserved for only the best of reasons which would benefit the community.

Sincerely,

Kenneth S. Willey
Kenneth S. Willey
RR58
Waiakoa, Maui 96790

KSW:ec

Permitment Deed
S. W. P. O. H. P. O.

file over

1433
RECEIVED

OCT 13 1964

State of Hawaii
LAND USE COMMISSION

Waiakoa, Maui
Oct. 11, 1964

*3 files copies
for mt, CES Bureau
KJ*

Land Use Commission
State of Hawaii
Department of Planning and Economic Development
426 Queen Street
Honolulu, Hawaii

*20 copies
run off for
Lamar.*

Gentlemen:

I would like to file my official protest to a petition requesting a Change of District Boundary (Tax Map Key 2-3-02 Portion of Parcel 23) from a classification of rural to urban.

I am a resident, landowner, and the proprietor of an existing business (service station) in the immediate vicinity of the area in question. I am protesting this request for the following reasons:

(1) The applicant stated in his request that he desires a change in district classification from rural to urban for the purpose of relocating an existing garage and the installation of gasoline pumps.

The fact that gasoline pumps are to be installed means that this request is not merely for relocation but is actually for the creation of a new business (service station for the resale of gasoline).

(2) If this request goes through I believe it would set a precedence of spot zoning and according to good planners, spot zoning merely to satisfy the needs of one or a few individuals is contrary to a sound master plan.

I too, would like to relocate my present business to a more advantageous location along the new Kula Highway. For this reason I feel that the granting of this change would eventually lead to more requests to rezone different areas and parcels for an individual's own specific needs without any regard to orderly development.

(3) The State Land Use Commission's master plan shows that the town of Waiakoa is presently zoned as urban. Waiakoa, which is located off the new highway, has a post office, stores, and a service station. If new business establishments are permitted in more favorable spots along the new highway, the existing establishments in Waiakoa will be unprotected and could eventually be drawn out of business.

(4) I believe that the Land Use Commission's purpose in zoning Waiakoa as urban was to provide for some sort of order to the growth of Kula. The area in this request is approximately two miles northeast of Waiakoa and had been rezoned from agriculture to rural only last July by the Land Use Commission. In effect, then, this request is contrary to the Commission's master plan.

(5) I understand that this request was referred to the Maui Planning Commission for their recommendation and it is also my understanding that the Maui Planning Commission maintained status quo and did not take any action on this matter. As a result this request does not have the official approval of the Maui Planning Commission.

I hope that you will give my official protest your serious consideration. Thank you very much.

Yours very truly,



Robert T. Migita

Ref. No. LUC 504

October 14, 1964

Mr. Michael T. Kuwahara
RR 64 Waialeale, Kula, Maui

Dear Mr. Kuwahara:

We received your letter of October 5, 1964 requesting the Land Use Commission to withdraw your petition to have parcel 23, TMK 2-3-02 reclassified from a rural district to an urban district classification.

In regards to your request for withdrawal, the Land Use Commission has established the following policy: (1) if the petitioner requests a withdrawal before publication of the Notice of Public Hearing, the Land Use Commission staff may accept the withdrawal of the petition and refund the petitioner his \$50.00 fee without it being considered by the Land Use Commission; (2) if the request for withdrawal is made after publication of the Notice of Public Hearing, the request is placed on the Land Use Commission's next agenda for consideration.

Since your application for a boundary change was published in the Honolulu Star-Bulletin, the Honolulu Advertiser, and the Maui News on October 3, 1964, and all arrangements for the public hearing have been set, your request for withdrawal will be considered by the Land Use Commission at the scheduled public hearing, as published. Since we cannot predict what the action will be, it would seem advisable that your interests be represented at the scheduled time.

Should the Land Use Commission accept your request for withdrawal, you should then submit a petition for special permit with the Maui Planning and Traffic Commission. You may contact Mr. Robert O. Ohta, Director, for information on that procedure.

Should you have further questions, feel free to contact us.

Very truly yours,

RAYMOND S. YAMASHITA
Executive Officer

cc: Maui Planning & Traffic Commission

Myron Thompson
C.E.S. Burns

Charles Ota

ROBERT MIGHTA

1428
RECEIVED

OCT 9 1964

October 5, 1964

State of Hawaii
LAND USE COMMISSION

Land Use Classification
Portion of Lot 23, Tax key 2-3-02 Maui
Applicant: Michael Tatsu Kuwahara, Lessee

Mr. Raymond Yamashita
Executive Officer
Land Use Commission
426 Queen Street
Honolulu, Hawaii 96813

Dear Mr. Yamashita:

I have reconsidered my petition to have Lot 23, Tax Map Key 2-3-02 rezoned for Urban use, and have decided to recall it and hereby submit my petition for a **special** permit for the above land, as suggested in your letter of April 7, 1964.

If any further information is needed, please let me know. Thank you very much for your help in this matter.

Yours very truly,

Michael T. Kuwahara
Michael Tatsu Kuwahara
RR 64 Waiakoa, Kula, Maui

NOTICE OF PUBLIC HEARING TO CONSIDER PETITION FOR CHANGE OF 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 in the County of Maui by the Land Use Commission of the State of Hawaii to consider petition for Change of District Boundary as provided for in Section 98H4, Revised Laws of Hawaii 1955, as amended.

In the Chambers of the Board of Supervisors, County of Maui in Wailuku, Maui on October 22, 1964 at 2:30 p.m. or as soon thereafter as interested persons may be heard in considering:

Docket Number	Tax Map Key	Change Requested
ATTN: Michael T. Kuwahara	2-2-22: Parcel 23 containing an area of about 29,000 sq. ft.	Change requested from a Rural to an Urban district classification for the relocation of an existing garage and installation of gasoline pumps to a different location on said lot.

Maps showing the area under consideration for change of District Boundary and copies of the Rules and Regulations governing the petition above are on file in the office of the Planning and Traffic Commission, County of Maui and the Land Use Commission and are open to the public during office hours from 7:45 a.m. to 4:30 p.m., Monday thru Friday.

All written protests or comments regarding the above petition may be filed with the Land Use Commission, 426 Queen Emma 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 the hearing.

LAND USE COMMISSION
M. THOMPSON, Chairman
R. YAMASHITA, Executive Officer

(MN: October 3, 1964)

NOTICE OF PUBLIC HEARING

TO CONSIDER PETITIONS FOR CHANGE OF DISTRICT BOUNDARIES WITHIN THE COUNTIES OF MAUI AND HAWAII BEFORE THE LAND USE COMMISSION OF THE STATE OF HAWAII

NOTICE IS HEREBY GIVEN of the public hearings to be held in the Counties of Maui and Hawaii by the Land Use Commission of the State of Hawaii to consider petitions for Change of District Boundaries as provided for in Section 98H-4, Revised Laws of Hawaii 1955, as amended.

1. In the Chambers of the Board of Supervisors, County of Maui in Wailuku, Maui on October 22, 1964 at 2:30 p.m. or as soon thereafter as interested persons may be heard in considering:

Docket Number and Petitioner	Tax Map Key	Change Requested
A(T)64-62 Michael T. Kuwahara	2-3-02: Portion of Parcel 23 containing an area of about 29,000 sq. ft.	Change requested from a Rural to an Urban district classification for the relocation of an existing garage and installation of gasoline pumps to a different location on said lot.

2. In the Chambers of the Board of Supervisors, County of Hawaii in Hilo, Hawaii on October 23, 1964 at 3:00 p.m. or as soon thereafter as interested persons may be heard in considering:

Docket Number and Petitioner	Tax Map Key	Change Requested
A(T)64-66 Maryann Kamahele	1-5-10: 15 containing 5.52 acres.	Change requested from an Agricultural to a Rural district classification for the subdivision of said lot into four 1.220 acre parcels.

A(T)64-67 John G. Pedra	9-5-12: Portion of 11 containing 1.00 acre.	Change requested from an Agricultural to a Rural district classification for the purpose of subdividing a portion of Parcel 11 into two one-half (1/2) acre lots.
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A(T)64-68 Donald G. Kendall	1-4-30: 19 & 20 comprising approximately 352 acres.	Change requested from an Agricultural to an Urban district classification for the subdivision of Parcels 19 & 20 into approximately 1,141 lots of about 9,000 sq. ft. each.
--------------------------------	---	---

Maps showing the area under considerations for change of District Boundaries and copies of the Rules and Regulations governing the petitions above are on file in the office of the Planning and Traffic Commission, Counties of Maui and Hawaii and the Land Use Commission and are open to the public during office hours from 7:45 a.m. to 4:30 p.m., Monday thru Friday.

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 the hearing.

LAND USE COMMISSION
M. THOMPSON, Chairman
R. YAMASHITA, Executive Officer
(S.B.: Oct. 3, 1964)

Ref. No. LUC 491

September 30, 1964

Mr. Michael Kuwahara
Kula, Maui, Hawaii

Dear Mr. Kuwahara:

This is to inform you of the public hearing called by the Land Use Commission of the State of Hawaii on October 22, 1964 at 2:30 p.m. in the Chambers of the Board of Supervisors, County of Maui, Kahului, Maui. Your petition for Change of District Boundary from a Rural district to an Urban district classification will be heard at that time.

Publication of Legal Notice will appear in the Honolulu Star-Bulletin, Honolulu Advertiser and The Maui News on October 3, 1964.

Very truly yours,

RAYMOND S. YAMASHITA
Executive Officer

cc: Myron Thompson
Maui Planning & Traffic Commission

Ref. No. LUC 488

September 29, 1964

Mr. Robert T. Migita
c/o Kula Garage & Service
Kula, Maui, Hawaii

Dear Mr. Migita:

This is to inform you that there will be a public hearing on the Michael Kuwahara petition to amend the district boundary from a rural district classification to an urban district classification for Maui TMK 2-3-02: portion of 23.

The Land Use Commission's public hearing will be held at the Chambers of the Board of Supervisors, County of Maui, in Wailuku, Maui on October 22, 1964 at 2:30 p.m. or as soon thereafter.

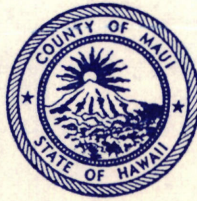
All written protests or comments regarding the above petition may be filed with the Land Use Commission before the date of public hearing, or submitted in person at time of the public hearing, or up to fifteen (15) days following the hearing.

Very truly yours,

RAYMOND S. YAMASHITA
Executive Officer

REM/an

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



1364

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

PLANNING AND TRAFFIC COMMISSION
COUNTY OF MAUI

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

July 29, 1964

RECEIVED

JUL 30 1964

State of Hawaii
LAND USE COMMISSION

*Send out
notice of meeting
to Mr. Magita.*

Mr. Myron B. Thompson
Chairman
Land Use Commission
426 Queen Street
Honolulu, Hawaii

Dear Mr. Thompson:

Re: Amendment of Temporary District
Boundary, Michael T. Kuwahara,
Kula, Maui, Hawaii

The Maui Planning and Traffic Commission at its meeting of July 28, 1964, voted unanimously to take no further action on the application from Mr. Kuwahara for a change in district boundary to urban in Kula. The Commission felt that inasmuch as your Land Use Commission had decided on a rural classification for that area while the application from Mr. Kuwahara was pending that no further action be taken by this Commission.

Very truly yours,

ROBERT O. OHATA
Planning Director

cc Mr. Charles Ota

Ref. No. LUC 382

June 30, 1964

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

Attention: Mr. Robert Ohata, Director

Gentlemen:

In view of the attached and pursuant to section 98H-4,
RLH 1955, as amended, we are resubmitting a copy of
Petition for Amendment of Temporary District Boundary
by Michael T. Kuwahara for your comments and recommendations.

Very truly yours,

RAYMOND S. YAMASHITA
Executive Officer

Attachments

1006-01026

Ref. No. LUC 363

June 30, 1964

Mr. Michael T. Kuwahara
Kula, Maui, Hawaii

Dear Mr. Kuwahara:

We are in receipt of your letter dated June 22, 1964 enclosing a copy of the lease between you and Mr. & Mrs. Anthony Tam for TMK 2-3-02: portion of 23.

As required by law, we are forwarding a copy of your application for a boundary change to the Maui Planning and Traffic Commission for comments and recommendations.

We would like to inform you that the effective date of your application for a boundary change will begin on June 25, 1964 and not April 6, 1964 as indicated when we first received your application. This delay of almost three months is due to the fact that you were not a recorded lessee of the property in question when the application was first received.

On June 20, 1964, the Land Use Commission voted to adopt the final district boundaries for the Island of Maui. In the Kula area, TMK 2-3-02: 23 has been designated as a rural district instead of an agricultural district as indicated by the temporary boundaries.

Although a rural district does not allow any commercial establishments, we thought this information might be helpful to you.

Should you have any further questions, please feel free to contact this office.

Very truly yours,

RAYMOND S. YAMASHITA
Executive Officer

cc: Myron Thompson
Roy Tskeyema
Maui County Planning & Traffic Commission

Honolulu, Hawaii
June 22, 1964

1305
Cousin's
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RECEIVED

JUN 25 1964

State of Hawaii
Land Use Commission
426 Queen Street
Honolulu, Hawaii 96813

State of Hawaii
LAND USE COMMISSION

Attention: Mr. Raymond S. Yamashita, Executive Officer

Gentlemen:

This is to acknowledge receipt of your letter of June 3, 1964, requesting clarification of my interest in portion of Lot 23, Tax Map Key 2-3-02.

Please be advised that I have entered into a lease with Mr. Anthony Tam for 35 years to operate a service station and repair shop. Over the last fifteen years I have been operating a business on the other portion of said lot without benefit of a recorded lease. My petition for amendment of the temporary district boundary from agricultural to urban is for the parcel for which I have a bona fide 35-year lease from Mr. Tam. Enclosed is a copy of lease document.

I would appreciate very much your processing this petition at the earliest possible date so that I may be able to ascertain how to approach the planning of the area for business use.

Very truly yours,

Michael T. Kuwahara

Enclosure

(Kula, Maui, Hawaii)

1305
RECEIVED

JUN 25 1964

State of Hawaii
LAND USE COMMISSION

Cover
with to
Comm.
& MPTC

LEASE

This INDENTURE OF LEASE made this 22d day of June, 1964, by and between ANTHONY A. TAM and ANNA TAM, husband and wife, of Makawao, County of Maui, State of Hawaii, hereinafter called "LESSORS", and MICHAEL T. KUWAHARA, whose residence and post office address is Waiakoa, Kula, County of Maui, State of Hawaii, hereinafter called "LESSEE".

WITNESSETH:

That for and in consideration of the rents, covenants, conditions and agreements hereinafter reserved and contained, by the Lessee to be observed, kept and performed, the Lessors have demised and by these presents do demise and lease unto the Lessee, a parcel of land, situated between the Old Lower Kula Road and Lower Kula Road, bounded on the North by the Pulehu Access Road to Lower Kula Road, at Kula, Maui, Hawaii. Being a portion of Lot 23, Tax Key 2-3-02, running 155 ft. along Pulehu Access Road to Lower Kula Road; 200 ft. along Lower Kula Road; 200 ft. along Old Lower Kula Road; and 130 ft. along the southern boundary to the point of beginning; containing an area of approximately 29,000 sq. ft.

TO HAVE AND TO HOLD the same, together with all the buildings and improvements thereon, and the rights, easements,

privileges and appurtenances thereunto belonging or appertaining or held and enjoyed in connection therewith unto the Lessee, for a term of twenty-five (25) years from the first day of the first calendar month following the calendar month in which the construction by Lessee of a service station on the said premises has been completed and the equipment necessary for the operation thereof has been installed; provided, that, in any event, such term of lease shall begin no later than January 1, 1966.

1. Rent. Lessee shall, without notice or demand, pay a net annual rent therefor of \$1,000, which shall be due and payable annually in advance in legal United States tender at the Lessors' last known post office address on the first day of each lease year (a lease year shall begin on each anniversary of the commencement of the lease term.) Lessee shall not be obligated to pay any rent for the said premises before the commencement of the lease term.

2. Taxes and Assessments. Lessee shall pay all taxes, governmental charges, and assessments upon the said premises or any interest therein, or with respect to any buildings and/or improvements thereon or benefits thereto; provided, that any real property taxes which are, or may become, due and payable in respect of the said premises for the initial and terminal years of this lease shall be prorated as of the date of the commencement and of the termination hereof, respectively; provided, further, that Lessee shall pay and be responsible for that portion of any such assessment in respect of any capital improvement with a useful life which extends beyond the term of this lease determined by the ratio which the useful life of such improvement within the term of this lease bears to the entire useful life of such capital improvement, and Lessors shall pay and be responsible for the rest

of any such assessment; provided, further, that Lessee shall not pay or be responsible for any State of Hawaii excise tax or taxes imposed on the Lessors in respect of the receipt of the rent hereinbefore provided; provided, further, that Lessee shall not file any real property tax return with the State of Hawaii as to the value of any or all of the said premises, or otherwise, nor shall Lessee file any petition, under Section 128-9.2, R.L.H., 1955, as amended, or as the same may be from time to time amended or reenacted, to dedicate any or all of the said premises, without the prior written consent of the Lessors; nor shall Lessee contest or appeal the amount or validity, or both, of any such tax, charge or assessment before any administrative agency or judicial tribunal without the prior written consent of the Lessors, which consent Lessors shall not unreasonably withhold, and, upon obtaining such consent, Lessee shall pay all of the fees and costs incurred as a result of such contest or appeal.

3. Zoning Changes and Variances. Lessee shall not, without Lessors' consent, request or petition for any change in the zoning or variance from the use of the said property now established, nor shall Lessee consent to, or join in, any such request or petition filed in respect of any property, as required or provided under any ordinance of the County of Maui or statute of the State of Hawaii relating thereto, or any rule or regulation issued by any governmental agency in respect thereof. Lessors shall not unreasonably withhold their consent to any such request or petition made by Lessee.

4. Use. Lessee shall use the said premises for the conduct of a service station and garage business, and no other use, except such use as may be incidental thereto, shall be made of the said premises, or any portion thereof, without the prior written consent of the Lessors.

5. Utility Charges. Lessee shall pay and be responsible for all utility charges hereafter incurred in respect of the said premises.

6. Waste and Repairs. Lessee agrees not to do or commit or permit or suffer to be done any willful or voluntary waste, spoil or destruction in or upon the said premises or any part thereof. Lessors reserve the right to from time to time enter, or have their duly designated agent enter, the said premises to inspect the same at reasonable hours. Lessors shall advise Lessee by letter of their agent, if any, so designated for such purpose. Lessee agrees to keep and maintain the said premises and all parts thereof in good and substantial repair and in a sanitary condition. Lessee agrees, with respect to the use of the said premises, to observe and comply with all rules, regulations and laws now in effect or which may be enacted during the term of this lease by any governmental authority.

7. Assignments and Subleases. Lessee shall not have the right to assign this lease or to sublease any of the said premises without the prior written consent of the Lessors; provided, that Lessors shall not unreasonably or arbitrarily withhold such consent; provided, further, that Lessee shall have the right to assign this lease, and his rights hereunder, as security to any established lending or banking institution or to a trustee under a corporate bond indenture; provided, further, that Lessee shall have the right to assign this lease or to sublease the said premises to Standard Oil Company of California or to Petroleum Facilities, Inc. without obtaining the consent of the Lessors.

8. Indemnification. Lessee shall defend and indemnify Lessors against any suit or claim, by whomsoever brought, or loss

or liability suffered by Lessors, arising out of any injury to any person (including wrongful death) or property caused or allegedly caused by the condition of the said premises (whether or not such condition is now in existence), and any area adjacent thereto, or the Lessee's use thereof.

9. Liability Insurance. Lessee shall purchase from an established casualty insurer, and maintain during the term of this lease, a policy of liability insurance with limits of \$300,000 as to each occurrence, \$100,000 for the injury or death of a single person, and \$50,000 for damage to property, which shall fully insure the Lessors against any suit or claim, by whomsoever brought, or loss or liability suffered by Lessors, arising out of any injury to any person or property caused or allegedly caused by the condition of the said premises, or any area adjacent thereto, or the Lessee's use thereof. Lessee may be named as an additional insured upon such policy of insurance. Lessee shall deposit with Lessors such policy of insurance, a certificate of insurance, or other evidence that such policy is in effect and that the premiums in respect thereof have been paid.

10. Casualty Insurance. Lessee shall, during the term of this lease, at his own cost and expense, insure and keep insured all buildings, structures, fixtures and improvements now or hereafter on the said premises against loss or damage by fire and such other perils as may be covered by endorsement to, or extension of (without the payment of any additional premium), the standard fire insurance policy, in the joint names of Lessors and Lessee, with an insurance company or companies licensed to do business within the State of Hawaii, in the amount equal to the maximum insurable value thereof, and shall from time to time pay all premiums and any other costs in respect thereof. Lessee shall deposit with Lessors

such policy or policies of insurance, a certificate of insurance, or such evidence required by Lessors that such insurance is in effect and that the premiums in respect thereof have been paid. The proceeds of such insurance shall be jointly payable to Lessee and Lessors, and in the event of any such loss, damage or other casualty, the same shall be applied as hereinafter provided; provided, that, if so required as a condition to obtaining a loan or the issuance of his bond, Lessee shall have the right to make all of such proceeds of insurance payable to an established lending institution or to a trustee approved by Lessors under a corporate bond indenture. In the event of any such loss, damage or other casualty, Lessors and Lessee shall jointly apply the net proceeds of such insurance to restore the portion or portions of the said premises damaged or destroyed according to the original plans and elevations therefor (so far as practicable), but if such proceeds of insurance be insufficient to so restore the said premises, Lessee shall be obligated to make up such deficiency, and to complete such restoration, from his own funds; provided, that if such damage or destruction should occur within the last ten years of the lease term, Lessee, at his option, to be exercised by giving Lessors written notice thereof within ninety (90) days after such damage or destruction shall have occurred, shall have the right to elect to surrender this lease without penalty or liability, and Lessee shall remove from the said premises all remains of any building, structure or improvement destroyed or damaged and all debris resulting from such casualty, and shall restore the same to a good and orderly condition and even grade, and the cost of such removal and restoration shall be paid from such proceeds of insurance, and the rest of such proceeds of insurance shall be Lessors' sole property.

11. Condemnation. If at any time during the term of this lease any authority exercising the power of eminent domain should condemn or take any part of the said premises or any of the rights, easements, privileges and/or appurtenances thereunto belonging or appertaining or held and enjoyed in connection therewith, or if the value of the said premises be impaired because of any such condemnation or taking, then Lessee shall have the right to claim and recover from such authority, or the Lessors, if payable to them, any money payable as a result of such condemnation and in respect of any business fixtures, buildings and/or improvements which the Lessee shall have placed upon and/or added to the said premises during the term of this lease; the rest of the money payable as a result of such condemnation shall be the property of Lessors. If, because of such condemnation, the said premises be unfit for use as the site of a service station and garage without any further substantial improvement, Lessee shall have the right to surrender this lease without penalty or liability; if the said premises be fit for such use without any such further substantial improvements in spite of such condemnation, the rent hereinbefore provided shall be reduced immediately after such condemnation so that the amount of such reduced rent shall bear the same ratio to the amount of the rent hereinbefore provided as the area of the said premises after such taking bears to the area of the said premises before such taking.

12. Involuntary Liens. If Lessee should make any assignment for the benefit of his creditors or be adjudicated a bankrupt, or apply for relief under any provision of the Bankruptcy Act, or if his interest in the said premises be seized by virtue of or under any writ, process or order of any court, or if any lien be placed against his interest in the said premises, then

Lessors, at their option, may terminate this lease, reserving, however, any prior claims, fixed or contingent, against Lessee. Lessors shall have the right to satisfy and discharge any liens or charges (including unpaid real property taxes) imposed against the Lessee's interest in the said premises, and any amounts so paid by Lessors shall be immediately due and payable by the Lessee to Lessors as additional rent. If Lessee should contest the validity of any lien involuntarily imposed against his interest in the said premises, Lessors shall not have the right to terminate this lease or to satisfy or discharge any such lien, as hereinbefore provided, until after a final adjudication of the validity thereof.

13. Termination. Any and all buildings and improvements built or placed upon the said premises during the term of this lease shall be the Lessors' property at the end or other sooner determination of the term of this lease, and the same shall not be removed therefrom by the Lessee during the term or at the expiration of this lease. Lessee may, without limitation, remove or replace at any time during the term or at the expiration of this lease any of his movables and trade fixtures placed or installed upon the said premises; provided, that, in the event of Lessee's failure to pay any rent due hereunder, Lessors shall have the right to seize any of Lessee's goods and property upon the said premises, and, ninety (90) days after the delivery of written notice of such default and seizure, and if such default should continue, shall have the power to sell the same as Lessee's irrevocably appointed agent and shall apply the net proceeds of such sale, after reimbursement of the costs and expenses incident thereto, in satisfaction of such unpaid rent. Lessee shall at the end or other sooner determination of the term hereby granted yield up the said premises in the same state and condition, except as herein

expressly otherwise provided, as at the execution of this lease, save and except fair wear and tear; provided, that Lessee shall have the right to remove any of his movables and trade fixtures which he shall have placed or installed upon the said premises.

14. Notices. The parties shall, by certified mail, advise each other of any change in their respective post office addresses during the term of this lease. Any notice, required by this lease, mailed to such last known post office address shall be deemed to have been delivered.

15. Consent. Wherever it is herein provided that Lessee shall obtain Lessors' consent to any act contemplated by Lessee, Lessors shall not unreasonably or arbitrarily withhold such consent.

16. Forfeiture. If Lessee should fail to observe, keep or perform any of the covenants or agreements on the part of the Lessee to be observed, kept and performed, including the covenant in respect of the payment of rent, or should abandon the said premises, Lessors shall have the right, without legal process, to take possession of the said premises thirty (30) days after the Lessors shall have delivered to the Lessee written notice of such default, and such retaking shall thereby determine the estate created by this lease, whereupon all of Lessee's interest in the said premises shall be forfeit, without prejudice, however, to any other remedy or right of action which Lessors may have for rents in arrears or for any other or preceding breach of any covenant of this lease on the part of Lessee. If Lessee should assign this lease, and his rights hereunder, as security to an established lending or banking institution or to a trustee under a corporate bond indenture, and if Lessee or such assignee shall, in that event, furnish Lessors with a true copy of such assignment, together with the name and address of such assignee, Lessors will

not retake the said premises in the event of such default, if, within one hundred and twenty (120) days after the Lessors have mailed to such assignee at its last known post office address a written notice of such default, such assignee shall either cure such default, if the default can be cured by the payment of money, or if such is not the case, shall undertake in writing to perform all of the covenants of this lease capable of performance by such assignee until such time as this lease be transferred upon foreclosure pursuant to such assignment; it being understood that if such default be the failure of Lessee to promptly indemnify Lessors against any lien, charge or encumbrance filed against the said premises, junior in priority to such assignment, such assignee may cure such default by foreclosing pursuant to such assignment, and such default shall be deemed cured within such one hundred and twenty (120) day period if such foreclosure be accomplished within such period.

17. Warranty. Lessors are the owners in fee simple of the said premises, and they hold the same free and clear of all liens and encumbrances, subject, however, as aforesaid, and they hereby warrant and will defend the interest of the Lessee in the said premises hereby granted against the claim of all persons claiming the same or any part thereof during the term of this lease. The foregoing is in addition to any covenant of title or quiet enjoyment implied by law, or any of the other provisions of this lease, for the benefit and security of the Lessee.

18. Non-Waiver of Breach. Lessors' failure to demand strict and full performance of any of the covenants or agreements on the part of the Lessee to be observed, kept and performed, or the acceptance of any rent by the Lessors while the Lessee be in default with respect to any such covenant or agreement, shall not

be construed to be a waiver or relinquishment by the Lessors of such covenant or agreement, and, in spite of such failure, such covenant or agreement shall be and remain in full force and effect.

19. Attorney's Fees. Any party in default hereunder shall pay for any reasonable attorney's fees incurred by the other as a result of such default or the breach of any covenant or agreement to be observed by them hereunder, whether or not a suit shall have been initiated as a result of such default or breach.

20. Cancellation. Lessee shall have the right to cancel this lease, without penalty or further obligation, at any time prior to the commencement of the lease term, by delivering written notice thereof to the Lessors.

21. Attornment. Upon the execution of any sublease of the said premises, Lessors, if requested by such Sublessee, shall execute an attornment agreement with such Sublessee which shall provide that, if this lease should terminate, or become forfeit, the sublease shall continue with the same force and effect as though the Lessors had entered into a lease with the Sublessee for a term equal to the then unexpired term of the sublease, as of the first day of the month in which such termination or forfeiture of this lease shall have occurred, containing the same terms, covenants and conditions as those contained in the sublease, and shall provide that the Sublessee shall attorn as tenant to the Lessors, and the Lessors will accept such attornment, as of the first day of the month in which such termination or forfeiture of this lease shall have occurred, and shall contain such other provisions as may be necessary to protect the interests of the Lessors and the Sublessee.

22. Renewal Option. Lessors hereby grant Lessee the option to renew this lease for an additional term of ten (10)

years following the end of the term hereby granted, upon the same terms and conditions as herein contained, except as to this option, and except as to rent. Lessee shall exercise such option by delivering written notice thereof to the Lessors by certified mail not less than one hundred and twenty (120) days prior to the end of the term hereby granted. The option hereby granted shall expire, and shall not be exercisable, if Lessors should retake the said premises for any default, or if Lessee shall have exercised his right, under certain conditions hereinbefore set forth, to terminate or surrender this lease before the end of the term hereby granted. If Lessee should elect to exercise such option to renew, Lessee shall pay Lessors a net annual rent during such additional term equal to six per cent (6%) of the fair market value of the said premises, including any value attributable to the buildings or improvements thereon, at the beginning of such additional term; provided, that the net annual rent during such additional term shall not be less than \$1,200.

If the parties fail to agree upon such fair market value, then the same shall be determined by the decision of a majority of three impartial and disinterested, recognized real estate appraisers, each with principal offices within the State of Hawaii, one each to be appointed by Lessors and Lessee, the third to be appointed by the two appointed by the parties, arrived at in accordance with standard procedures, commonly employed and accepted within the State of Hawaii for the appraisal of real property similar to the said premises; if the two such appraisers appointed by the parties are unable to jointly appoint a third, such third appraiser shall be appointed by the then Judge of the Second Circuit Court of the State of Hawaii, upon the informal petition of either party. If, within ninety (90) days after a request therefor, either party should fail to appoint the appraiser to be appointed by it,

such appraiser shall also be appointed by the then Judge of the Second Circuit of the State of Hawaii. The decision and award of such appraisers, who shall be deemed to be acting as arbitrators, shall be confirmed and entered as a judgment upon application to the Second Circuit Court of the State of Hawaii pursuant to Chapter 188 of the Revised Laws of Hawaii, 1955, or as the same may from time to time be amended or reenacted. The parties shall each pay the fees and costs respectively incurred by them for the services of their respective attorneys, the appraiser selected by each of them, and any costs or expenses incident to the preparation of any reports or the presentation of any opinion or the giving of any testimony by any witness respectively called by them, but the general costs and expenses incident to the conduct of such arbitration proceeding, including the fee for the services of the third appraiser, shall be shared equally by the parties. If, when, and for so long as, the rent to be paid during such additional term is being determined by arbitration, pending such determination, Lessee shall continue to pay the same rent he shall have been paying during the term hereby granted, and Lessee shall promptly pay Lessors any deficiency upon the conclusion of the arbitration proceedings.

23. Option to Buy. Lessee, while in possession, shall have the prior right (1) to buy the whole or any part of the said premises or any larger parcel which includes the said premises, if Lessors receive from a third party an acceptable bona fide offer to buy, or if Lessors offer to sell, such property, and (2) to lease the whole or any part of the said premises or any larger parcel which includes the said premises, if Lessors receive from a third party an acceptable bona fide offer, or if Lessors offer, to lease such property for a term commencing on or after the expiration of the term hereof or any extension thereof. In either such event,

Lessors shall forthwith give Lessee written notice of such offer, together with a copy thereof, and Lessee shall have sixty (60) days from the receipt of such notice to buy or to lease such property, as the case may be, at the terms of such offer, or at such lesser terms as Lessors and Lessee may agree upon. If Lessee fails to exercise such option within such sixty (60) days, Lessors shall have sixty (60) days thereafter within which to sell or to lease, as the case may be, such property to the party and upon the terms stated in the notice to Lessee without resubmitting such offer to Lessee as hereinabove provided. If Lessors sell such property to a third person, such sale shall be made subject to the terms and provisions of this lease, including, but without limiting the generality of the foregoing, the provisions of this paragraph. The rights of Lessee under this paragraph may be exercised by any nominee Lessee may designate, whose financial responsibility Lessee hereby guarantees.

24. Approval of Plans. Lessee shall submit to Lessors all of his plans and specifications for the construction or reconstruction of any building or improvement upon the said premises not less than ninety (90) days prior to the proposed commencement of such construction or reconstruction, and Lessee shall not commence such construction or reconstruction without Lessors' prior written approval of such plans and specifications; provided, that Lessors shall not arbitrarily or unreasonably withhold such approval.

25. Bond. Before the commencement of any construction or reconstruction of any building or improvement upon the said premises, Lessee, or his prime contractor, or the subcontractors of such prime contractor, shall file a bond or bonds, guaranteed by a corporate surety licensed to do business within the State

of Hawaii, in the penal amount of the total contract price for such construction or reconstruction established by contract between Lessee and his prime contractor (the total amount of such bond or bonds shall equal such total contract price), for the full performance of such construction or reconstruction in accordance with the plans and specifications therefor, approved by Lessors as provided in paragraph 24, above, and for the full payment and complete satisfaction of any mechanic's or materialmen's liens incurred by any person whatsoever in the course of such construction or reconstruction. Before the commencement of such construction or reconstruction, and from time to time during the course thereof, Lessors shall have the right to demand that Lessee produce satisfactory evidence that such bond or bonds have been obtained and are in full force and effect. If the total contract price for such construction or reconstruction be less than \$2,000, then, in lieu of obtaining such bond, Lessee shall have the right to deposit, in his name, an amount equal to such contract price with a bank licensed to do business within the State of Hawaii, and any withdrawal from such deposit shall be used to pay for work performed and materials supplied in the course of such construction or reconstruction, and each such withdrawal shall require Lessors' consent.

26. Premises. The term "premises", wherever it appears herein, shall be deemed to include (except where such meaning would be clearly repugnant to the context), the land hereinabove described and all buildings, structures, fixtures and improvements now on or hereafter constructed or placed upon the said land during the term of this lease.

27. Amendment to Lease. If and when Lessors obtain a metes and bounds description of the said premises, if the same be

substantially in accordance with the physical boundaries thereof marked on the ground by the parties, Lessee shall join Lessors in the execution of an appropriate amendment to this lease to show such metes and bounds description of the said premises.

28. Succession. All the covenants, agreements, conditions and undertakings herein contained shall extend to and be binding upon the personal representatives, heirs, successors and/or assigns of the respective parties as though expressly named herein, and all the covenants and agreements herein contained shall be construed to be covenants running with the land.

IN WITNESS WHEREOF, the parties hereto have duly executed this instrument the day and year first above written.

Lessors

(
(/s/ Anthony A. Tam
(_____
(Anthony A. Tam
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(
(/s/ Anna Tam
(_____
(Anna Tam
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(
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Lessee

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(/s/ Michael T. Kuwahara
(_____
(Michael T. Kuwahara
(
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(

Approved as
to form

William F. Lamberto
.....

RECEIVED

JUN 25 1964

STATE OF HAWAII)
) ss.
COUNTY OF MAUI)

State of Hawaii
LAND USE COMMISSION

On this 22d day of June, 1964, before me personally appeared ANTHONY A. TAM and ANNA TAM, to me known to be the persons described in and who executed the foregoing instrument, and acknowledged that they executed the same as their free act and deed.

/s/ E. H. Miyajima (SEAL)
Notary Public, Second Judicial
Circuit, State of Hawaii

My commission expires June 30, 1965

STATE OF HAWAII)
) ss.
COUNTY OF MAUI)

On this 22d day of June, 1964, before me personally appeared MICHAEL T. KUWAHARA, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that he executed the same as his free act and deed.

/s/ E. H. Miyajima (SEAL)
Notary Public, Second Judicial
Circuit, State of Hawaii

My commission expires June 30, 1965

Ref. No. LUC 348

June 3, 1964

Mr. Michael T. Kuwahara
Kula, Maui, Hawaii

Dear Mr. Kuwahara:

We are in receipt of your letter dated May 26, 1964 requesting that the Land Use Commission give favorable consideration to your petition for amendment of the temporary district boundary from agricultural to urban for TMK 2-3-02.

On May 26, 1964, the Maui Planning and Traffic Commission "voted unanimously to recall the recommendation on the application by Mr. Michael T. Kuwahara, dated April 22, 1964. The Commission's action was based on the fact that the petitioner is not a recorded lessee of the parcel in question."

According to Act 187 as amended by Act 205, Section 98H-4 states "any department or agency of the State or County, or any property owner or lessee may petition the commission for a change in the boundary of any district, interim or permanent." In your application for an amendment of the temporary district boundary, you stated that you are the "lessee (owner of business on present premise)." In your letter dated May 26, 1964, Mr. Mitchell Tatsu Kuwahara was mentioned as the lessee of TMK 2-3-02 (portion of lot 23).

Could you please clarify the situation? A written statement from the recorded lessee, stating his position or interest in your petition would be most helpful. We will hold this petition in abeyance until we hear from you and the recorded lessee on this matter and would sincerely appreciate an early reply.

We are enclosing a copy of your original application for a boundary change and a copy of the letter from the Maui Planning and Traffic Commission dated May 28, 1964 for your information.

Mr. Michael T. Kuwahara
Page Two
June 3, 1964

Should there be further questions, please feel free to contact this office or Mr. Robert Ohata at the Maui Planning and Traffic Commission.

Very truly yours,

RAYMOND S. YAMASHITA
Executive Officer

REM/am
Encl.

cc: Myron Thompson
Roy Takeyama
Robert Ohata

RECEIVED

MAY 28 1964

State of Hawaii
LAND USE COMMISSION

Honolulu, Hawaii
May 26, 1964

Land Use Classification
Portion of Lot 23, Tax Key 2-3-02 (Maui)
Applicant: Mitchell Tatsu Kuwahara, Lessee

Land Use Commission
426 Queen Street
Honolulu, Hawaii

Attention: Mr. Myron Thompson, Chairman

Gentlemen:

In reviewing your land use classification boundaries, it is noted that Lot 23 of Tax Map Key 2-3-02 is classified as agricultural. This classification is not in keeping with the recommendation of the Maui Planning and Traffic Commission who has recommended that the area be zoned for B-2 Regional Business District.

The Maui Planning and Traffic Commission has considered the area desirable for urban use and has noted it on its Master Plan for the Kula area, County of Maui.

An application was made to zone this parcel of land for Regional Business District on the basis that over the period of years I operated a garage on the adjacent parcel of land under a non-conforming use because of the existence of the business prior to the establishment of the area by the Maui Planning and Traffic Commission for residential and/or urban use. My application was made on the basis that I had the opportunity to expand my operation which necessitated the acquisition or lease of the adjoining property. The application for my business expansion contemplated the construction of a service station to replace an existing service station which was demolished by the State in the construction of the State Federal Aid Lower Kula Highway.

The use of the premises for business is compatible to the existing use of my present premises as well as the premises on the opposite side of the street. In the expansion of my business, it is necessary, in order to efficiently operate my garage, that a gasoline service station be considered as part of the business use.

I am at a loss to find that my competitors have protested this expansion. As pointed out, I had operated the garage prior to the operation of a service station by Mr. Migita and Shell Oil Company. It would seem that a person who has over a period of years operated a small business should be permitted to expand in an orderly manner, as is the case in this instance. Further, prior to the construction

May 26, 1964

of the Lower Kula Highway, two service stations existed. Hence, the construction of this service station does not alter conditions in existence prior to the construction of the Lower Kula Highway.

The Maui Planning and Traffic Commission, at its meeting on May 5, 1964, after due consideration of all the factors of sound planning principles, voted its approval to my application for the expansion of my garage and the establishment of a new service station in Pulehu. I ask that the State Land Use Commission give favorable consideration of the change in zoning classification from agricultural to urban based on the action of the Maui Planning and Traffic Commission who made a thorough study of the facts involved and in accordance with sound land use principles.

Very truly yours,

Michael T. Kuwahara

Kula, Maui

*Obtained
PROVER 1010*

Ref. No. LUC 343

June 2, 1964

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

Dear Mr. Ohata:

Your letter of May 28, 1964 relating to your Commission's action concerning Michael T. Kuwahara's application is acknowledged. We will transmit this information to the Land Use Commission.

Very truly yours,

RAYMOND S. YAMASHITA
Executive Officer

cc: Myron Thompson

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



COPIES TO
RAT

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

1263

PLANNING AND TRAFFIC COMMISSION
COUNTY OF MAUI

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

May 28, 1964

RECEIVED

MAY 29 1964

State of Hawaii
LAND USE COMMISSION

Mr. Myron Thompson
Chairman
Land Use Commission
426 Queen Street
Honolulu, Hawaii 96813

Dear Mr. Thompson:

The Maui Planning and Traffic Commission at its meeting of May 26, 1964, voted unanimously to recall the recommendation on the application by Mr. Michael T. Kuwahara, dated April 22, 1964.

The Commission's action was based on the fact that the petitioner is not a recorded lessee of the parcel in question.

Very truly yours,

Robert O. Ohata

ROBERT O. OHATA *per E.D.*
Planning Director

1-49

Waiakoa, Maui

May 24, 1964

*Original
in book
file*

RECEIVED

MAY 26 1964

State of Hawaii
LAND USE COMMISSION

Land Use Commission
State of Hawaii
Department of Planning and Economic Development
426 Queen St.
Honolulu, Hawaii

Gentlemen:

I hereby file my official protest on the action taken by the Maui County Traffic and Planning Commission in their meeting of April 21, 1964, recommending to the State Land Use Commission to change the district boundary of TKM (2-3-02-portion of 23) Pulehu, Waiakoa, Kula, Maui, from Agricultural to Urban.

At present, I understand that the Waiakoa Town, where the post office is located, is now zoned by the Land Use Commission as Urban, and the above location which is now zoned as Agricultural is about 2 miles northeasterly of the presently zoned urban area. This would be diametrically opposed to sound planning, according to good planners, as it would mean spot zoning to satisfy the need of one or few individuals. The granting of this change would open the "Pandoras box" in that you will have many applications for request to rezone different areas and parcels for their own specific usage, without regard to any orderly development and usage. I, too, would like to relocate my present business to a more advantageous area, if the above request is granted, and request for change in usage or zoning to satisfy my own needs.

I also understand that there is a request to change some of the boundaries in the Kula area from Agricultural to Rural. Provided the area cannot be used for agricultural purposes,

I believe that this is a very good idea, for it would mean more people would have an opportunity to own land in Kula, and enjoy the climate and view.

Driving along the highway in Kula is a very pleasant one, with wide open ranges, flower gardens and farms, truck crop farms, lovely homes scattered here and there. But to have spotted business establishments here and there, scattered along the highway, would definitely ruin the whole area. Homes, spread far apart, would add and blend to the present area. Business establishments should be concentrated in certain key areas, not only from the economic stand point, but also from traffic situations.

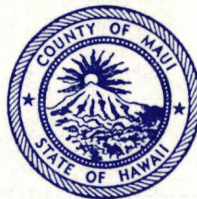
I trust that you will give my official protest your serious consideration, and thank you for same.

Very truly yours,

Robert T. Migita
(Robert T. Migita)

40 Kula Garage & Service

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. EYA M. DUPONTE, Secretary

PLANNING AND TRAFFIC COMMISSION

COUNTY OF MAUI

P. O. BOX 1487

KAHULUI, MAUI, HAWAII 96732

April 22, 1964

1118
RECEIVED

APR 23 1964

State of Hawaii
LAND USE COMMISSION

Mr. Myron B. Thompson, Chairman
Land Use Commission
State of Hawaii
426 Queen Street
Honolulu, Hawaii 96813

Dear Mr. Thompson:

The Maui Planning and Traffic Commission, at its meeting of April 21, 1964, voted unanimously to recommend approval of the request of Mr. Michael T. Kuwahara in his petition for amendment of temporary district boundary in Kula. The property is portion of Lot 23, Tax Map Key 2-3-02, and the change is from Agricultural to Urban.

The Commission, in its recommendation, considered the Urban complex existing consisting of 2 other service stations already in the area.

Very truly yours,

Robert O. Ohata

ROBERT O. OHATA
Planning Director

cc: Mr. Michael T. Kuwahara

1118

John

RECEIVED

APR 23 1964

State of Hawaii
LAND USE COMMISSION

April 22, 1964

Mr. Myron B. Thompson, Chairman
Land Use Commission
State of Hawaii
426 Queen Street
Honolulu, Hawaii 96813

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Very truly yours,

ROBERT O. OHATA
Planning Director

cc: Mr. Michael T. Kuwahara

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RECEIVED

APR 23 1964

State of Hawaii
LAND USE COMMISSION

April 22, 1964

Mr. Myron B. Thompson, Chairman
Land Use Commission
State of Hawaii
426 Queen Street
Honolulu, Hawaii 96813

Dear Mr. Thompson:

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The Commission, in its recommendation, considered the Urban complex existing consisting of 2 other service stations already in the area.

Very truly yours,

ROBERT O. OHATA
Planning Director

cc: Mr. Michael T. Kuwahara

JOHN E. VONCIROS, JR. Chairman
JOHN E. VONCIROS, JR. Chairman
WILLIAM HARRIS, Member
YOSHIEARU MATSUI, Member
MASAO NAGASAKO, Member
ROBERT OHATA, Member



ROICHI 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

1118

PLANNING AND TRAFFIC COMMISSION
COUNTY OF MAUI

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

April 22, 1964

RECEIVED

APR 23 1964

State of Hawaii
LAND USE COMMISSION

Mr. Myron B. Thompson, Chairman
Land Use Commission
State of Hawaii
426 Queen Street
Honolulu, Hawaii 96813

Dear Mr. Thompson:

The Maui Planning and Traffic Commission, at its meeting of April 21, 1964, voted unanimously to recommend approval of the request of Mr. Michael T. Kuwahara in his petition for amendment of temporary district boundary in Kula. The property is portion of Lot 23, Tax Map Key 2-3-02, and the change is from Agricultural to Urban.

The Commission, in its recommendation, considered the Urban complex existing consisting of 2 other service stations already in the area.

Very truly yours,

Robert O. Ohata

ROBERT O. OHATA
Planning Director

cc: Mr. Michael T. Kuwahara

Ref. No. LUC 233

April 7, 1964

Mr. Michael T. Kuwahara
Kula, Maui, Hawaii

Dear Mr. Kuwahara:

The owner of TMK 2-3-02: 23, Mr. Anthony Tam, now has a petition for a boundary change before the Land Use Commission. The petition requests a change from the temporary agricultural district to a rural district for the entire parcel. Since you have petitioned for an urban districting of a portion of this same parcel, it would appear important that you be informed as to Mr. Tam's petition before the Land Use Commission. There appears to be a discrepancy--although it is possible that Mr. Tam might have no objection to your petition.

A Land Use Commission staff report on Mr. Tam's petition, from temporary agricultural to rural, is enclosed for your information. The Land Use Commission plans to take action (approve or disapprove) on Mr. Tam's petition at about 1:00 p.m. on April 10, 1964 at the Board of Supervisors' Chambers, Wailuku, Maui. Although the Land Use Commission staff has recommended approval of Mr. Tam's petition, the decision rests with the Land Use Commission.

It may also be of interest to you that a public hearing on your petition will be scheduled between 110 to 230 days after the receipt of your petition--April 6, 1964. Subsequently, a decision by the Land Use Commission on your petition must take place between 45 to 90 days after the hearing. In other words, it will take between 155 to 320 days for you to receive a decision on your petition.

In addition, we would like to make you aware that the Land Use Commission and its staff will give some consideration to the fact that your petition is requesting urban districting for a relatively small area only. This consideration would be an adverse one. It is my opinion, at this time, that approval for urban districting of such small and isolated parcels would not be in line with the intents and purposes of the land use law. While considerations would not be limited to this possible issue of "spot zoning", it may adversely affect your petition.

Mr. Michael T. Kuwahara
Page 2
April 7, 1964

Further, you should also be aware that the procedure of submitting a petition for special permit is available to you. This procedure is outlined in the enclosed copy of Act 203 and, in general, takes a little less time for processing.

There is often a question as to which procedure, petition for boundary change or petition for special permit, is more appropriate. In your case, it would seem that a petition for special permit might be more appropriate because

1. The issue of spot zoning would be avoided and,
2. The question of possible conflict between Mr. Tan's petition for rural districting and your petition for urban districting would be removed.

If the area in your petition was contiguous to an existing urban district, a petition for a boundary change would then be more appropriate. However, we have not analyzed your petition at this point and are not aware of all the circumstances relating to your petition.

Your petition is now being processed as a petition for a boundary change. It is not my intent to suggest that you change the procedure. My intent is simply to make you more aware of the circumstances surrounding your petition. Any change in procedure which you may wish to make, if at all, would be entirely your decision. Should you wish any clarification on any issue, I would suggest your contacting Mr. Robert O. Ghata, Maui County Planning Director, who is knowledgeable in this area. Also, please feel free to contact this office should you have any questions.

Copies of the land use laws, Acts 187 and 203 are enclosed for your information. Also, the Land Use Commission will be conducting a public hearing on proposed final district boundaries and regulations on April 10, 1964 at 2:00 p.m. in the Board of Supervisors Chambers in Wailuku, Maui. Should you wish to attend and/or voice any protests, you are entirely welcome to do so. Information on locations where the proposed boundary maps are posted may be obtained by calling your County Planning Commission.

Very truly yours,

RAYMOND S. YAMASHITA
Executive Officer

cc: Mr. Robert O. Ghata
Mr. Myron Thompson
Mr. Roy Takeyama
Mr. Charles Ota

Ref. No. LUC 230

April 6, 1964

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

Attention: Mr. Robert Chata, Planning Director

Gentlemen:

Pursuant to section 98H-4, RLH 1955, as amended, a copy of the
Petition for Amendment of Temporary District Boundary submitted
by Michael T. Kuwahara is forwarded for your comments and
recommendations.

Very truly yours,

RAYMOND S. YAMASHITA
Executive Officer

Enclosure

STATE OF HAWAII
LAND USE COMMISSION

426 Queen Street
Honolulu, Hawaii

This space for LUC use

RECEIVED

Date Petition and Fee received
by LUC

APR 6 1964

Date forwarded to County
for recommendation

State of Hawaii
LAND USE COMMISSION

Date Petition, and County
recommendation received
by LUC

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 11 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:

Portion of Lt 23 Tax Map Key 2-3-02

Petitioner's interest in subject property:

Leasee(Owner of business on present premise.)

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

Relocate present garage and installation of gasoline pumps to a
different location on the same lot.

- (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 usable and adaptable for the use it is proposed to
be classified.
- (b) Conditions and trends of development have so changed since adoption
of the present classification, that the proposed classification is
reasonable.

Signature(s)

Michael T. Kuvshinov

Leasee

Owner of Business

Address:

Kula Maui

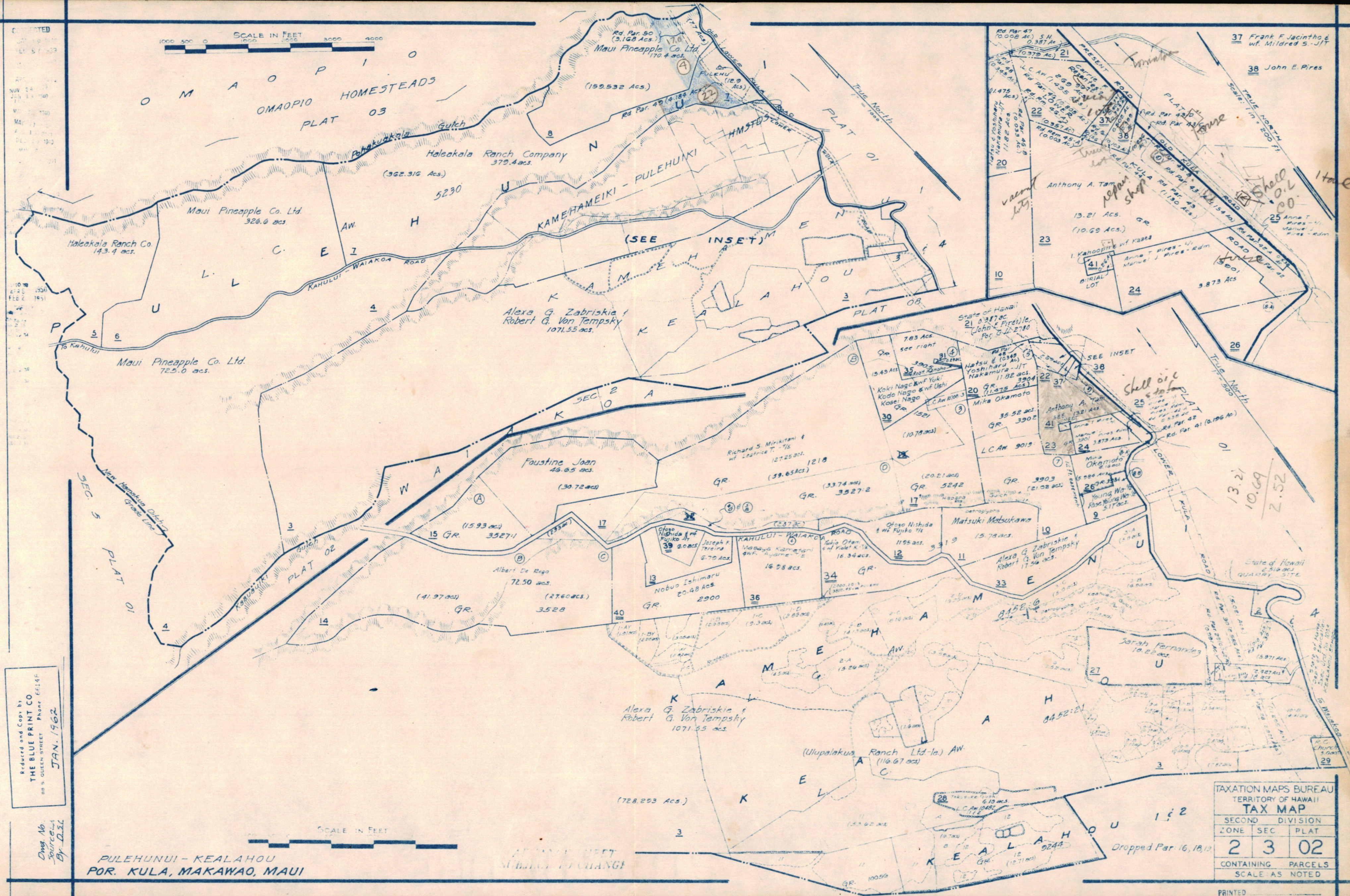
Telephone:

783 923

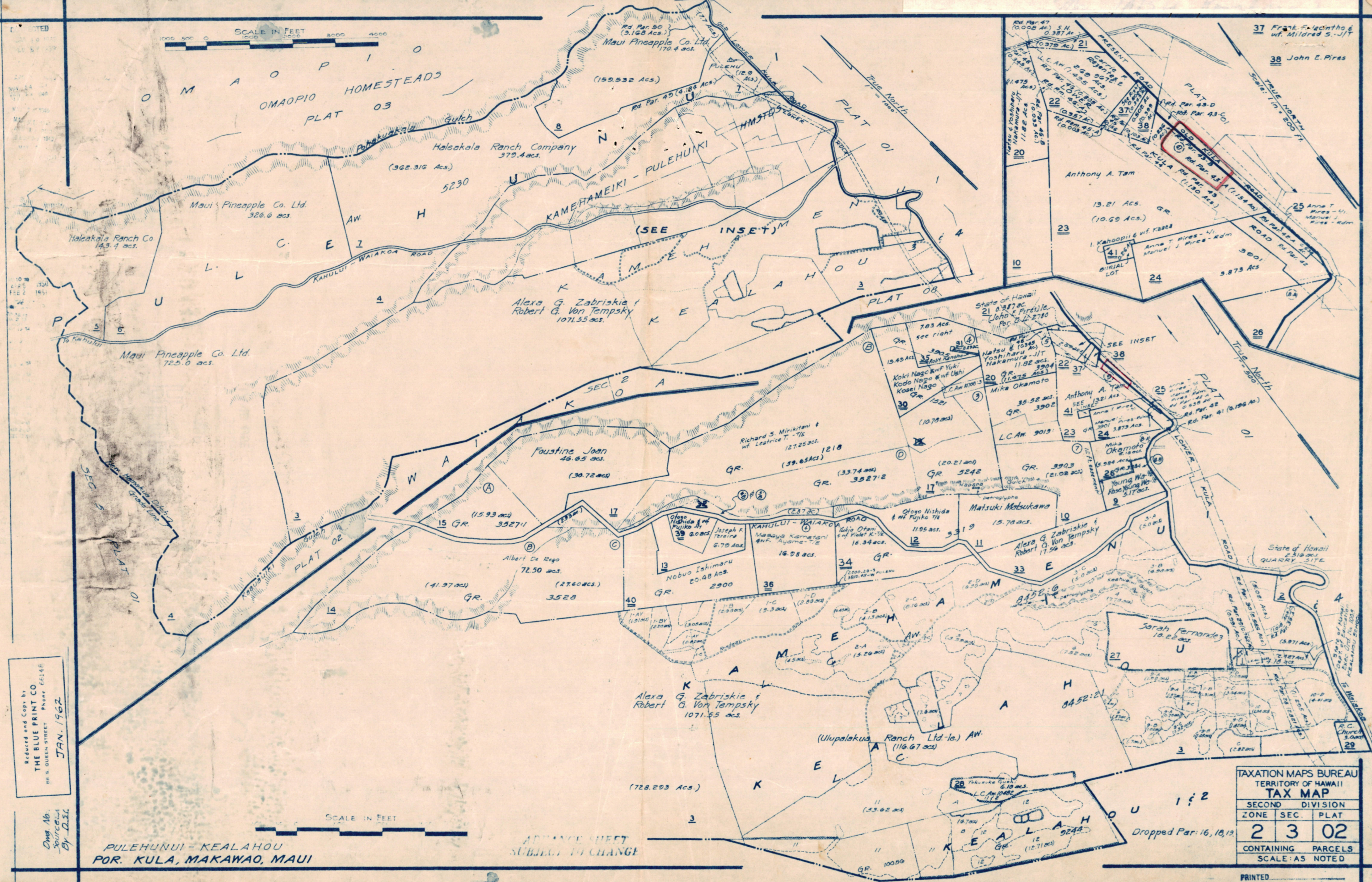
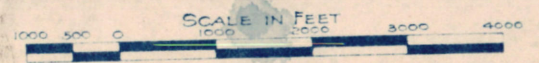
wants to relocate
to the storage yard area,

A. Tam

4/10/64



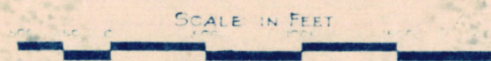
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JAN. 1962

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Source
By D.S.C.

PULEHUNUI - KEALAHOU
POR. KULA, MAKAWAO, MAUI



ADVANCE SHEET
SUBJECT TO CHANGE

TAXATION MAPS BUREAU		
TERRITORY OF HAWAII		
TAX MAP		
SECOND		DIVISION
ZONE	SEC.	PLAT
2	3	02
CONTAINING		PARCELS
SCALE: AS NOTED		
PRINTED		

Submitted w/attachment
Michael Kawalaug
APR 64-62

RECEIVED

APR 6 1964

State of Hawaii
LAND USE COMMISSION

KULA, MAUI
March 30, 1964

RECEIVED

APR 6 1964

State Land Use Commission
Honolulu, Hawaii

State of Hawaii
LAND USE COMMISSION

Dear Sirs:

I submit in support of evidence to the questions that you have posed to me in your application form in the petition for amendment of Temporary District Boundry for your consideration.

This property has been zoned for agricultural purpose. However, since the new Kula road has been built, this property has been subdivided by the highway leaving this remnant between the old and the new road. To complicate things further, the portion of the lot that I am on at the present time has been divided further leaving inadequate space for my operation. This remnant that I would like to move my business to is on the same lot that I am on at the present time but in an area about 100 yards removed. This area is not suitable for agricultural purpose since it is too small for such a purpose, and yet it is large enough for the use that I am sending my application for.

In the Kula District, at the present time, there is only a small portion far removed from where I am located at the present time which has been zoned for business. In this area so zoned there is no land available at the present time and in addition to that this business district is inconveniently located due to the relocation of the new highway.

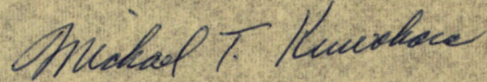
I, as a tenant of this property have been in the garage business in the same location for the past 15 years. In the past, due to inadequate financing, I have not been able to build a decent structure for the volume and type of business that I have been operating. At the present time I have about 100 farmers that I am servicing. Each farmer operates four to five different types of equipment and I am held responsible for the maintenance of their equipment. As you can see my service to my community is varied and a valuable one. In the event that your decision is adverse, I will have to operate my business as I am doing at the present time, without the first class structure and facilities for the benefit of my customers which are mostly farmers or get out of the business and leave only two other garages in the Kula area thereby creating a virtual monopolistic situation in this type of business.

If a petition by my clients and the people who are interested in my services would help further my cause, I will be very happy to get the necessary signatures for you.

In closing I ask and I would appreciate it very much that you give your

fullest consideration to my petition and I trust that your decision will be a favorable one.

Very truly yours,

A handwritten signature in cursive script, reading "Michael T. Kuwahara". The ink is dark and the handwriting is fluid.

Michael Tatsu Kuwahara
Leasee

Copy: Mr. Charles Ohta, Maui Member
State Land Use Commission

State Form B14

STATE OF HAWAII

OFFICIAL
RECEIPT

No.

80

LAND USE Commission
4750 Queen St., Honolulu, Hawaii
Department, Bureau or Commission

April 6,

19 64

RECEIVED from M. Kawahara

Fifty & no/100

DOLLARS

For public hearing by the State Land Use Commission
for boundary change from Sta 4 for land in
Kula, Maui (2-3-02. Per 20)

\$50.00

Reverend L. Kai

Public Accountant

Bank